

Human Rights and Citizenship: The Case of Mexican Migrants in Canada

TANYA BASOK

In the past few decades, migrants residing in many European and North American countries have benefited from nation-states' extension of legal rights to non-citizens. This development has prompted many scholars to reflect on the shift from a state-based to a more individual-based universal conception of rights and to suggest that national citizenship has been replaced by post-national citizenship. However, in practice migrants are often deprived of some rights. The article suggests that the ability to claim rights denied to some groups of people depends on their knowledge of the legal framework, communications skills, and support from others. Some groups of migrants are deprived of the knowledge, skills, and support required to negotiate their rights effectively because of their social exclusion from local communities of citizens. The article draws attention to the contradiction in two citizenship principles—one linked to legal rights prescribed by international conventions and inscribed through international agreements and national laws and policies, and the other to membership in a community. Commitment to the second set of principles may negate any achievements made with respect to the first. The article uses Mexican migrants working in Canada as an illustration, arguing that even though certain legal rights have been granted to them, until recently they had been unable to claim them because they were denied social membership in local and national communities. Recent initiatives among local residents and union and human rights activists to include Mexican workers in their communities of citizens in Leamington, Ontario, Canada, are likely to enhance the Mexican workers' ability to claim their rights.

In the last decade discussions on international human rights regimes and 'post-national citizenship' (Sassen, 1996, p. 89) have been gaining popularity. The emergence of supra-national human rights institutions, such as the United Nations and the European Court of Justice and such documents as the Universal Declaration of Human Rights and other international covenants and conventions, including the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, are cited as examples of this trend. Several authors, including Turner (1993b), Soysal (1994), Jacobson

Tanya Basok, Centre for Studies Social Justice, University of Windsor, 401 Sunset Avenue, Windsor, Ontario N9B 3P4, Canada; e-mail: basok@uwindsor.ca

(1996), Yuval-Davis (1999) and Cohen (1999), view these developments as indicative of a shift from a state-based to a more individual-based universal conception of rights, or from national citizenship to post-national citizenship.

While limitations of the 'post-national citizenship' thesis have been pointed out by various researchers (Schuck, 1998; Bhabha, 1999; Castles and Davidson, 2000; Glenn, 2000; Schuster and Solomos, 2002), it remains true that migrants in many European countries and in North America have gained certain legal rights which coincide with the moral principals prescribed by the international conventions. However, as has been pointed out by several researchers, the existence of legal frameworks defining rights do not guarantee that these rights will be exercised (Hall and Held, 1990; Turner, 1993a; Winer, 1997). Migrants, similar to other groups of people, suffer human rights violations despite the existence of laws to protect them. It is therefore important, as some researchers (Stasiulis and Bakan, 1997; Isin, 2000) have suggested, to analyse citizenship not as a status but as a process which involves negotiation over access to and the exercise of rights. The ability to claim rights requires knowledge of the appropriate laws, agreements, policy statements, and other legal documents, communication skills, and/or support from others. Some groups of migrants lack the necessary knowledge, skills, or support to be able to claim their rights. The degree to which members of the host community make this knowledge available to the newcomers, train them to acquire the necessary communication skills, and/or extend support to them, depends on whether migrants are viewed as members of the local communities of citizens.

The article draws attention to the contradiction that exists in two principles of citizenship. The first one advocates principles of inclusion in an international community that shares a commitment to legal principles. The second advocates exclusion from national and/or local communities. Commitment to the second set of principles may negate any achievements made with respect to the first. In this article, based on research on Mexican migrant workers in Canada, I argue that even though legal access to some economic rights may be extended to non-citizens residing on the national territory of sovereign nation-states, the exercise of these rights may be precluded by the denial of social membership in the national community to these non-citizens which hamper the migrants' ability to negotiate respect for their legal rights and adherence to legal principles governing their employment and residence in the host society.

Post-national Citizenship: From Citizenship Rights to Human Rights

In her seminal work on migrants in Europe, Soysal develops an argument that national citizenship is losing ground to a more universal model of membership rooted in universal notions of human rights. She suggests that rights that used to be granted solely to nationals are now extended to the foreign population and that we are witnessing a transition from national to post-national citizenship. The thesis that human rights discourses have displaced discourses of rights based on the sovereignty of nation-states is supported by a number of authors. Jean Cohen (1999) contends that 'human rights discourses are now a pervasive feature of global public culture. Their effectiveness goes well beyond moralistic exhor-

tation: they constitute an international symbolic order, a political-cultural framework, and an institutional set of norms and rules for the global system that orients and constrains states' (p. 26). Yuval-Davis (1999) acknowledges that no international agency has the right to interfere in the internal affairs of states. Yet she insists that even this accepted rule is crumbling (p. 128). Focusing on the rights of foreign residents, various authors (for example, Layton-Henry, 1990; Jacobson, 1996; Sassen, 1996; Bloemraad, 2000) have maintained that there is no longer a sharp distinction between the rights enjoyed by citizens and those of non-citizens (or denizens, as permanent foreign residents in Europe have been coined). Sassen (1996), for instance, points out that immigrants have accumulated social, civic, and even some political rights in countries of residence and that legal citizenship status is of minor importance with respect to entitlements to such social services as education, health insurance, welfare, and unemployment benefits in the United States and Western Europe (pp. 95–6). Some countries have extended voting rights to resident non-citizens (Layton-Henry, 1990; Sassen, 1996). Legal resident immigrants are guaranteed full civil rights either constitutionally or by statute (Sassen, 1996, p. 96). Brubaker (1992), although critical of the 'post-national citizenship' thesis, acknowledges that 'the marginal advantages conferred by citizenship over and above those conferred by the status of long-term foreign resident are of modest import. From the point of view of the immigrants concerned, citizenship status as such does not decisively shape life chances' (Brubaker, 1992, p. 180). Thus, according to the supporters of the 'post-national citizenship' thesis, what matters most is residence and not the legal immigration status.

