

Development of Canada's Temporary Foreign Workers Program Since 1990

by

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A thesis submitted to the Faculty of Graduate and Postdoctoral Affairs
in partial fulfillment of the requirements for the degree of

Master of Arts

in

Political Science

Carleton University
Ottawa, Ontario

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Abstract

As the Temporary Foreign Worker Program (TFWP) has evolved into a fixed feature of Canada's economic immigration landscape, extensive scholarship has examined its outcomes, especially the program's impact on migrants. The scholarship, however, has failed to analyze the TFWP itself. Through a content analysis of government documents, this research fills this gap by investigating how the TFWP itself and the surrounding environment have influenced the program's development since 1990. Guided by Mahoney and Thelen's (2010) "Theory of Institutional Gradual Change" and Brenner and Theodore's (2002) "Actually Existing Neoliberalism", the analysis of the TFWP's objective, rules, and structure resulted in the illumination of the development process and the significance of internal and external factors. It was found the TFWP developed gradually through the mode of layering and that this process was influenced by its existing framework and the social-economic-political environment.

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List of Acronyms

CBSA	Canada Border Security Agency
CEC	Canada Employment Centre
CIC	Citizenship and Immigration Canada
CIMM	Standing Committee on Citizenship and Immigration
EIC	Employment and Immigration Canada
ESDC	Employment and Social Development Canada
FDM	Foreign Domestic Movement
HRCC	Human Resource Centre of Canada
HRDC	Human Recourse Development Canada
HRSDC	Human Recourse and Social Development Canada
HUMA	Standing Committee on Human Resources, Skill and Social Development and the Status of Persons with Disabilities'
IMP	International Mobility Program
IRCC	Immigration, Refugees and Citizenship Canada
LCP	Live-in Caregiver Program
LMIA	Labour Market Impact Assessment
LMO	Labour Market Opinion
NIEAP	Non-Immigration Employment Authorization Program
OAGC	Office of the Auditor General of Canada
PWGSC	Public Workers and Government Services Canada
SAWP	Seasonal Agricultural Worker Program
TFWP	Temporary Foreign Workers Program

Introduction

Since its creation in the 1990s, Canada's Temporary Foreign Workers Program (TFWP) has undergone multiple amendments and expansions, while also growing into a permanent fixture of Canada's economic plan with admissions via the program consistently showing an upward trend. In 2016, 339,495 temporary foreign workers were present in Canada, a significant increase compared to 92,986 in 1996 (Immigration, Refugee & Citizenship Canada [IRCC], 2018; Citizenship & Immigration Canada [CIC], 2001). At the same time, while this program evolved, Canada underwent several social, political, and economic changes (Knowles, 2016; Binford, 2012; Daenzer, 1993). Despite extensive scholarly work on the program's negative impact on migrants, their families, and sending countries, the scholarship has fallen short on examining the development of the TFWP and the factors that influenced its development.

Understanding the process of its development, as well as the factors that informed and shaped it, it is imperative to fully comprehend how the program, as it is presently, emerged. In effect, this thesis aims to fill this gap by analyzing the initial and subsequent expansions and revisions of the TFWP which occurred between 1990 and the present. Specifically, this research asks how has Canada's TFWP, itself, and the surrounding environment influenced the program's development since 1990? Two sub-questions are also considered: how have the rules and structure of Canada's TFWP developed over the period? And how internal (e.g. existing rules and structure) and external (e.g. surrounding social-economic-political climate) factors affect this process?

In order to identify the development process along with external and internal factors that informed and shaped the evolution of the TFWP, this research has adopted a theoretical framework informed by Mahoney and Thelen's (2010) "A Theory of Gradual Institutional Change" and Brenner and Theodore's (2002) "Cities and the Geographies of 'Actually Existing

Neoliberalism”’. Together these theories highlight the development process of government programs along with two significant factors: the pre-existing rules and structures of the program and the environment in which the development process occurs.

To uncover the development process and significant factors, this thesis will adopt a qualitative content analysis of 68 documents produced by the Federal Government from 1990 to the present, which contain the rules, structure(s), objective(s) of the TFWP, and descriptions of the social-economic-political environment (Berdahl & Archer, 2015; Schreier, 2012). Relying solely on government documents focuses the research on original descriptions of the TFWP, but also limits findings to the official government narrative. Despite this limitation, the analysis will demonstrate how the present version of TFWP emerged. From this, one can better understand the outcomes described in the literature as it will provide greater context as to why and how features emerged as well as a basis to evaluate the degree to which these outcomes are intended. More generally, it will provide an outline for future work on the evolution of government programs.

This research begins with an examination of the existing literature on Canada’s history of migrant programs before 1990. The findings of this background helped to inform the direction of this thesis by highlighting important factors to consider during the analysis. This includes the theoretical framework, outlined in Chapter 2, which was designed to illuminate the factors revealed in the background while allowing additional factors to emerge. With the lens and methodology, Chapter 3, established, this research then conducts its content analysis. The findings of the content analysis are described in Chapter 4, followed by the application of the theoretical framework and its results in Chapter 5. Lastly, in Chapter 6, the findings and results of this thesis are brought together to answer its research questions, along with consideration of this work’s limitations, areas of future examination, and what these findings mean practically.

Chapter 1: History of Canada's Temporary Migrant Workers Program

The current version of Canada's TFWP is the product of historical programs and the accumulation of revisions, all of which begin due to a change in the Government of Canada's perspective on the role and objectives of the state's immigration policy. In the 1960s, Canada's immigration policy approach began to shift away from its previous commitment of nation-building towards a focus on responding to short-term labour market needs (Vineberg, 2011, p. 200; Ferrer *et al.*, 2014, p. 847). Before 1962, Canada's immigration system was strongly focused on nationality, mainly British nationality (Vineberg, 2011, p. 200; Gabriel, 2015 p. 29; Knowles, 2016). The system highly favoured British subjects and citizens of the United States, followed by Northern Europeans, then Central and Eastern Europeans (Vineberg, 2011, p. 200). For those whose nationality was neither British or European the prospect of immigrating to Canada was slim. For example, it was almost impossible to immigrate from Asia unless one's family member was a Canadian Citizen (Vineberg, 2011, p. 200; Gabriel, 2015, p. 29). Canada's focus on nationality, however, began to wane as Canada's economy started to diversify after World War II (Knowles, 2016).

As Canada's industrial sector grew so did its economic demand for new labour types. In an attempt to fill these positions, the Government of Canada began to revise its immigration policy. First, in 1962, amendments to the 1952 Immigration Act changed subsection 31(a) of the regulation to call for admission of person's likely able to establish oneself successfully in Canada based on their education, training, skills, and/or other special qualifications (Gabriel, 2015, p. 30; Satzewich, 1988, p. 290). This measure removed explicit racial discrimination from Canada's immigration policy as well as put qualities with economic relevance at the forefront (Gabriel, 2015, p. 30; Ferrer *et al.*, 2014, p. 849). Then, in 1966, the Government issued a *White paper on*

Immigration, which explicitly emphasized the importance of ensuring consistency between Canada's immigration and economic policies and called for the recruitment of workers irrespective of race and nationality (Gabriel, 2015 p. 31; Knowles, 2016, p. 191). In the following year, 1967, the Government of Canada concretely implemented its economic objectives through the introduction of an immigration point system, which allowed the state to favour individuals with the education, experience, and skills perceived to be needed for vacant positions in the national workforce (Green & Green, 1999, p. 431; Vineberg, 2011, p. 211; Knowles, 2016, p. 197). Although the 1952 amendments and the White Paper showcase a shift away from a 'nation' building objective, it is the point system that acts as a marker by which Canada cemented its move towards an immigration approach with an economic goal (Vineberg, 2011; Ferrer *et al.*, 2014, p. 848). Before its implementation, the application of non-racial qualifications-based admission assessments remained in the hands of individual immigration officers (Gabriel, 2015, p. 31; Knowles, 2016, p. 195; Green & Green, 1999, p. 413). Thus, the introduction of the point system created an objective assessment in which economic relevant qualifications were primary (Green & Green, 1999, p. 431).

