

Consent, Circumvent or Contest?

The Choices of (Im)Migrant Agency Workers facing
Labour Violations in Montreal



Presented by: Jill Hanley

Consent, Circumvent or Contest?

Workers faced with labour violations are faced with a difficult choice:

- **“Consent”**: “accepting” the violation to preserve employment
- **Circumvent**: finding ways to avoid or lessen the violation while avoiding confrontation or conflict
- **Contest**: challenging the violation through direct confrontation or a formal complaint

We’ve examined this for LCP workers (Koo & Hanley, 2016)...

How does it play out for temp agency workers?

“Placement and Recruitment Agencies: silent partners in migrant employment”

SSHRC Insight Grant, 2013-2018

- Team members: Sonia Ben Soltane, Nuha Dwaikat Shaer, Paul Eid, Jill Hanley, Mostafa Henaway, Lindsay Larios, Manuel Salamanca Cardona
 - Partners: Immigrant Workers Centre and PINAY
 - Mixed methods:
 - Analysis of 62 agency worker casefiles at the Immigrant Workers Centre
 - Analysis of 44 PINAY Live-In Caregiver casefiles related to recruitment agencies
 - 3-year longitudinal, qualitative study of employment, education, family and immigration trajectories of 40 (im)migrant workers in 5 sectors, interviews every 4 months
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Participant Profile

- GENDER: 56% men, 44% women
 - AGE: 73% between 26-45 years old
 - CIVIL STATUS: 49% single, 51% married
 - 68% had children
 - 43% of the children were in the country of origin
 - Language: 85% speak French
 - 65% trilingual (French, English + other)
 - EDUCATION: 80% have a post-secondary education
 - 20% with a graduate degree
 - 88% would like to study in Canada
 - 53% citizens or permanent residents vs. 47% precarious status
 - 17% non-status
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Sectors of Work

- After consultation with the IWC and PINAY, we recruited from 5 sectors:

Professional: M/W, mostly citizens

Health: M/W, citizens and permanent residents

Warehouse: M, citizens, permanent residents and int'l students

Food Transf: W, refugee claimants, non-status

Day Labour: M/W, mixed

- Foreign-born workers are heavily over-represented in temp agency work at 1/3 of the workforce in Quebec vs. 13% of the population
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Common Labour Standards violations experienced by participants

Percentages from IWC cases, but reflective of qualitative results as well:

- Unpaid wages: 48%
 - Unpaid vacation: 31%
 - Prohibited practices: 27%
 - Unjust dismissal: 23%
 - Harassment: 19%
 - Schedule and hours: 19%
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Common Occupational Health & Safety violations experienced by participants

- Workplace injuries or illness
 - Unsafe working conditions
 - Protective equipment not supplied by the employer
 - Lack of health and safety training
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What to do?

Deciding to “consent”

- Despite near-universal experiences of labour violations, most continued working without circumventing or contesting the situation
 - Sometimes due to lack of knowledge of rights
 - More often related to an informal cost/benefit analysis of taking action:
 - Hard to circumvent through finding another job or avoidance on-the-job
 - Low likelihood of success in formal complaints process
 - High risk of losing employment when stakes are high (especially immigration status, remittances)
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Examples of “consent”

- **Continuing to work when wages are unpaid** (ex. overtime, short-changing hours or simply no paycheque)
 - **Undertaking dangerous tasks** (ex. crawling inside industrial machines, working without protective gear)
 - **Enduring harassment or discrimination** (ex. productivity pressure, racist behaviour, sexual harassment)
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What to do?

Circumventing labour violations

- Some workers found ways to avoid or lessen labour violations without engaging in direct confrontation
 - Also related to an informal cost/benefit analysis of circumvention:
 - Retain job when possible while lessening impact of violations
 - Jockeying for more advantageous assignments within a workplace
 - Seeking better employment while maintaining current job
 - Seeking new employment rather than contesting after quitting or unjust dismissal
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Examples of circumvention

- **Improving personal situation:** Ex. Seeking training opportunities and recognition by management in order to be promoted to a supervisor position
 - **Protective measures:** Ex. Taking personal measures to protect workplace health and safety
 - **Avoidance:** Ex. Being illegally fired for taking time with wife in hospital but deciding to return to school rather than contest the dismissal
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What to do?

Contesting labour violations

- Spontaneous contestation of violations on-the-job
 - For unresolved violations:
 - Direct action individually, with colleagues or with community organization
 - Formal legal action with Labour Standards Board or Health and Safety Board
 - Most often when there is little left to lose (i.e. job is already lost)
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What makes workers choose these responses?

- Immigration status and remittance responsibilities
 - Type of work contract (cash, undocumented)
 - Lack of information on rights (missing deadlines, missing necessary details)
 - Concerns about stress or time required
 - Wanting to move on from a difficult situation
 - Lack of success with one strategy leading to willingness to try the other
 - Tripartite labour relationship: Who is responsible?
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Implications

- Need to recognize and respect migrant workers' stakes in deciding how to face labour violations
 - Formal recourses inadequate to defend the rights of migrant agency workers
 - Advocates must take on direct intervention if rights are to be protected: efficient, effective and low risk for organization
 - Changing the cost/benefit equation necessary if workers are to move significantly from “consent” to circumvention to contestation
 - Organizing to improve the regulation of agencies (ex. co-responsibility), reduce precarious immigration status and eligibility for different social benefits still urgently required
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Thanks!

- Participants in our study
 - IWC, particularly ATTAP members, and PINAY for access to their files and as project partners
 - The rest of the research team
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