Legal Citizenship versus Citizenship as Practice

Researchers associated with the 'post-national citizenship' thesis have been criticized for minimizing the nation-state's control over citizenship and citizenship rights¹ and for their failure to acknowledge that not all citizenship rights are equally applied to all migrant workers.² In addition, various authors have pointed out temporal and geographic variations with respect to the rights enjoyed by migrants. Drawing on the experience of resident aliens in the United States, Schuck (1998) identifies different policies towards resident aliens through time. He notes that between the late 1960s and early 1990s the treatment of aliens in the United States was brought in line with the treatment of citizens in many respects, yet in the 1990s alien residents' access to public benefits was questioned. The 1996 welfare reforms, for instance, have significantly limited the eligibility of alien residents to virtually all federal cash assistance programs. Violations of the civil rights of some groups of immigrants in the post-September 11 climate is another illustration of the deterioration of the rights of some foreign residents in the United States. Stasiulis and Bakan (1997) point out that by focusing on European guest workers, Soysal ignores less permanent forms of migration and the fact that people participating in them are often denied human rights. Based on an analysis of transnationalized female labour—migrant domestic workers—they insist that national, territorially-based sovereignty continue to restrict rights to individuals originating from outside a nation-state's border

(p. 131). The fact remains that many migrant workers have benefited from the legal extension of rights previously reserved for the national population. Therefore, from a legal perspective, migrant workers have become 'post-national citizens'.

When citizenship, however, is viewed not merely in relation to legal rights but as a 'set of practices that lead to the establishment of rights, access, and belonging' (Winer, 1997, p. 535) that 'shape the flow of resources to persons and social groups' (Turner, 1993a, p. 2), the picture becomes considerably different. Hall and Held observe that 'rights can be mere paper claims unless they can be practically enacted and realised, through actual participation in the community' (Hall and Held, 1990, p. 175). As Winer points out, the exercise of legal rights may be denied because 'the means to use citizenship rights, including adequate education, means of communication, and access to transportation may not be sufficiently established' (Winer, 1997, p. 535).

Under neo-liberal policies, many people throughout the world have experienced deteriorating social rights, even though these rights continue to exist in law (Falk, 2000; White, 2003). Women, racial minorities, immigrants, people with disabilities, the elderly, gays and lesbians, and other disadvantaged groups continue to face marginalization and the denial of equal treatment despite the presence of such international instruments as the Universal Declaration of Human Rights and its national counterparts, such as the Canadian Charter of Rights and Freedoms.

It is therefore important to see citizenship not only in relation to a set of legal entitlements but as 'practices through which individuals and groups formulate and claim new rights or struggle to expand or maintain existing rights' (Isin and Wood, 1999, p. 4; also see Stasiulis and Bakan, 1997; Wiener, 1997, p. 535; Isin, 2000, p. 5). To claim new or extant rights individuals and groups require the knowledge of oppression (McLaren and Lankshear, 1994) and effective communication skills. To formulate claims individuals and groups need to understand that they *are* denied legal rights and that extant legal or human rights frameworks make it possible for them to seek redress. These individuals and groups also require communication skills to translate their understanding of the oppression into demands for justice using the language that is understood and accepted by those who deny them equal treatment. Yet, at times, having the knowledge of oppression and skills to communicate the demands is not sufficient if the costs of political participation are too high for members of a disadvantaged group to bear. In this case, support by the sympathizers who can effectively present the claims for equality to those in power on behalf of the disadvantaged group can be just as crucial. Some groups of migrants, by virtue of their exclusion from the host society, may lack linguistic skills, knowledge of their legal entitlements, mechanisms required to access benefits, or support from sympathizers, to be able to claim their rights.

International migrants are often caught in the contradiction between two citizenship principles. The first principle refers to access to rights and the second to membership in a community or identity (Kratochwil, 1994). Soysal (1994, 2000) contends that there is a clash between two elements of modern citizenship: rights and identities. She observes: 'In the postwar era, these two elements of

citizenship are decoupled. Rights increasingly assume universality, legal uniformity, and abstractness, and are defined at the global level. Identities, in contrast, still express particularity, and are conceived of as being territorially bounded. As an identity, national citizenship—as it is promoted, reinvented, and reified by states and other societal actors—still prevails’ (Soysal, 1994, p. 159). As Brubaker (1992) observes, ‘The politics of citizenship today is first and foremost a politics of nationhood. As such it is a *politics of identity*, not a *politics of interest* (in the restricted, materialist sense)’ (p. 182). In other words, foreign residents may be simultaneously offered membership in an international community of citizens when defined in terms of legal rights and denied citizenship in the national and/or local community when defined in terms of belonging and identity. These two aspects of citizenship are not distinct (as Soysal and others seem to portray them); they are interconnected. The central argument of this article is that the denial of social membership in a community of citizens to some categories of migrants deprives these migrants of the opportunities to acquire knowledge, learn skills, or secure support to claim the legal rights to which they are entitled. The article traces changes in Leamington from a virtual exclusion of Mexican workers from the local community to recent attempts on the part of the Canadian labour movement and some sectors of the Leamington community to include them and discusses the implications of this change for the ability of Mexican migrant workers to claim their rights.

Leamington: A Rural Community

Leamington is a rural community in Essex County located some 45 km southeast of Windsor, in Southwestern Ontario. Its climate and soils are ideally suited to agriculture. Located in close proximity to the Great Lakes and at the most southerly latitude within Canada, Essex County enjoys early springs, warm summers and the longest growing season in Eastern Canada. In addition, the region is known for its variety of productive soils. This combination of favourable climate and rich soils permits Essex growers to produce a wider range of crops than elsewhere in Canada. The leading crops produced in Essex County are corn, soybeans, fall wheat, canning crops, fruits and vegetables, including early potatoes and greenhouse crops. But it is tomato production that has occupied a central place in the Leamington economy in the twentieth century. The growth of the tomato industry received a major boost from the establishment of the Heinz food-processing plant in 1909.

The greenhouse industry has been growing since the 1940s (Snell, 1974, p. 94). It has supplied domestic and US markets not only with tomatoes but with other vegetables, such as cucumbers and peppers. The greenhouse industry has undergone significant growth in the last 15 years. In 2001 the Leamington greenhouse industry was bigger than the entire US greenhouse industry. With its 987 acres under production it had the largest concentration of greenhouse vegetable production in North America (Whitfield and Papadopoulos, 2002).

The Leamington greenhouse industry has benefited from the establishment of the Experimental Station at Harrow (located between Windsor and Leamington). Researchers working at the Harrow station have developed improved technolo-

gies which have considerably reduced production costs for greenhouse growers. A shift from glasshouses to double polyethylene houses has permitted growers to reduce their heating costs and advances in plant pathology and entomology have resulted in pesticide reduction (Whitfield and Papadopoulos, 2002). Perhaps more than technological improvements the availability of foreign seasonal workers from Mexico and the Caribbean has contributed to the rapid growth of the industry.