1.1 Establishment of Migrant Worker Programs

In addition to the point system, the Government of Canada's shift towards economic migration was also cemented through the establishment of multiple migrant worker programs, which were designed to import individuals to fill specific labour shortages and/or further Canada's economic prosperity (Trumper & Wong, 2010, p. 84; Sweetman & Warman, 2010). In 1966, the Pearson government signed a memorandum of understanding with Jamaica (Gabriel & McDonald, 2011, p. 48; Sweetman & Warman, 2010, p. 19). This formal agreement created a managed migration deal that outlined the process by which the sending country would supply

agricultural workers to the receiving country to fill temporary positions (Preibisch & Hennebry, 2012, p. 51; Binford, 2012). The success of the agreement led Canada to sign similar managed migration agreements with other southern countries, including Trinidad and Tobago in 1967, Mexico in 1974, and nine other Commonwealth Caribbean countries in 1976 (Preibisch, 2012, p. 66; Gabriel & McDonald, 2011, p. 48). These managed migration agreements are known collectively as the Seasonal Agricultural Worker Program (SAWP). Despite differences in quotas, all of these formal agreements under the SAWP were created to respond to labour shortages in the framing industry and provide workers from sending countries with short-term, renewable work permits (Satzewich, 1988, p. 282; Reed, 2008, p. 475-6; Gabriel & McDonald, 2011, p. 48). The first objective showcases Canada's shift towards economic focused migration as it displays the Government's prioritization of economy. This was confirmed by the Minister of Citizenship and Immigration, René Tremblay, who stated that the objective of Canada's immigration policy was to address "Canada's economic needs in terms of manpower and population" (Vineberg, 2011, p. 210).

A few years following, in 1973, the Non-immigration Employment Authorization Program (NIEAP) was established (Sharma, 2002, p. 18; Hsiung & Nichol, 2010, p. 767). Like the SAWP, the objective of the NIEAP was to fill labour shortages and provide short-term, renewable work permits instead of permanent resident status (Bakan & Stasiulis, 1994, p. 13; Sharma, 2000, p. 7). However, unlike the SAWP, the program was not defined by a single industry, thus, it expanded the opportunity for employers to hire temporary foreign workers (Bakan & Stasiulis, 1994, p. 13; Cohen, 1994, p. 84; Daenzer, 1993). The establishment of the NIEAP is significant beyond its reinforcement of Canada's shift towards economic focused migration. Reed (2008) and Cohen (1994) argue that the policy framework of the NIEAP became

the foundation upon which later temporary migrant worker programs emerged. In connection, Sharma (2006) argues that the NIEAP advanced Canada's dependency on temporary migrant workers, an outcome that drove desires for expansion (p. 110-114). The broad employment possibilities under the NIEAP allowed multiple industries to hire foreign workers and the renewability of their permits allowed them to become permanent features of these industries business models, creating a reliance on the availability of this cheap labour subset (Sharma, 2002, p. 18; Cohen, 1994). By 1983, a decade after it was established, 87,700 temporary employment authorizations were issued to migrant workers under NIEAP (Sharma, 2006, p. 113)

Almost a decade later, the Government further expanded Canada's dependency on temporary migrants by reinstating a migrant program specifically tailored for the employment of migrant workers for domestic tasks (Reed, 2008, p. 476; Bakan & Stasiulis, 1994, p. 10). In 1981, Canada established the Foreign Domestic Movement (FDM) program (Cohen, 2000, p. 80; Daenzer, 1993, p. 109; Sweetman & Warman, 2010, p. 20). The purpose of this program was to recruit migrant workers, mainly women from under-developed states, to serve as live-in domestics and nannies for Canadian families (Bakan & Stasiulis, 1994, p. 10; Hsiung & Nichol, 2010, p. 767; Macklin, 1994, p. 17). Prior to the implementation of FDM, between 1955 and 1967, Canadian families could hire a live-in caregiver through the Caribbean Domestic Scheme, which provided permanent residency to the migrant worker on the condition they remain a live-in caregiver for one year (Barber, 1991; Calliste, 1991, p. 136-7; Arat-Koc, 1997, p. 75-6). The FDM, on the other hand, like the NIEAP and SAWP, only issued temporary work permits (Stasiulis & Bakan, 1994, p. 14; Cohen, 2000, p. 80). It should be noted that the FDM could be used as a path for future permanent residency, however, initially the worker was provided a temporary visa and there was no guarantee of acceptance into Canada more permanently

(Macklin, 1994, p. 8; Bakan & Stasiulis, 1994, p. 14; Daenzer, 1993, p. 110). In terms of its impact, FDM became extremely popular with Canadian families with 10, 946 migrant caregivers, mainly women, admitted through the program in 1990 (Macklin, 1992, p. 693). Thus, as stated, FDM advanced Canada's dependency on temporary foreign workers. Moreover, the implementation of this program in the 1980s further showed the Government of Canada's building commitment to temporary migration as a means to satisfy labour needs (Reed 2008, p. 476; Macklin, 1994; Schechter, 1998, p. 120-5).

1.2 Canada's Developing Dependency on Migrant Workers

The establishment of temporary migrant worker programs and Canada's growing reliance on temporary workers, along with the introduction of the point system, cemented Canada's shift to an economy focused immigration approach. Migrant worker programs were designed to support and advance Canada's economic prosperity by allowing the entry of migrant labourers to directly fill vacant positions in a variety of industries (Sharma, 2006; Reed, 2008; Preibisch, 2010, p. 431). A key feature that connects these programs is the maintenance of the worker's foreign citizenship, which, in turn, justified their temporary legal entry (Stasiulis & Bakan, 1997, p. 113; Stiell & England, 1997). Thus, the completion of Canada's transition to an economy focused migration approach did not remove the significance of national identity. However, instead of being a barrier to one's entry, the migrants' foreign nationality and citizenship have become a 'positive' characteristic (Strauss, 2012, p. 143; Stasiulis & Bakan, 2003). A lack of Canadian citizenship acts to maintain the pool of low-wage workers that industries in Canada have become dependent on, as well as provide a legal division that separates this labour subset from the Canadian workforce (Sharma, 2000, p. 6; Callon, 2016, p. 41; Strauss, 2012, p. 140). Through this legal division, this labour subset was able to inhabit features not found within the

general Canadian workforce, including lower wages, risk of deportation, and inability to circulate freely in the labour market (Stasiulis & Bakan, 2003; Strauss, 2012, p. 140). These rules placed upon migrant workers, which initiated Canada's reliance on these workers, became more advantageous in the economic and social environment of the late 1970s and 1980s, further driving industry dependency (Schechter, 1998, p. 120-5).