Mexican workers are employed in field crops and in greenhouses. But it is the Leamington greenhouse industry which has grown particularly dependent on Mexican labour. Extremely hot temperatures discourage many local farm workers from working in greenhouses in the summer months, although these workers are more willing to work there once the summer heat subsides. Mexican seasonal workers constitute some 40% of the workforce in the greenhouse industry. Many Leamington greenhouse growers consider the contribution of Mexican seasonal workers vital to their industry and claim that without them the industry would collapse. At the same time, the expansion of the greenhouse industry has made it possible for more Mexican workers to be employed in this region.

The Study

My qualitative research on the exercise of rights by Mexican migrant workers grew out of a research project on the impact of Canada-bound seasonal migration on migrants' households. For the original research project I conducted interviews with officials at the Mexican Consulate in Toronto, the Mexican Ministry of Labour and Social Planning, the Foreign Agricultural Management Services (FARMS), and last, but not least, with 254 Mexican seasonal workers. I used an interview schedule to survey 154 Mexican migrants employed in the Leamington area. Although this survey focused mainly on economic aspects of the migratory experience, the interview schedule included some open-ended questions on the 'cultural capital' transfers from Canada to rural Mexico. Participants of the survey were asked to reflect on the new ways of thinking and behaving they might have acquired in Canada and how these changes might have affected their interaction with their household members and other villagers in their home communities. Most workers claimed that they had not changed and explained their answers by the isolation they experienced within Canadian rural societies and the lack of interaction between themselves and the host society members.

Soon after this research project began, Mexican workers surrounded my research assistant, Nicole Noel, and me at the soccer field (where many interviews were conducted on Sunday afternoons), bombarded us with questions about their rights, and told us stories about abuses they had experienced on Canadian farms. The following Sunday we held an information session on migrant workers' rights in Canada in the basement of a Catholic church. About 200 workers attended this session. The following week I invited representatives of the Occupational Health Clinics for Ontario Workers to present information to the Mexican migrants on pesticides and health and safety issues. Both information sessions were followed by numerous complaints by the workers

about their working conditions in Canada, work-related accidents they had suffered without compensation provided either by the growers or the Canadian government, and other problems. In the months that followed, other workers volunteered this type of information to us, in some cases, expecting our assistance. When possible, we assisted the workers to access information and fill out application forms for their workers compensation claims.

We also gave a few English lessons to the workers, obtained English as a Second Language tapes and books for them (or at times, provided information on where they could purchase them), took some Mexican workers shopping, attended Sunday masses with them, and participated in their festivities. The data presented in this article were collected in part through these informal discussions with Mexican workers and participant observation.

At the second stage of this research project, we travelled to Mexico where we conducted interviews with 100 Mexican participants of the Canadian Seasonal Agricultural Workers program in San Cristóbal, a Mexican village in the State of Guanajuato. Many research participants from this village had worked in Leamington. The revised interview schedule used at this stage included questions on the migrants' living and working conditions (including questions on work-related accidents and ailments).

Finally, I gathered much valuable information used in this article when in 2001 and 2002 I became a volunteer with the Global Justice Care Van Project and a chair of the Migrant Workers Committee, a coalition of community agencies and activists. I helped to gather information on living and working conditions among Mexican workers, accompanied an injured worker to a hospital, and provided information and assistance to the workers at the Migrant Workers Support Centre in Leamington. I regularly receive information on migrant workers in Canada circulated by a grassroots organization, called Justicia for Migrant Workers, through the listserve ('Justicia' <justicia@justicia4migrantworkers.org>) or posted on their website (<http://www.justicia4migrantworkers.org>).

Mexican Migrant Workers

Mexican seasonal workers have been a part of Leamington for several decades. Starting in 1974 they have been employed to work in the Leamington horticulture industry through a government-regulated program. The Seasonal Agricultural Workers Program (known commonly as the 'offshore program') was launched in 1966 but until 1974 it had applied only to workers from Commonwealth Caribbean countries. The program was introduced to ease the severe labour shortage problems that many Ontario growers experienced. The seasonal migration from the Caribbean did not entirely solve the labour shortages and in 1974 the Canadian government extended this program to include Mexico. Since 1974 the number of Mexican workers employed in Canada through the 'offshore program' has been climbing steadily. Whereas at the beginning some 200 Mexican men were recruited to participate in it, today well over 7000 Mexicans are admitted.

The Mexican Ministry of Labour and Social Planning (Secretaría de Trabajo and Provisión Social) selects Mexican workers for the Canadian Seasonal Agricultural Workers Program. The vast majority of the participants are men, although the number of female participants has been slowly rising to comprise about 3–4% of the total labour force (FARMS, 2003). Committed to assisting the most needy Mexican workers, the Secretaría prefers participants who support large families, have low levels of education, and are landless and underemployed. Since Canadian growers wish to recruit experienced agricultural workers, the Secretaría gives strong preference to applicants from rural communities.

Ninety percent of the program participants work in Ontario and the Leamington area alone receives close to 3000 Mexican workers annually. Since the program permits growers to nominate their workers and many growers prefer receiving the workers who have already proven to be efficient, loyal, and obedient, many program participants are return migrants.³ Some workers employed in the Leamington area today have been coming to this region for some 20 years. Workers leave their families behind and are expected to return home at the end of the season. They are sent to work on farms in rural areas where there are very few, if any, Spanish-speaking immigrants.

Although Canada has not signed the UN Convention on migrant workers, it adheres in part to the spirit of this international document. The Canadian state has extended certain rights to migrant workers—a right to a minimum wage (or prevailing wage), workers' compensation, access to Medicare, and some provisions of the Employment Standards Act. The Agreement for the Employment in Canada of Seasonal Agricultural Workers from Mexico stipulates that the workers are to receive weekly wages calculated as the greatest of:

- the minimum wage for workers provided by provincial legislation;
- the rate determined annually by Human Resources Development Centre to be the prevailing wage rate for the type of agricultural work being carried out; and
- the rate being paid by the employer to his Canadian workers performing the same type of agricultural work.

Mexican workers employed in Ontario are covered by the provincial Employment Standards Act. As harvesters, these workers are entitled to vacation pay and public holiday pay if they have been employed for at least 13 weeks. Vacation pay is to be calculated at the rate of 4% of total gross earnings (FARMS, 1999, p. 20). Employers are required by law to carry Workers' Compensation and workers make contributions to Unemployment Insurance and the Canada Pension Plan through regular deductions from the salary. Therefore, Mexican workers are entitled to receive benefits deriving from these plans and coverages.

However, in practice Mexican workers do not exercise several of these rights. At times they are unaware of their entitlement. Even when they know their rights, they find it extremely difficult to navigate within the Canadian social protection system because they are deprived of the knowledge necessary to access the benefits. Until recently Mexican workers had very little contact with the host society. Due to this limited interaction with the host society, Mexican

workers were limited in their knowledge of the English language or ways of operating in a new society and thus were virtually denied the knowledge they needed to claim their rights.

Social Exclusion

Mexican workers stay in Canada for up to eight months each year. They are housed by the employer, usually on the premises. It is not unusual for the workers to live in a house or a trailer next to the grower's house. The grower is responsible for providing furniture, dishes, utensils, and appliances to the workers. The workers cook their own meals but the grower is obligated to take them shopping for food (or pay the taxi fare to the store and back) once a week. The grower is also expected to take an ailing worker to a physician. In Ontario seasonal workers are covered by the Ontario Health Insurance Plan.

In many respects Mexican workers play an important role in the economic life of this rural community. They shop in local stores, buy food from fast food places, use taxi services, consume in bars, conduct financial transactions in local banks, and buy second-hand merchandise at garage sales, and in some communities, such as Leamington, they constitute a significant part of the labour force.

But while Mexican seasonal workers participate in the community life as producers and consumers, until recently they had been insulated from the rest of the community. In Leamington, which receives close to 3000 workers, Mexican workers are highly visible yet even now (despite the changes discussed below) very few people take an interest in them. Due to the language barrier, Mexican workers do not attend regular church services. Instead, a Spanish-speaking priest offers them a separate Sunday service at a local Roman Catholic church. Their cultural celebrations (such as the Mexican Independence Day celebration or Fathers' Day) draw very few local residents.

Workers find it extremely difficult to attend public English as a Second Language classes because they work long hours during the harvest season. Furthermore, in order to enrol in public English classes one needs to pass a tuberculosis test. For most Mexican workers this requirement poses a problem since their employers are not required to take them to a physician for any reason other than illness or injury. Without their employers' help, Mexican migrant workers find it extremely difficult to communicate with the physicians. Furthermore, the workers are reluctant to take time off work to take this test. Therefore, until recently, only a handful of Mexican workers took English classes in the basement of the Catholic church.

Some migrant workers told us that they experienced social rejection in Leamington. As one worker commented: 'There are many people who look down on us, don't think we are worth anything. Some of them don't want us to work here'. An older worker, who had been coming to work in Leamington for 15 years, reflected:

Even though they used to be nicer before, people in Leamington never really liked the Mexicans. They think we are all thieves. Perhaps, some of us are. And in Mexico even our president is a

thief. But you know how it is in small towns. People trust each other. And in *ranchos* [rural communities] even more so. Here we go to Zeller's ['and Canadian Tire', adds his roommate] and they stare at us to make sure we won't steal. The same when we go to yard sales. Because I speak some English, I chat with them sometimes. But they all stare at others with fear. There are some pubs where we are not allowed. Because I like dancing I used to go to pubs when I first came over but women don't even want to dance with you. And they are rude. I understand it when a guy is drunk and he does not take 'no' for an answer. But when you approach a girl and ask her to dance with you politely there is no reason for her to be rude. One woman even punched a Mexican guy in his nose when he asked her to dance with him. His nose bled.

To a certain degree Mexican workers interact with some Spanish-speaking immigrants in Leamington: they play soccer with some of them and purchase food from others. According to the 2001 Census, there were only 445 Latin American immigrants in the Leamington area. Most of them were new immigrants who were hardly in the position to extend assistance to the Mexican seasonal workers.⁴

Since the 1970s Leamington has been a home for Mexican Mennonite immigrants. Mexican Mennonite men can speak Spanish, but because of the cultural differences separating them from Mexican seasonal migrants there is very little interaction between them. Following their migration to Mexico from Canada in 1922, Mennonites formed isolated farming communities in Chihuahua, a northern Mexican state (Sawatzky, 1971). These social boundaries between Spanish-speaking Catholic Mexicans and mostly Low-German-speaking adherents of the anabaptist faith from Mexico are reproduced to a large degree in Leamington.

Living apart from the rest of the community, Mexican migrants limit their social interaction mainly to others within the Mexican community, although, as discussed below, this pattern has started changing. They visit each other in the evenings or on Sunday and congregate outside a grocery store. Mexican migrants attend the same bars and the same Catholic church (except for those who have converted to Protestantism) and play soccer with each other (and with a few Salvadoreans).

Similarly, until recently the Canadian labour community had not expressed much interest in the working and living conditions of migrant workers. The Ontario Federation of Labour (OFL) played a vital role in the establishment of the Mexican Seasonal Workers Program. In 1974 the OFL lobbied the federal government to expand the already existing Caribbean Seasonal Workers Program to include Mexico, fearing that without a federally administered program, growers would continue to employ undocumented workers whose deplorable working and living conditions had been exposed by the Special Task Force established by the Department of Manpower and Immigration in a report that came out in 1973 (Sanderson, 1974). Between 1974 and 2001, however, the

labour community showed little concern for the conditions under which Caribbean and Mexican workers were employed.

Until a few years ago, Mexican seasonal workers employed in Leamington were viewed by Leamington residents and the broader Canadian society as sojourners whose temporary stay in the country did not necessitate investment in their language training and/or cultural orientation. While Mexican migrants played an integral role in the Leamington economy, in social and cultural terms most were not viewed as citizens of the Leamington community which had grown to depend heavily on their economic contribution. Their interaction with the local population was extremely limited. Mexican workers knew very few people who could serve as cultural interpreters for them. Existing on the social margins of Canadian society, Mexican migrants were often unaware of their rights. But even when they were aware of their entitlements, they were unable to follow the procedures to receive the benefits to which they were entitled because their language skills were insufficient and hardly anyone wished to assist them.