Between 1960 and the early 1980s, when Canada's temporary migrant worker programs were first developed, Canada experienced an adherence to and then a shift away from Keynesian economics, the dominant economic theory during World War II and the following decade (Dodge, 2016, p. 111-2; Helleiner, 2016, p. 84-5). The Keynesian economic theory believes that consumer spending is the primary driving force of the economy (Hira, 2016, p. 345-6; Timlin, 1977). As a result, the theory advocates for expansionary fiscal policy as a means to boost growth (Hira, 2016, p. 346; Timlin, 1977). Expansionary fiscal policy ranges from direct government spending on infrastructure to indirect spending by encouraging consumer spending through tax cuts, subsidies, and welfare programs (Hira, 2016, p. 346). Canada adopted a majority of these policies, for example, unemployment insurance was instituted in 1944, then expanded in 1971, followed by universal public healthcare in 1972 (Banting, 2012, p. 142-7; Mahon, 2008, p. 346-7). By the mid-1970s, however, Canada began to experience slowing economic growth and inflation, eventually resulting in an economic recession in the early 1980s (Banting, 2012, p. 148; Dodge, 2016, p. 112; Schechter, 1998, p. 120).

The economic pressures felt across the country due to the economic downturn resulted in anti-immigration forces as the population felt unable to care for itself, leading to a decrease in immigration, especially those entering under the economic class (Sharma, 2006, 2012). At the same time, it is during this period of economic hardship that Canada expanded its migrant

worker program by establishing the NIEAP and experienced high admissions of migrant workers (Sharma, 2006, p. 121; Schecter, 1998, p. 120). In the mid-1980s, over 70% of all workers entered Canada through its temporary migrant worker programs (Sharma, 2006, p. 121). The temporary migrant worker arrival rate increased as their unique labour characteristics supported Canada's economic prosperity. Specifically, their lower wages and subordinated position helped reduce economic pressures felt by industries while formal and informal barriers to accessing social services and welfare programs reduced economic pressures on governments (Hennebry *et al.*, 2016, p. 522; Carlos & Wilson, 2018, p. 122; Schecter, 1998, p. 120-5). Therefore, the economic environment of the 1970s and 80s increase the value of migrant workers' labour characteristics, which, in turn, acted to advance Canada's dependency on migrant workers.

During the same period, Canada also experienced a significant social change which further supported the country's dependence on temporary migrant workers. In the 1950s, female employment in Canada began to grow, with participation in the workforce increasing 10% within a decade (Statistics Canada, 2018a, chart 1). By the 1970s, the trend of women entering the 'public' workplace experienced a significant increase as participation surged 20% in the decade and passed 70% in the mid-1980s (Statistics Canada, 2018a, chart 1; Mahon, 2008, p. 350). This movement included working-class women moving away from domestic work located in the 'private' sphere towards factory work as well as middle- and upper-class mothers gaining employment in well-paid high-class jobs (Stiell & England, 1997, p. 340-1; Arat-Koc, 1989, p. 34). By 1986, 50.3% of women aged 15 years and over were employed, up from 41.9% in 1976, and 56.7% of mothers with children under the age of 16 years old were working compared to 30.1% a decade earlier (Statistics Canada, 2015a, 2015b). This societal trend created a 'crisis in the domestic sphere' that neither husbands or the Government, through increased accessibility to

childcare and home beds for seniors, stepped in to fill, which, in turn, further increased demand for paid domestic workers (Arat-Koc, 1989, p. 35; Macklin, 1994, p. 30). Middle- and upper-class mothers filled this gap by hiring live-in domestic workers, mainly women from third world countries through the NIEAP (Arat-Koc, 1989, p. 35; Macklin, 1994, p. 37). The Government showed support for this solution by establishing the FDM in 1981 (Hsiung & Nichol, 2010, p. 767-8; Schecter, 1998, p. 121; Daenzer, 1993, p. 110). Thus, the surge of female participation in the workforce in the 1970s unintentionally advanced Canada's reliance on foreign domestic workers (Macklin, 1994, p. 37; Schecter, 1998, p. 120-5; Statistics Canada, 2018a).

Therefore, entering the 1990s, Canada had established an extensive temporary migrant worker program landscape that encompassed multiple industries, including in-home caregiving, and was maintained by a strong dependency on their availability. By the late 1980s, 20 plus years after the establishment of Canada's first managed migrant worker agreement, more than 60% of individuals entering Canada annually for economic purposes arrived through temporary migrant worker programs (Sharma, 2006, p. 119; Walsh, 2014). Specifically, 194,454 migrant workers were present or arrived in 1988, which is 73% of all economic admissions that year (Sharma, 2006, p. 119). This substantial dependency continued into the 1990s and up until the present, making temporary migrant worker programs a permanent and important feature of Canada's economic vitality (Walsh, 2014; Schecter, 1998, p. 107-39). This review of Canada's history with migrant worker programs has revealed the significance of the TFWP and key factors that should be included in this research. Specifically, it highlighted the importance of pre-existing programs and the surrounding environment. In effect, this research's examination of the TFWP's development from 1990 to the present will consider the role of external and internal factors in this process.

Chapter 2: Development of Government Programs

The development of government programs, including influencing factors, has not been greatly researched. Instead, scholars have focused on researching the outcomes of government programs. For example, Khazabi (2013) studied the effectiveness of Canada's labour market programs to penetrate rural Indigenous and Inuit communities, White (2003) investigated the outcomes of government programs designed to address worker displacement in Canada and England, and Shahidi *et al.* (2018) researched government social assistance programs in Canada and the USA to determine their impact on recipient's health. Examples of the TFWP, include Callon (2016) and Walsh (2014) who have studied the negative impact of migrant worker program on labourers, with Callon highlighting how Canada's program acts to reinforce gender and racial inequalities and Walsh investigating the outcome of labourers in Canada and Australia's migrant worker programs in terms of legal protections and rights.

2.1 Literature on Gradual Change

Despite a lack of literature on long-term progressive development at the micro-level, such as government programs, scholars have examined development on a macro-level with a wide variety of works analyzing and theorizing institutional change. Specifically, a relatively new perspective has emerged within the institutionalist literature known generally as Gradual Change Framework (Rocco & Thurston, 2014, p. 36). This new theory of institutional development deviates from the majority of literature before it, which centered around the link between significant external shocks and institutional change, by suggesting institutions are not stagnate and unchanging but instead, can and do experience slow incremental change that accumulates together resulting in noticeable modifications (Streeck & Thelen, 2005, p. 3; Rocco & Thurston, 2014, p. 37). Key works by Thelen (2004), Streeck and Thelen (2005), Mahoney and Thelen

(2010), Hacker (2004), and Pierson (2004, 2005) cemented the new perspective through illustrating different modes of gradual change occurring within institutions. The modes of gradual institutional change include displacement (the replacement of existing rules with new ones), layering (introduction of new rules on top of or attached alongside existing ones), drift (institutional rules remain constant but the degree of their impact changes), and conversion (existing rules are interpreted and enacted in new ways) (Mahoney & Thelen, 2010; Streeck & Thelen, 2005; Schickler, 2001).

From these modes of change, one can see the importance of rules in this literature. In the political science sphere, the definition of institutions often highlights the importance of formalized rules, which refers to rules that can be predictably and reliably supported and legitimized by a third party (Streeck & Thelen, 2005; Rocco & Thurston, 2014, p. 41). Based on this definition, I believe that although this area of research is centered around macro-level systems, the Gradual Change Framework can be applied to government programs, because despite their micro size, government programs contain rules that can be predictably legitimized by a third party. This opinion is also supported by authors, such as Andriosopoulos and Silvestre (2017), Banting (2014), Béland and Myles (2012), Aagaard (2017), and Henig (2008), who have applied institutional theories onto micro-level systems like government policies and programs. Therefore, for this thesis, the term institution will be narrowed to refer to government programs.