The Inability to Claim Rights

Every Mexican worker is entitled to receive the Canadian pension upon reaching the age of 65. Until recently, however, most Mexican workers in Leamington were unaware of the procedures they needed to follow in order to claim it. Similarly, a lack of knowledge of entitlements and procedures prevented migrant workers from receiving compensation for the prescription drugs purchased in Canada even though all were required to contribute to a drug plan. While all migrant workers in Canada are covered by provincial health plans, workers tended to underutilize health services because of the language barriers they encountered in rural hospitals which lacked trained Spanish-language practitioners. A worker interviewed by Zwarenstein (2002) commented, 'The patron doesn't send us to the hospital. Or if they do, they don't send anyone to translate for the worker' (p. 18).

Even though all Mexican migrant workers are entitled to receive workers compensation from the Workplace Safety and Insurance Board (formerly known as the Workers' Compensation Board) if injured at work, in practice very few claim it. Among the 100 farm workers we interviewed in San Cristóbal 20 had suffered accidents at work. Yet only one of them had received compensation (although on a previous occasion, involving a cut, he continued working). Among the rest, three were compensated by their employers for the missed days, seven who had suffered lacerations or allergic reactions to pesticides continued working, four took unpaid days off, and five were sent back to Mexico because they were no longer fit to work in Canada. Even though physicians treating injured workers are required by law to report their accidents to the Workers Safety and Insurance Board, in practice, because of the language barriers, English-speaking physicians often fail to understand the cause and location of the accident. And even when compensation forms are filed by the physician and the Workplace Safety and Insurance Board sends out the forms to the injured

workers, the workers find it difficult to fill them out because of their ignorance of the two Canadian languages.

Seasonal migrant workers experience other violations of their rights as workers including the failure by the growers to offer their workers days of rest,⁵ vacation and public holiday pay,⁶ and decent living conditions,⁷ as well as exposure of the workers' to occupational hazards. Even if the workers could speak English they would still find it virtually impossible to claim their rights. The Seasonal Agricultural Workers Program grants an enormous degree of power to the employers over their workers. At the end of the season growers fill out evaluation forms for their workers. Workers are required to report to the Mexican Ministry of Labour and Social Planning upon their return to Mexico and to hand in the evaluation forms in sealed envelopes. To a large degree, the decision taken by the Ministry of Labour on whether to re-admit the worker into the program in the following years hinges on these evaluations. Therefore Mexican workers are afraid that if they speak out they will lose the opportunity to return to work in Canada. While migrant worker themselves are afraid to challenge these violations, until recently neither labour nor community human rights organizations have raised objections to any of the conditions under which migrant workers toiled and lived. By excluding migrant workers from their communities of citizens, labour and community organizations failed to represent these workers' concerns to the policy makers.

Towards Inclusion in the Community of Citizens: The Leamington Story

The relationship between Mexican workers and the Leamington community described above started to change in 2002. It took a series of articles published by a Windsor labour journalist, Mary Agnes Welch, to make some community residents recognize the social barriers that the community had erected. Consequently, the Migrant Worker Coalition was formed. The Coalition organized an orientation meeting in February 2002 at which workers were introduced to local banks, police, transportation routes, and Leamington recreational activities. The Coalition has representatives from the business community, growers, the Mexican consulate, and the Town Hall. With funding obtained from the United Way, the Coalition launched a 'Bridges for Bicycles' project to assist Mexican workers in fixing their bicycles, the major mode of transportation among Mexican workers. In addition, the Coalition set up an office at the South Essex Community Centre. The Centre made interpreters available—working for pay or as volunteers—to accompany sick workers to local hospitals or to provide them with translation over the phone. Local growers employing Mexican workers also occasionally use the Coalition interpreters. In order to avoid conflict with the growers on the committee, the Coalition denied membership to organized labour representatives. Because of this lopsided composition, the Coalition stays away from any discussion of migrant workers' rights.

By contrast, workers' rights are of central concern for the Migrant Workers Support Centre, established in the summer of 2002. The history of the Migrant Workers Support Centre dates back to April 2001, when the United Farm Workers of America–Canadian Office was contacted with regard to the case of

some 20 migrant farm workers in Leamington facing repatriation to Mexico. This action was precipitated by a walk-out of some 50 Mexican workers protesting against their working conditions. Having visited Leamington several times, UFWA–Canadian Office launched a project, called the Global Justice Care Van Project. Funded by the Canadian Labour Congress, United Steel Workers of America, United Food and Commercial Workers and Canadian Auto Workers Union, the project aimed to document working and living conditions of the seasonal guest workers in Ontario and to formulate policy recommendations to the Canadian government (Zwarenstein, 2002). The findings and the recommendations of the Global Justice Care Van Project were presented in a document, entitled ‘National report: status of migrant farm workers in Canada’ (United Food and Commercial Workers, 2002). On the basis of the findings of the Global Justice Care Van Project, Canadian labour organizations decided to open an information and assistance centre in Leamington. The Centre was inaugurated on 2 June 2002. Originally committed to funding the Centre as a pilot project, in August 2002 the United Food and Commercial Workers and the Canadian Labour Congress reaffirmed its commitment to funding the Centre.

Working together with such community agencies as the Occupational Health Clinics for Ontario Workers and the Bilingual Legal Aid Clinic, the Centre provides information to the workers on workers’ compensation and the Canada Pension Plan. The Centre’s paid staff and volunteers assist injured workers in following the necessary procedures to receive compensation. If compensation is denied to the workers or if the compensation is viewed by them as inadequate, workers are directed to the Bilingual Legal Aid Clinic.

In addition, the Centre provides information on occupational hazards to the workers. In 2002 Spanish-language manuals on health and safety issues were produced and distributed not only in Leamington but in other communities in Ontario as well. The manual, prepared by Occupational Health Clinics for Ontario Workers (OHCOW), discussed occupational hazards such as heat stroke, back injuries, respiratory diseases, pesticide poisoning, and others. OHCOW nurses offer assessment to ailing workers who suspect that their illnesses are linked to their working conditions. If OHCOW specialists (ergonomists or hygienists) can prove the connection between working conditions and the workers’ illness, workers are invited to submit a workers’ compensation claim. In addition, volunteers from the Support Centre accompany workers to the local hospitals.

The Migrant Workers Support Centre in Leamington has also provided placement opportunities to Frontier College volunteers who offer evening English classes to migrant workers and provide other types of assistance at the Centre. Most Frontier College Labourer–Teacher volunteers are placed to work side-by-side with migrant workers on farms and processing plants throughout Ontario.⁸ Employed during the day as temporary help, in the evening Frontier College volunteers teach their co-workers English and share with them their knowledge of Canadian society.

Finally, workers’ rights are of central concern for a grassroots organization, Justicia for Migrant Workers (J4MW), formed in the summer of 2002 by some volunteers who had been initially associated with the Global Justice Care Van

project. Comprised of students, labour and human rights activists, and researchers, this organization is committed to advancing the rights of migrant workers and building ties between all agricultural workers. J4MW activists engage in community outreach in migrant communities in rural Ontario, raise awareness of the plight of migrant workers, document workers' complaints about their working and living conditions, and educate workers about their rights and try to solve their employment and housing problems. They also lobby the government to improve the workers' conditions.

All these initiatives play an important role in educating the workers about their rights, providing some language and cultural training to the workers, and establishing an infrastructure which includes translation services, referrals, and assistance in application procedures for workers' compensation, pension, and other benefits. Yet as important as it is for the migrant workers to know their rights, knowledge alone may not be sufficient for them to confront the employers who deny workers their rightful breaks, days of rest, paid holidays, or decent housing. Growers wield an enormous amount of power over their workers. While the workers themselves are unlikely to challenge their employers whose approval is instrumental to their continued participation in this program, labour and human rights groups have recently voiced their concerns to the Canadian government and have demanded the establishment of mechanisms to monitor the compliance of the growers with the rules and regulations governing this employment program.

While these initiatives promise to significantly improve the exercise of rights by the migrant workers, it is important not to be overly optimistic. Union and human rights activists still confront serious challenges in the face of the reluctance of most Canadian provincial governments to provide coverage to agricultural workers under the Health and Safety Acts and the denial to these workers of the right to bargain collectively.⁹

It is also important to recognize that the Leamington situation is uncommon. Two other Ontario regions receive large numbers of migrant workers from Mexico and the Caribbean—the Bradford/Newmarket and the Simcoe areas. To service these workers UFCW opened two additional support centres in Ontario—in Bradford on 4 May 2003 and in Simcoe on 29 June 2003. However, for many migrant workers employed in remote communities located far away from these centres these initiatives are of little use. They continue to experience social isolation which prevents them from claiming some of their basic rights.

Multiple Layers of Citizenship

As Yuval-Davis (1999) observes, 'Citizenship needs to be understood as a multi-layered construct, in which one's citizenship in collectivities in the different layers—local, ethnic, national, state, cross or trans-state and supra-state—is affected and often at least partly constructed by the relationships and positionings of each layer in specific historical context' (p. 122). It is important to realize, however, that these layers may be interconnected and that the exercise of rights associated with citizenship at one scale may be precluded by limitations on citizenship at another scale.

As global citizens Mexican workers are entitled to the rights spelled out by international conventions and recognized by the Canadian state. Yet they do not exercise some of these legal rights because of their lack of knowledge or skills to claim them. Being denied membership in local communities, Mexican migrants are also deprived of opportunities to learn the language and skills or gain support from members of the local community that would make it possible for them to exercise these rights. Until recently, hardly any efforts had been made to include Mexican workers in the social and political life of the local residential communities which received the workers. Living on the social margins of the local communities, Mexican migrants remained ignorant of their rights and/or of the ways they could exercise them. The recent initiatives on the part of Leamington residents, labour, and other community agencies for the 'offshore' workers in their communities of citizens may transform the ability of the migrant workers to exercise the rights to which they have been entitled. Many migrant workers have benefited from language training, workshops on workers' compensation, health and safety protection, the Canada Pension Plan, translation services, and other forms of support. These initiatives furnish the necessary knowledge and skills to the workers to enable them to access the benefits to which they are entitled and challenge those who deny them their rights.

The link between the ability to claim some rights and inclusion in the local community of citizens can be illustrated in the case of female domestic workers. The participation of women in international migration is rapidly expanding (Hayzer *et al.*, 1994; Sassen, 1998; Sharpe, 2001). The Pacific Rim region in particular has experienced a rise in female migration over the past few decades (Lindio-McGovern, 2003). Female migrant domestic workers are recruited either by private agencies (Heyzer *et al.*, 1994; Lindio-McGovern, 1997, 2003) or through government-regulated programs, such as the Canadian Live-in Caregiver Program (Cohen, 1991; Daenzer, 1991; Bakan and Stasiulis, 1994). Abuses suffered by these workers are widely documented (Cohen, 1991; Daenzer, 1991; Giles and Arat-Koc, 1994; Bakan and Stasiulis, 1997; Lindio-McGovern, 1997). Many domestic workers throughout the world find it difficult to challenge the abuse (Chin, 1998; Andall, 2000). Some of these female workers have adopted individual coping mechanisms to counteract the abuse they experience (Cohen, 1991; Chin, 1998). Yet others have pursued legal challenges (Stasiulis and Bakan, 2002), and/or have engaged in organized protest (Alcid, 1994; Barber, 2000). At least two features distinguish government-recruited female domestic workers in Canada from seasonal Mexican migrant workers. First, because of the job requirements, domestic workers speak English and therefore they are able to seek information and support from feminist organizations and other human rights organizations that make it possible for them to claim their rights in the host society. Second, destined mainly for urban households, domestic workers, many of whom are from the Philippines, often find themselves in ethnically diverse communities where they establish ties and seek support for their cause from their compatriots both individually and through NGOs with links in their home country. The comparison between the seasonal agricultural and domestic workers in their ability to claim their legal rights needs to be further explored.