2.2 A Theory of Gradual Institutional Change

A major work within this section of the institutionalist literature is Mahoney and Thelen's (2010) "A Theory of Gradual Institutional Change." Unlike early works that focused on establishing the perspective by relying heavily on tangible examples, Mahoney and Thelen (2010) provide a more abstract summary of the argument. Within this work, the authors begin

with an overview of the traditional perspective, which focuses on institutions experiencing an abrupt and large-scale change in reaction to disruptive external factors, before moving forward to outline how institutions undergo small change through properties contained within them (Mahoney & Thelen, 2010, p. 4-7 & 14). The authors focus on an institution's rules, arguing that incremental change occurs within the gap between a rule and its interpretation and/or enforcement (Mahoney & Thelen, 2010, p. 14). Mahoney and Thelen (2010) showcase how change occurs in this gap by examining the four modes of institutional change: layering, displacement, drift, and conversion (p. 15-16). The first two modes, displacement and layering, result from low discretion in interpretation and enforcement, whereas for drift and conversion, high discretion is needed (Mahoney & Thelen, 2010, p. 19). These modes of change not only pinpoint the areas in which potential change can occur but also illuminate that small changes, either through interpretation and/or enforcement, can result in substantive change as these smaller changes accumulate over time (Mahoney & Thelen, 2010, p. 15-18).

This research intends to rely on Mahoney and Thelen (2010) to support its analysis as it highlights the importance of the program's existing rules and structure and provides a clear outline for how change can occur within an institution. Since this work will be analyzing the forward development of Canada's TFWP, it is imperative that internal factors, specifically the program's existing rules and structure, are evaluated. From the Gradual Change Framework, one learns that as a program evolves its existing rules and structure are not abandoned but are involved in its development (Mahoney & Thelen, 2010). In effect, including Mahoney and Thelen's theory of gradual change will enrich this work's analysis by drawing attention to the importance of internal factors in the program's development (2010). Moreover, by highlighting

the importance of revisions and additions to a program's rules and structure, these authors draw attention to the impact of minor changes (Mahoney & Thelen, 2010).

2.3 Exiting Social, Economic, and Political Environment

The background work on Canada's migrant worker programs before 1990 has shown the importance of Canada's unique social, economic, and political environment as these spheres have played a role in the development and rising use of migrant worker programs. Additionally, in the Gradual Change Framework literature, the social, economic, and political environment is also highlighted as an influencing factor. For example, Paquet's (2017) investigation of the links between federalism and immigration policies in Canada and Australia included an examination of the government's objective(s) and ideologies, both external factors, in its application of the Gradual Institutional Change perspective. Thus, including a theory that draws attention to these external factors is supported by this research's review of the literature and consistent with Mahoney and Thelen's (2010) theory. In effect, this research has chosen to include Brenner and Theodore's (2002) theory of "Actually Existing Neoliberalism" as part of its theoretical framework to ensure these elements are highlighted within its analysis.

Brenner and Theodore's (2002) work highlights the importance of geographical uniqueness of the state in development by emphasizing geographical differences and the contextual embeddedness of ideologies. In terms of geographical differences, this theory draws attention to the importance of the unique policy and program landscape present in each state (Brenner & Theodore, 2002, p. 351). The authors illustrate that each state is defined by a specific combination of political, economic, and social factors that fluctuate over time (Brenner & Theodore, 2002, p. 351). This distinct combination results in government programs and development that reflect this unique path (Brenner & Theodore, 2002, p. 351). As a result, each

state is endowed with a policy and program landscape that reflects its historical and current political, social, and economic environment. From this, Brenner and Theodore (2002) assert that the manner in which new ideologies, in their case neoliberalism, are implemented is actively influenced by this unique landscape. The existing policy and program landscape will shape, and even restrict, how the ideology is adopted (Brenner & Theodore, 2002, p. 353). In a perfect scenario, old programs and policies are abandoned and new ones are developed to exactly mirror the new ideology. However, in reality, the authors argue this does not occur and instead, the ideology is implemented to fit within the existing landscape (Brenner & Theodore, 2002, p. 356). Selective and targeted re-regulation is used to adjust existing programs to adhere to the new goals and ideals of the new ideology. In consequence, the ideology is implemented in a modified form that reflects the unique geographically defined program and policy landscape and the socio-economic-political climate of the singular state (Brenner & Theodore, 2002, p. 357).

More abstractly, Brenner and Theodore (2002) argue that a state's current program and policy landscape reflects not only the political, economic, and social environment of the present but also of the past, and this landscape actively influences how new ideologies are implemented. New ideologies, therefore, cannot be implemented in their purely theoretical form but are constructed within the context of the state's institutional and policy landscape (Brenner & Theodore, 2002).

Brenner and Theodore's (2002) theory is well suited to support this thesis because of its emphasis on the influence of external factors, an element that is missing from the Mahoney and Thelen (2010) piece. Focused on how internal factors create change, Mahoney and Thelen (2010) fail to draw attention to the significance of geography, such as how the socio-economic-political environment can influence the development process, and for subsequent expansions and

revisions, the impact of the goals and ideology already present in the program. Moreover, it is known that between 1990 and the present, Canada witnessed economic fluctuations (Department of Finance, 2000, 2009; Dawson, 2016; Dodge & Dion, 2016), experienced multiple changes in government, and underwent social change (Statistics Canada, 2014, 2015c, 2018a). Brenner and Theodore's (2002) theory will be extremely helpful in analyzing how the surrounding environment shapes and informs changes to Canada's TFWP. Therefore, this theory provides a critical geographical lens that will support this work's analysis by illuminating the existing and historical political, economic, and social context and government landscape in which the development process is situated.

Thus, this research will draw upon Mahoney and Thelen (2010) and Brenner and Theodore's (2002) theories to support and guide its analysis. A step that is necessary in order to gain a holistic understanding of the forward development of Canada's TFWP as both of these works highlight key factors that shape how government program revisions and expansions are constructed. Together these theories create a perspective that encompasses not only the process of development but also important internal and external factors: the pre-existing rules and structures of the programs and the environment in which the development process occurs.

Chapter 3: Methodology

This research has adopted a descriptive case study approach and a content analysis as its method (Berdahl & Archer, 2015; Schreier, 2012). As mentioned, the goal of this research is to understand the development of Canada's TFWP and the influence of internal and external factors. To achieve this goal within the scope of this project it is necessary to create boundaries. In effect, this research has chosen to use a descriptive case study approach (Berdahl & Archer, 2015, p. 141-2; Creswell, 2014). By focusing solely on Canada's TFWP from 1990 to the present, this research can develop a fuller and more in-depth explanation of the evolution of the program and the role of influencing factors.

The goal of this research also informed its use of qualitative methods, specifically a content analysis. First, the decision to adopt a qualitative method was directly informed by the fact that quantitative data cannot provide quality and in-depth information pertaining to a program's rules, structure, and objective and the impact of external factors (Schreier, 2012; Creswell, 2014). Moreover, since this project's focus is a single case it was feasible to use qualitative sources, which are often more complex and take longer to analyze and decode (Schreier, 2012). Second, the information needed to answer the research question is largely found in documents, such as official government regulation manuals, reports, and webpages. Thus, a method designed for qualitative, specifically textual, data was necessary (Creswell, 2014; Cavanagh, 1997). It should be noted that the use of in-depth interviews was explored, however, was ultimately ruled out since there are a limited number of individuals that can speak to the program with an overarching perspective who are also not bound by an official narrative, accessible to the researcher, and are willing to be interviewed. Moreover, this project is not interested in subjective perspectives or experiences with the program, thus, relying on documents

rather than interviews will help to focus on the program itself. Therefore, based on these factors, a content analysis is best suited for this research because it allows for the analysis of key sources that contain the information necessary to fulfill this research's goal.