Notes

1. Brubaker (1992) contends, 'Viewed against the backdrop of the loss of sovereign control over admission to the territory and access to civil and socioeconomic rights, state's continued sovereign control over admission to citizenship stands out' (p. 180). Canefe (1998) recognizes the importance of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as a significant human rights instrument with some international dictate. He acknowledges that the UN and ILO support the rights of migrant workers in terms of the provision of fair wages in conditions of equal pay for equal work, decent living and working conditions, equal opportunity in the work place, and availability of rest, leisure and periodic holidays. Yet he points out that these provisions are primarily recommendations for the states hosting migrant workers and they do not possess an obligatory nature. Castles and Davidson (2000, p. 19) seem to be even more sceptical of the impact that the UN Convention on the Rights of Migrant Workers and Members of Their Families can make on international migrants since it has been signed only by a handful of emigration countries.
2. Schuster and Solomos (2002) point out that national citizenship 'remains the single most important means of protecting migrants and minorities within Europe from being excluded or expelled from a European state' (p. 49). Brubaker (1992) remarks that citizenship would add complete protection against expulsion, access to public sector employment, and eligibility for those few social services and benefits that are limited to citizens (p. 180).
3. In 1996, for instance, 2934 out of the 4187 Mexican workers selected to participate in the Canadian program had been requested by their employers (FARMS, 1999).
4. According to the 1996 Census, carried out by Statistics Canada, there were only 75 Spanish-speaking immigrants residing in Leamington.
5. The 'Agreement for the Employment in Canada of Seasonal Agricultural Workers from Mexico', signed by the employer and the employee, stipulates that 'for each six consecutive days of work, the worker will be entitled to one day of rest', although it does make it possible for employers to request 'the worker's consent to postpone that day until a mutually agreeable date'. In practice, during the peak season, many Mexican farm workers are asked to work seven days a week (including half a day on Sunday) and they feel compelled to comply with the request.
6. No Mexican worker interviewed in the Leamington area has been offered a paid holiday by the employer and the payment of the vacation pay has been subject to the employer's whims. The application of the Employment Standards Act is complicated by the distinction it makes between 'harvest' and 'farm' workers. Only harvest workers are entitled to paid public holiday and vacation benefits and only if they have been employed for 13 weeks as harvesters. Most Mexicans work in Canada for more than 13 weeks but during the term of their employment they perform numerous tasks, some related to harvesting and others to preparation of the soil, packaging, and some post-harvest activities. It requires accurate book-keeping on the part of the growers to establish whether the workers have been employed as 'harvesters' for the specified period. Most growers in Leamington chose not to bother making the required calculations. They deny paid public holidays to all Mexican workers and the amount of vacation pay varies from one grower to the next. Some growers also use vacation pay as a reward and therefore some workers receive the full vacation pay; some workers claim to receive only 2% and some none at all.
7. Growers are required to have the migrants' living quarters examined by provincial ministries of health prior to receiving an approval to hire migrant workers. Some workers, however, complain of deplorable working conditions, including overcrowding, extreme heat or cold, substandard sanitation, and a shortage of appliances.
8. A small number of placements are also available in Quebec and Manitoba.
9. In most Canadian provinces agricultural workers are denied the right to organize. In the early 1990s the Ontario New Democratic Party government of Bob Rae granted agricultural workers the legal right to organize under the Agriculture Labour Relations Act. In 1995 Bill 91 was repealed by the Conservative Party. The United Food and Commercial Workers Union, which had started unionizing workers in a mushroom plant near Leamington, launched a lawsuit. In December 2001 the Supreme Court of Canada found that the denial of the right to organize to agricultural workers was unconstitutional. The Supreme Court requested that the Ontario government change the law (Hill, 2002; Schmitz, 2002). The law that came out in Fall 2002 gave agricultural workers the right to form and maintain associations but not to strike or bargain collectively (Hill, 2002). The bill also denied the right to organize to migrant workers who, according to the provincial legal experts, fell under federal rules (*Windsor Star*, 8 October 2002, p. A5).

References

- Alcid, M.L. (1994) 'Legal and organizational support mechanisms for foreign domestic workers', in: N. Hayzer, G. Lycklama à Nijeholt and N. Weerakoon (Eds), *The Trade in Domestic Workers: Causes, Mechanisms and Consequences of International Migration* (London, Zed Books), pp. 169–77.
- Andall, J. (2000) 'Organizing domestic workers in Italy: the challenge of gender, class and ethnicity', in: F. Anthias and G. Lazardis (Eds), *Gender and Migration in Southern Europe* (New York, Oxford), pp. 145–71.
- Bakan, A.B. and Stasiulis, D. (1994) 'Foreign domestic worker policy in Canada and the social boundaries of modern citizenship', *Science and Society*, 58(1), pp. 7–33.
- Bakan, A.B. and Stasiulis, D. (1997) 'Working the labyrinth: legal strategies and extra-legal empowerment of foreign domestic workers', in: R. Jhappan (Ed.), *Women's Legal Strategies* (Toronto, University of Toronto Press).
- Barber, P.G. (2000) 'Agency in Philippine women's labour migration and provisional diaspora', *Women's Studies International Forum*, 23(4), pp. 399–411.
- Bhabha, J. (1999) 'Enforcing the human rights of citizens and non-citizens in the era of Maastricht: some reflections on the importance of states', in: B. Meyer and P. Geschiere (Eds), *Globalization and Identity: Dialectics of Flow and Closure* (Oxford, Blackwell).
- Bloemraad, I. (2000) 'Citizenship and immigration: a current review', *Journal of International Migration and Integration*, 1(1), pp. 9–37.
- Brubaker, R. (1992) *Citizenship and Nationhood in France and Germany* (Cambridge, MA, Harvard University Press).
- Canefe, N. (1998) 'Citizens versus permanent guests: cultural memory and citizenship laws in a reunified Germany', *Citizenship Studies*, 2(3), pp. 519–44.
- Castles, S. and Davidson, A. (2000) *Citizenship and Migration: Globalization and the Politics of Belonging* (Houndmills, Macmillan).
- Chin, C.B.N. (1998) *In Service and Servitude: Foreign Female Domestic Workers and the Malaysian 'Modernity' Project* (New York, Colombian University Press).
- Cohen, J. (1999) 'Changing paradigms of citizenship and the exclusiveness of the demos', *International Sociology*, 14(3), pp. 245–68.
- Cohen, R. (1991) 'Women of color in white households: coping strategies of live-in domestic workers', *Qualitative Sociology*, 14(2), pp. 197–215.
- Daenzer, P. (1993) *Regulating Class Privilege: Immigrant Servants in Canada, 1940s–1990s* (Toronto, Canadian Scholars' Press).
- Falk, R. (2000) 'The decline of citizenship in an era of globalization', *Citizenship Studies*, 4(1), pp. 5–17.
- Foreign Agricultural Resource Management Services (FARMS) (1999) *Employer Information Package* (Mississauga, Ontario, FARMS).
- Foreign Agricultural Resource Management Services (FARMS) (2003) *Employer Information Package* (Mississauga, Ontario, FARMS).
- Giles, W. and Arat-Koc, S. (Eds) (1994) *Maid in the Market: Women's Paid Domestic Labour* (Halifax, Fernwood Press).
- Glenn, E. (2000) 'Creating a caring society', *Contemporary Sociology*, 29(1), pp. 84–94.
- Hall, S. and Held, D. (1990) 'Citizen and citizenship', in: S. Hall and M. Jacques (Eds), *New Times: The Changing Face of Politics in the 1990s* (London and New York, Verso), pp. 173–88.
- Hayzer, N., Lycklama à Nijeholt, G. and Weerakoon, N. (Eds) (1994) *The Trade in Domestic Workers: Causes, Mechanisms and Consequences of International Migration* (London, Zed Books).
- Hill, S. (2002) 'Union vows to fight law: proposed legislation won't allow workers right to strike, bargain collectively', *The Windsor Star*, 17 September, p. A5.
- Hutchinson, J. (2000) 'Ethnicity and modern nations', *Ethnic and Racial Studies*, 23(4), pp. 651–69.
- Inis, E. (2000) 'Introduction: democracy, citizenship and the city', in: E. Inis (Ed.), *Democracy, Citizenship and the Global City*, Innis Centenary Series (London, Routledge).
- Inis, E. and Wood, P.K. (1999) *Citizenship and Identity* (London, Sage).
- Jacobson, D. (1996) *Rights Across Borders: Immigration and the Decline of Citizenship* (Baltimore, John Hopkins University Press).
- Kratochwil, F. (1994) 'Citizenship: on the border of order', *Alternatives*, 19, pp. 485–506.
- Layton-Henry, Z. (1990) 'Citizenship and denizenship for migrant workers?', in: Z. Layton-Henry (Ed.), *The Political Rights of Migrant Workers in Western Europe* (London, Sage), pp. 186–95.