The literature defines two types of content analysis that are relevant to this project, conventional and directed (Hsieh & Shannon, 2005, p. 1279). A conventional content analysis is unguided, often utilized for topics with limited existing literature on the phenomena and/or theory, whereas directed content analysis is guided by surrounding literature and/or theory with an intent to extend current knowledge (Potter & Levine-Donnerstein, 1999, p. 262-3; Kondracki *et al.*, 2002, p. 224-5). Although Mahoney and Thelen (2010) and Brenner and Theodore's (2002) theories are not being tested, they will guide the analysis by highlighting specific concepts and variables that are expected to be significant. At the same time, with little literature on the evolution of government programs and none on Canada's TFWP it is unknown exactly what concepts will be significant. Thus, this thesis will conduct a directed content analysis with a semi-structured coding, allowing the researcher to utilize existing theory, concepts, and variables but also provide room for others to emerge from the analysis itself (Hsieh & Shannon, 2005).

The total process of the analysis will involve two key parts: a vertical analysis and a cross analysis (Schreier, 2012). First, this research will conduct a vertical analysis of each source, looking at rules, structure(s), and objective(s) of the TFWP's streams. These indicators comprise this research's internal factors, everything outside of the program is viewed as external. Once completed, sources will be grouped chronologically and then cross analyzed, in other words, analyzed simultaneously, for instances of continuity and discontinuity. In this second analysis, connections between external factors and times of continuity and discontinuity will be assessed to understand the influence of these factors. As stated above, external factors refer to influences

outside of the program with a specific focus on those emerging from the social, economic, and political spheres. Indicators include the economic condition (e.g. unemployment rate and GDP), economic actors (e.g. employers and Canadian workers), the government (e.g. political parties and their outlooks), stakeholders (e.g. advocates and interest groups), and demographic trends. To measure continuity and discontinuity, this research compared wording and presence of rules, structure(s), and objective(s) from different years. If an indicator appears in both materials with the exact or very similar wording, then it is coded as a continuity. Discontinuity is marked when an indicator newly appears, is modified, or worded differently. Lastly, this work will also draw upon secondary sources (e.g. news articles) outside of the sample to support discovered correlations between external factors and the TFWP's development. As explained below, it was necessary to narrow the sample to include only textual documents produced by the Federal Government. In effect, the research sample may have the basis to suggest a correlation but will need a broader context of the surrounding environment from secondary sources to confirm them.

3.1 Method of Data Collection and Sample Characteristics

The decision to adopt a case study approach and utilize the content analysis methodology has influenced the method of data collection and sample characteristics. In terms of data collection, a case study involves focusing solely on a specific example, or in this case, a government program. Thus, the data collection method does not need to produce a representative sample, as only specific sources have information on or related to the focus topic (Palinkas *et al.*, 2013, p. 536; Berdahl & Archer, 2015, 156-7). Moreover, a content analysis is qualitative, thus, the method of collection must create a sample of sources that produces qualitative data (Maxwell, 2009; Berdahl & Archer, 2015, p. 228). In response to these needs, this project has chosen to use a purposive sample as its method of data collection. Purposeful sampling will

allow the researcher to be selective and choose sources that have specific characteristics which adhere to the project's methodology and contain information needed in order to draw a conclusion that provides an accurate and meaningful answer to the research questions (Maxwell, 2009; Patton, 2015; Palinkas *et al.*, 2013, p. 534).

This research's data collection was guided by three sample characteristics. First, sources must contain information on the TFWP, with a preference for sources on the rules, structure, and objective of the program, any changes made to these features, and/or external social, economic, and political factors. This characteristic is key as the focus of this research is the TFWP's development (Palinkas *et al.*, 2013, p. 354; Patton, 2015). Second, this research has chosen to focus solely on the program's evolution from 1990 to the present. This period was chosen to align the scope of the research with the parameters of a master's thesis. For example, access to primary sources on Canada's temporary migrant worker programs before 1990 is difficult as a majority are in print and located in other cities across Canada. The timeline of a master's thesis does not allow for the time needed to access these documents. Therefore, to prevent this research from drawing inaccurate or overly broad conclusions, the scope of the research was narrowed. In effect, it is necessary that a source contains information from the selected period. Lastly, the source must be textual, in other words, a written document. This characteristic is supported by the literature, which largely defines the method as the analysis of text (Hsieh & Shannon, 2005, p. 1278; Cavanagh, 1997, p. 5), but is also necessary as a significant majority of relevant sources are by the government, which largely produces textual material. Moreover, the time restrictions of the project constrain the sample size to allow for a more in-depth analysis of each source. Thus, focusing on written documentation, which is abundant, will help ensure the sources

included in the sample contain information directly connected to the research and are thoroughly analyzed.

3.2 Data Collection Process and Sample

To access my sample, I utilized the internet as well as archival and university library collections (Hsieh & Shannon, 2005, p. 1278; Kondracki *et al.*, 2002, p. 227). My first point of access was the internet, specifically, Employment and Social Development Canada (2019a), Immigration, Refugee, and Citizenship Canada (2019a), House of Commons (n.d), Statistics Canada (2019a), Department of Finance (2013), and Library of Parliament (n.d) websites, as well as Government of Canada Publications (2019) and Web Archives (n.d). It is here I was able to collect official government material from screen capturing webpages and downloading publications and reports. This initial stage allowed me to gather credible sources, webpages, and formal publications on the TFWP's state from the late 1990s to the present, along with descriptions of the surrounding environment (Kondracki *et al.*, 2002, p. 227; Berdahl & Archer, 2015, p. 229). Next, I began to search for physical archival documents with a specific focus on gathering materials created between 1900 and 2000 as my internet search produced a very limited number of sources for this time period. To locate archival documents, I went to Library and Archives Canada (395 Wellington St., Ottawa, ON), Carleton University Library (1125 Colonel By Dr., Ottawa, ON), and University of Ottawa Library (65 University Private, Ottawa, ON). From these catalogues, I was able to locate multiple archival materials on the TFWP during the 1990s, which helped to significantly fill in gaps from my initial search. In the end, my sample consisted of 68 government textual materials, ranging from official website pages, pamphlets, booklets, department publications, committee reports, and official responses.

Chapter 4: Evolution of Canada's TFWP since 1990

Since the goal of this research is to examine the development of the TFWP across multiple decades, its findings have been divided into decades, moving forward chronologically. This method of organization was chosen since it increases the clarity of the TFWP's evolution in an unbiased manner. Earlier documents are drawn upon to provide a foundation of the TFWP's rules, structure, and objective. As the timeline moves forward, in order to avoid repetition, only instances of change to the rules, structure, and objectives found in the sample are described. At the beginning of each decade will be a brief overview of the surrounding environment to provide context and highlight external factors findings.

4.1 1990 – 1999: Establishment of Canada's TFWP

Canada underwent significant socio-economic-political experiences in the 1990s. Politically, the decade featured the end of the Mulroney Conservative government with the 1993 election of the Liberal Party of Canada, led by Jean Chrétien. This Liberal government stayed in power for the rest of the decade with its re-election in 1997. Economically, Canada entered into the decade experiencing an economic recession with an unemployment rate of 11.4% in June 1992 and 10.3% in June 1995 (Statistics Canada, 2019b). This economic downturn continued to be felt into the later part of the decade as the unemployment rate remained relatively high with 9.1% in June 1997 and 8.4% in June 1998 (Statistics Canada, 2019b). Lastly, the societal trend of working women saw further increases in this decade as the percentage of employed women aged 25 to 54 climbed from 76% in 1990 to 78% in 1999 (Statistics Canada, 2018a, para. 6).

Turning to the program, in the early 1990s, Canada's TFWP included three streams, general TFWP, SAWP, and LCP (CIC, 1999a). According to the Government of Canada, the TFWP aimed to allow “employers to recruit foreign workers needed for the Canadian labour

market” (CIC, 1995, p. 1) while also “ensur[ing] that employers have considered Canadian citizens and permanent residents and that the entry of foreign workers will not adversely affect employment or career opportunities for Canadian citizens and permanent residents” (CIC, 1995, p. 1). This balance was ensured by the Canada Employment Centre (CEC), which provided an opinion on the employer’s “efforts to consider Canadian citizens and permanent residents” (CIC, 1995, p. 1) and the effect of hiring a foreign worker on the labour market. For all TFWP streams, employers were required to give details of the job offer to the CEC (Employment & Immigration Canada [EIC], 1992, p. 2). “An [CEC] employment counsellor [would then] check to determine if [the] offer of employment [met] the prevailing wages and working conditions for the occupation concerned” (EIC, 1992, p. 2). A CIC booklet provided further details, stating that the CEC checked whether the employer:

“(a) made reasonable efforts to hire or train Canadian citizens and permanent residents; (b) suitably qualified Canadian citizens and permanent residents were considered first and were not available, or could not be trained in time to fill the positions for which the foreign worker is requested; and/or (c) the required skill level, working conditions, salary and other factors are sufficient to attract Canadians, as well as warrant the recruitment of foreign workers[;] ... (d) the admission of the foreign worker can create or maintain employment in Canada, provide training opportunities or transfer specialized knowledge to Canadian citizens or permanent residents, or strengthen a company’s competitive position in the international marketplace” (CIC, 1995, p. 4-5).

Following these details, it is noted that a CEC counsellor only considers the request for a foreign worker once satisfied that “job and career opportunities for Canadians [would] not be adversely affected by the entry of a foreign worker; and/or there [would] be benefits if a foreign worker is

recruited” (CIC, 1995, p. 6). In effect, an offer of employment to a foreign worker could not be approved by a CEC employee if: “the wages and working conditions offered would not attract and retain Canadian citizens and permanent residents; employing a foreign worker would affect the settlement of any labour dispute, or the employment of any person involved in such a dispute, at the place or intended place of employment; or the job offered is insincere or is designed to make the job inaccessible to Canadian citizens and permanent residents” (CIC, 1995, p. 6). Once all the above conditions were met, “the CEC [would] approve the job offer [and] ... then issue a confirmation of offer of employment and send [it] to the Canadian Embassy, High Commission or Consulate in [the worker’s] country” (EIC, 1992, p. 2). “The employer [would also] be provided with a copy of the confirmation of offer of employment, to be forwarded to [the employee]” (EIC, 1992, p. 2).

Following the CEC confirmation, the employee, also known as the foreign worker, would be contacted by the nearest Canadian visa office upon receipt of the confirmation of the offer of employment (EIC, 1992, p. 2). The employee could be requested for an interview, to send some information by mail (EIC, 1992, p. 3) and/or “to have a medical checkup which [they would] have to pay for [themselves]” (EIC, 1992, p. 3). If the employee qualified and had all the necessary documentation, they would “receive an employment authorization and possibly have a separate visitor visa placed in [their] passport” (EIC, 1992, p. 3). “The employment authorization [would] state that [the employee could] work at a specific job for a specific period of time for a specific employer” (EIC, 1992, p. 3). “An employment authorization [would] not be issued to [an employee] to come to Canada to look for work” (EIC, 1992, p. 3). When the employee arrived at the port of entry to Canada, they were required to “show [their] confirmation of employment, [their] employment authorization, and other papers to an immigration officer” (EIC, 1992, p. 3).

The employee would then “be given forms to fill out so that [they] can get a Social Insurance Number” (EIC, 1992, p. 3), which should be given to the employer. The EIC pamphlet also notes that the employment authorization is not a contract, and employment could be ended by either the employee or the employer at any time (1992, p. 3). Lastly, if “duties change or the job is extended, [the employee] must contact a Canada Immigration Centre right away, before the expiry date of [the] current authorization” (EIC, 1992. p. 3-4).

Due to their specific nature, the SAWP and the LCP have additional requirements beyond those of the general stream. Chapter FW 7: Guide to Specific Occupations and Categories of the *Immigration Manual (FW): Temporary Foreign Worker Guidelines*, outlines the specific requirements for the Commonwealth Caribbean/Mexican SAWP and the LCP. Under the Commonwealth Caribbean/Mexican SAWP it states that all workers require employment authorization and validation (CIC, 1999a, p. 16). “Each agricultural temporary foreign worker [would] be issued employment authorizations that [would] enable them to work for any participating employer without the necessity of obtaining a new employment authorization for each change of location and/or employer” (CIC, 1999a, p. 16).

The LCP, introduced in 1992 to “replac[e] the Foreign Domestic Movement Program (FDM)” (CIC, 1999a, p. 36), allowed employers to “bring workers to Canada to do live-in work as caregivers when there [was] not enough Canadians to fill the available positions” (CIC, 1994a, p. 1). The Government of Canada defined a live-in caregiver as “someone who provide[d] unsupervised care for children, the elderly or the disabled in a private household” (CIC, 1994a, p. 1). A key requirement of the program was that the employee must “live in the employer’s home” (CIC, 1994a, p. 3). According to the Government of Canada, this requirement was necessary since “[t]he Live-in Caregiver Program exist[ed] only because there [was] a shortage

of Canadians to fill the need for live-in care work. There [was] no shortage of Canadian workers available for caregiving positions where there is no live-in requirement” (CIC, 1994a, p. 3).

To qualify under the LCP, a foreign worker needed to meet three main requirements. One, have successfully completed “the equivalent of a Canadian high school education” (CIC, 1994a, p. 3). This requirement “help[ed] ensure that those participants who apply for permanent residence after two years [would] be able to succeed in the general labour market since studies have shown that over the next ten years, 65% of new jobs in Canada will require at least a high school education” (CIC, 1994a, p. 3). In the application process, the employee would be “asked for [their] diplomas, school certificates or transcripts listing the courses [they] have taken” (CIC, 1994a, p. 3). Second, “[s]ix months full-time training OR twelve months of experience in paid employment in a field or occupation related to the job [the worker was] seeking to fill as a live-in caregiver” (CIC, 1994a, p. 3). Third, “[a]bility to speak, read and understand either the English or French language: [the caregiver] must be able to function independently in a home setting” (CIC, 1994a, p. 3). These qualifications were validated by the visa office, and if the application was approved, the worker was “given instructions for medical testing” (CIC, 1994a, p. 3-4). Once officials received proof of satisfactory medical results and the employee met all other requirements, an employment authorization was then issued (CIC, 1994a, p. 4). It must be noted that an LCP employment authorization was valid for one year (CIC, 1994a, p. 4). In effect, the employee needed to renew their employment authorization before it went out of date. To renew an employment authorization, the employee “need[ed] a letter from [their] employer stating that [their] job as a live-in caregiver [was] being offered for another year” (CIC, 1994a, p. 4).

In terms of the employer, to qualify, one needed to “have sufficient income to pay a live-in caregiver and ... provide acceptable accommodations in [their] home” (CIC, 1994a, p. 10).