- Lindio-McGovern, L. (1997) 'The global political economy of domestic service work: the experience of Filipino migrant caregivers in Chicago', in: R. Hudson (Ed.), *Globalization of Work: Research in the Sociology of Work Series*, 6 (Greenwich, CT, JAI Press), pp. 246–61.
- Lindio-McGovern, L. (2003) 'Labor export in the context of globalization: the experience of Filipino domestic workers in Rome', *International Sociology*, 18(3), pp. 513–34.
- McLaren, P. and Lankshear, C. (Eds) (1994) *Politics of Liberation: Paths from Freire* (London, Routledge).
- Sanderson, G. (1974). 'The sweatshop legacy: still with us in 1974', *Labour Gazette*, 74, pp. 400–17.
- Sassen, S. (1996) *Losing Control? Sovereignty in an Age of Globalization* (New York, Columbia University Press).
- Sassen, S. (1998) *Globalization and its Discontents* (New York, The New Press).
- Sawatzky, H.L. (1971) *They Sought a Country: Mennonite Colonization in Mexico* (London, University of California Press).
- Schmitz, C. (2002) 'Supreme court breathes life into charter's Section 2 (d)', *The Lawyers Weekly*, 21(33), pp. 1, 8.
- Schuck, P. (1998) *Citizens, Strangers, and In-betweens: Essays on Immigration and Citizenship* (Boulder, Westview Press).
- Schuster, L. and Solomos, J. (2002) 'Rights and wrongs across European border: migrants, minorities and citizenship', *Citizenship Studies*, 6(1), pp. 37–54.
- Sharpe, P. (2001) 'Introduction: gender and the experience of migration', in: P. Sharpe (Ed.), *Women, Gender and Labour Migration: Historical and Global Perspectives* (London, Routledge), pp. 1–14.
- Snell, F. (1974) *Leamington's Heritage 1874–1974* (Leamington, Town of Leamington).
- Soysal, Y.N. (1994) *Limits of Citizenship: Migrants and Postnational Membership in Europe* (Chicago, University of Chicago Press).
- Soysal, Y.N. (2000) 'Citizenship and identity: living in diasporas in post-war Europe?', *Ethnic and Racial Studies*, 23(1), pp. 1–15.
- Stasiulis, D. and Bakan, A.B. (1997) 'Negotiating citizenship: the case of foreign domestic workers in Canada', *Feminist Review*, 57, pp. 112–39.
- Stasiulis, D. and Bakan, A.B. (2002) 'Negotiating the citizenship divide: foreign domestic worker policy and legal jurisprudence', in: R. Jhappan (Ed.), *Women's Legal Strategies in Canada* (Toronto, University of Toronto Press), pp. 237–94.
- Turner, B.S. (1993a) 'Contemporary problems in the theory of citizenship', in: B.S. Turner (Ed.), *Citizenship in Social Theory* (London, Sage), pp. 1–19.
- Turner, B.S. (1993b) 'Outline of a theory of human rights', in: B.S. Turner (Ed.), *Citizenship in Social Theory* (London, Sage), pp. 162–90.
- United Food and Commercial Workers Union (2002) 'National report: status of migrant farm workers in Canada', mimeograph.
- White, D. (2003) 'Social policy and solidarity, orphans of the new model of social cohesion', *Canadian Journal of Sociology*, 28(1), pp. 51–76.
- Whitfield, G. and Papadopoulos, A.P. (2002) 'Introduction to the greenhouse vegetable industry', available online at: <<http://res.agr.ca/harrow/hrcghar.htm>> (accessed 14 December 2002).
- Winer, A. (1997) 'Making sense of the new geography of citizenship: fragmented citizenship in the European Union', *Theory and Society*, 26, pp. 529–60.
- Yuval-Davis ? (1999) 'The "multi-layered citizen": citizenship in the age of "glocalization"', *International Feminist Journal of Politics*, 1(1), pp. 119–36.
- Zwarenstein, C. (2002) 'Small town, big issues: migrant workers organize', *Our Times*, 21(3), pp. 14–21.

Author Query Sheet

QUERY NO.	QUERY DETAILS
	<p data-bbox="253 758 1049 877"><u>NO QUERIES</u></p>