This included the employer “declar[ing] that [they could] provide the wages, benefits, and working conditions required by provincial and territorial labour laws” (CIC, 1994a, p. 10). For the employer’s job offer to be approved, it had to “contain caregiver duties for a child or an elderly or disabled persons” (CIC, 1994a, p. 10). “A job offer for a housecleaner, for example, [was] not acceptable under the program” (CIC, 1994a, p. 10).

Finally, though a part of the TFWP, “[a]fter two years of employment, [LCP] participants [could] apply in Canada to become permanent residents” (CIC, 1994a, p. 1). To be granted permanent resident status, the caregiver needed to meet certain requirements (CIC, 1994a, p. 1). A key requirement was that the two years of employment were “completed within three years of the caregiver’s arrival in Canada” (CIC, 1994a, p. 1).

Later in the decade, the TFWP experienced its first change. In 1997, the Standing Committee on Citizenship and Immigration (CICIM) released the report, *Facilitating the Entry of Foreign Workers to Canada*, which focused on the needs of Canada’s information and technology industry. The Committee found that “there [was] a current and serious deficiency in the number of software and other IT workers essential to maintaining Canada’s competitive position in the global marketplace” (Standing Committee on Citizenship and Immigration [CICIM], 1997, para. 5), and “there [was] no sign that the need for competent, highly-skilled workers [would] diminish in the near future” (CICIM, 1997, para. 5). According to the report, this shortage was significant because “[n]ew investors may be reluctant to begin enterprises in Canada if they perceive that there are intractable labour shortages, while existing companies may move their operations, or part of them, abroad” (CICIM, 1997, para. 6). To address this need, CIC and Human Resources Development Canada (HRDC) created a pilot project which “facilitate[d] the entry of certain temporary workers by streamlining the HRDC validation

process through a blanket validation of seven IT occupations known to be in very short supply in Canada” (CIC, 1997, para. 17). Therefore, “[u]nder this pilot project, ... companies [could] hire foreign software workers with certain skills without having to obtain a validation by a Human Resource Centre Canada [HRCC]” (CIC, 1999b, p. 45).

Following in October 1998, the government introduced another pilot project, which “permit[ed] spouses of highly skilled temporary workers to accept employment without an HRCC validation” (CIC, 1999b, p. 45). According to the government, “[t]his [would] help Canada attract temporary workers with advanced skills in high-growth sectors of the economy, who may be inclined to choose Canada over other countries if it is easier for their spouses to work” (CIC, 1999b, p. 45).

In terms of the Government’s objective and outlook, *Into the 21st Century: A Strategy for Immigration and Citizenship*, outlined the CIC’s framework, which was designed to be “sufficiently responsive to accommodate innovation and change, yet resolute in its goal for a secure and confident place for Canada in the 21st century” (CIC, 1994b, p. viii). A key element of the framework was supporting economic growth. CIC stated the “days when Canada needed a large pool of unskilled labour [were] long gone. Instead, Canada need[ed] people who are entrepreneurial, literate and able to adjust to a rapidly-changing labour market” (1994b, p. 27). New initiatives were “aimed at strengthening the economic component of immigration and balancing it alongside other immigration categories in order to better achieve Canada’s economic and social objectives” (CIC, 1994b, p. 27). This included temporary entrants and/or workers, which were defined as those “admitted to Canada in order to fill the specific needs of employers” (CIC, 1994b, p. 33). In this publication, the CIC states that “[t]here [was] a need to ensure that the rights of unemployed Canadians are respected and that they have fair access to employment

opportunities[, h]owever, occasionally there [were] compelling reasons for meeting the needs of employers who require the specific skills of individuals to contribute immediately to their business success and to the well-being of the country” (CIC, 1994b, p. 34). Under new directions, it is stated, “the immigration program need[ed] to better focus on assisting the Canadian business community and industry in meeting their economic objectives” (CIC, 1994b, p. 34). “To this end, the processing of temporary workers [would] be streamlined to ensure timely responses to short-term employer needs [and a] working group [would] be formed with Human Resources Development to streamline regulations and operations within both departments that affect the processing of temporary workers” (CIC, 1994b, p. 34).

Furthermore, in Chapter FW 2: Policy and Special Considerations of the *Immigration Manual (FW): Temporary Foreign Worker Guidelines*, under intent of policy, it states that the “objectives of the policy primarily focus[ed] on the economic benefits accruing to Canada by filling a legitimate need of the Canadian labour market (CIC, 1999a, p. 1). To accomplish this objective “the Government of Canada ... facilitate[d] the entry of foreign workers into Canada who [could] enhance the functioning of the Canadian labour market” (CIC, 1999a, p. 1). It is also stated that the “policy on foreign workers permits the admission of foreign workers who meet Canada’s needs while ensuring that Canadian citizens and permanent residents have adequate employment and training opportunities” (CIC, 1999a, p. 1). “The balance between these two objectives is reached by admitting foreign workers whose skills are in short supply and whose entry [would] not adversely affect Canadian citizens or permanent residents or where benefits [would] result from the entry of the foreign worker. Benefits may be economic, social or cultural” (CIC, 1999a, p. 1).

4.2 2000 – 2009: Period of Expansion

Moving into the 2000s, Canada entered the decade with strong economic growth, which is seen through a 4.9% GDP increase in the first quarter of 2000 and an unemployment rate of 6.8% in April 2000 (Department of Finance, 2000, para. 1). This trend continued for the first half of the decade, seen through GDP growth of 6.2% in the first quarter of 2002 and 3.8% in the first quarter of 2006 (Department of Finance, 2002, 2006). Unemployment hit a decade low in June 2006 at 6.1% (Statistics Canada, 2019b). Growth was also seen in the trend of working women as the percentage passed 80% in 2002 and reached 82% by 2009 (Statistics Canada, 2018a, chart 1). Politically, the first half of the decade featured Jean Chrétien stepping down as leader of the Liberal Party, resulting in the emergence of a new Prime Minister, Paul Martin, in 2003. In 2004, Martin and the Liberal Party were re-elected as a minority government. After a defeat in House of Commons in 2006, an election was called that resulted in a minority Conservative government led by Stephen Harper. The second half of the decade was characterized by instability. Canada entered into an economic recession in 2008, which although only officially lasted until 2009, continued to be felt until the end of the decade due to a slow recovery (Department of Finance, 2009). Additionally, in 2008, Prime Minister Stephen Harper called an election, which yielded another minority Conservative government.

For the TFWP, the beginning of the 2000s is marked by the deployment of dedicated webpages on Human Resources and Social Development Canada's (HRSDC) website. The webpage *Hiring Foreign Workers in Canada* outlined the requirements and methods for hiring a foreign worker while also listing specialty streams. At the top of the webpage, it is stated that “[f]oreign workers can fill labour shortages in Canada and bring new skills and knowledge to help the country's economy grow” (Human Resources and Social Development Canada

[HRSDC], 2003a, para. 1). Scrolling down, HRSDC outlined the hiring steps for the general stream. One, “submit an HRSDC Foreign Worker Application for a labour market opinion (LMO) to the HRSDC Foreign Worker office responsible for your area” (HRSDC, 2003a, para.

2). According to HRSDC’s webpage, before confirming a job offer, it considered whether:

“the job offer is genuine; the wages and working conditions are comparable to those offered to Canadians working in the occupation; employers conducted reasonable efforts to hire or train Canadians for the job; the foreign worker is filling a labour shortage; the employment of the foreign worker [would] directly create new job opportunities or help retain jobs for Canadians; the foreign worker [would] transfer new skills and knowledge to Canadians; and the hiring of the foreign worker [would] affect a labour disputes or the employment of any Canadian worker involved in such a dispute” (2003a, para. 2).

Two, if HRSDC approved the job offer, the employer would then “send a copy of the HRSDC LMO confirmation letter to the foreign worker” (HRSDC, 2003a, para. 2). Three, “inform the foreign worker to apply for a work permit from Citizenship and Immigration Canada (CIC)” (HRSDC, 2003a, para. 2). “CIC decide[d] whether the foreign worker [received] a work permit according to the requirements to work and reside temporarily in Canada” (HRSDC, 2003a, para. 2). Scrolling further, HRSDC listed the TFWP’s specialty streams, noting that “special criteria appl[ied] for employers hiring foreign workers in some industry sectors and occupations including: ... Seasonal agriculture; ... Information Technology; Live-in-caregivers; [and] pilot project for occupations requiring a high school diploma or job-specific training” (2003a, para. 5).

In terms of the Seasonal Agricultural stream, the *Hiring Foreign Agricultural Workers in Canada* webpage states that the “SAWP was developed by HRSDC and CIC in cooperation with agricultural producers and a number of foreign countries including Mexico and several

Commonwealth Caribbean countries” (HRSDC, 2004a, para. 3). The program “allows the organized entry of foreign workers to work in agricultural labourer occupations in Canada” (HRSDC, 2004a, para. 3) to help producers meet labour needs during peak agricultural periods (HRSDC, 2004a, para. 3). Employers who wish to hire a foreign worker under the SWAP were required to: demonstrate their efforts to hire Canadian agricultural workers and unemployed Canadians through HRSDC and provincial employment programs eight weeks before the start of the work as part of the LMP application; offer foreign workers the same wages paid to Canadian agricultural workers doing the same work; pay for the foreign workers’ airfare to and from Canada, a portion of which can be recovered through payroll deductions; provide free seasonal housing to the foreign worker that was approved by the appropriate provincial/municipal body; pay the immigration visa cost recovery fee for your worker; ensure the foreign worker is covered by workers’ compensation and private or provincial health insurance during their stay in Canada; sign an employer-employee contract outlining wages, duties, and conditions related to the transportation, accommodation, health and occupational safety of the foreign worker (HRSDC, 2004a, para. 6).

The HRSDC webpage for hiring a seasonal agricultural worker also noted that under the SWAP, “the foreign countries (Mexico and Caribbean) recruit the agricultural workers” (HRSDC, 2004a, para. 8). “The foreign workers are helped by their respective foreign governments and apply for work permits from CIC” (HRSDC, 2004a, para. 8). “CIC issue[d] work permits for no more than 8 months as long as the foreign worker [met] all other CIC criteria for working and residing temporarily in Canada” (HRSDC, 2004a, para. 8). At the bottom of the webpage, it is noted that if an employer “is interested in hiring foreign agricultural labourers from countries other than Mexico and the Caribbean, [they] may do so based on the

conditions explained in the pilot project for hiring workers in occupations that require a high school diploma or job specific training” (HRSDC, 2004a, para. 12).

Next, the HRSDC website detailed special criteria for the LCP. Specifically, an employer had to ensure the foreign live-in caregiver: worked for the employer in a private home; lived with the employer; be provided with a private, furnished room within the home; be employed on a full-time basis; and met CIC’s requirements for language, education and work skills necessary to function in the Canadian labour market (HRSDC, 2003b, para. 3). Moreover, employers needed to ensure live-in caregivers did not work for more than one employer at a time or work for a health agency or labour contractors, or in daycare or foster care (HRSDC, 2003b, para. 4).

Additional details on the LCP were also published on CIC’s website. The department published the booklet, *Live-in Caregiver Program: For Employers and Caregivers Aboard*, on its website. The booklet noted a number of new requirements for the stream. First, a fourth requirement was added for employees to qualify under LCP, specifically, the employee “must have a written employment contract between [themselves] and [their] employer” (CIC, 2002, para. 9), which defined the employee’s job duties, hours of work, salary, and benefits (CIC, 2002, para. 21). In terms of the employer, the booklet stated that the employer must “provide accommodation that ensures privacy, such as a private room with a lock on the door” (CIC, 2002, para. 77). Further, the booklet made a clear statement that live-in caregivers are “free to change employers while in Canada” (CIC, 2002, para. 19) and that CIC would “not deport [live-in caregivers] for looking for another place of work” (CIC, 2002, para. 19). A live-in caregiver would, however, need to apply for a new work permit and receive it before they began working for their new employer, since working outside of the LCP and/or working for an employer not

named on one's work permit could result in the cancellation of one's permission to work in Canada (CIC, 2002, para. 19-20).

Returning back to HRSDC's website, the continued promotion of the Information Technology Specialists stream highlighted the extension of the 1997 pilot project by the Government of Canada. According to HRSDC, a "[f]oreign IT specialist can help ... bring needed skills and knowledge to [one's] company and help Canada be a world leader in innovation" (HRSDC, 2004c, para. 1). To hire a temporary foreign worker under this stream, "employers need to get a [HRSDC] job offer confirmation and the [foreign worker] needs a work permit from [CIC]" (HRSDC, 2004c, para. 2). Moreover, "HRSDC and CIC in cooperation with employers, and the Software Human Resources Council have developed a facilitated process for hiring foreign IT specialists in high demand occupations" (HRSDC, 2004c, para. 5). Under the facilitated process, HRSDC issued national confirmations for a number of occupations pre-determined to be experiencing a shortage, such as animation effect editors and software designers (HRSDC, 2003c, para. 2). In effect, the foreign IT specialist being hired in one of the pre-approved occupations could apply directly for a work permit (HRSDC, 2003c, para. 3).

Furthermore, the TFWP's general webpage showcased the federal government introduction of a new TFWP stream in 2002, known as the Pilot Project for Hiring Foreign Workers in Occupations that Usually Require a High School Diploma or Job-Specific Training (HRSDC, 2004b, para. 1). Prior to 2002, the TFWP focused on high-skilled workers (OAGC, 2017, p. 1; Library of Parliament [LOP], 2014, p. 3). According to the government, the 2-year pilot project intended to "carefully balance [employer] labour needs with [their] comprehensive efforts to hire Canadians, and the well-being of the foreign workers in Canada" (HRSDC, 2004b, para. 2). Through this stream, employers could "hire foreign workers in occupations that usually

require[d] at most a high school diploma or a maximum of 2 years of job-specific training” (HRSDC, 2004b, para. 2). The guidelines stated that before applying to hire foreign workers under this program HRSDC and CIC expected employers to:

“demonstrate comprehensive and on-going efforts to recruit Canadian youth, aboriginal people, recent immigrants and Canadians in areas of high unemployment; show efforts to hire unemployed Canadians through HRSDC and provincial employment programs; consult with the local union if the position is covered under a collective agreement; sign an employer-employee contract outlining wages, duties, and conditions related to the transportation, accommodation, health and occupational safety of the foreign worker; cover all recruitment costs related to hiring of the foreign worker; help the worker(s) find suitable, affordable accommodation; pay full airfare for the foreign worker to and from their home country; provide medical coverage until the worker is eligible for provincial health insurance coverage; register your worker under the appropriate provincial workers compensation/workplace safety insurance plans” (HRSDC, 2004b, para. 4).

It is also stated that foreign workers under this stream “can work in Canada for no more than 12 months ... [and] must return to their home country for four months before applying for another work permit” (HRSDC, 2004b, para. 5). Lastly, HRSDC mentioned a supplementary hiring step, specifically, the employer must “fill out a copy of the employer-employee contract provided” (HRSDC, 2004b, para. 6).

In addition to publishing dedicated webpages, the Government of Canada published *How to Hire a Temporary Foreign Worker: A Guide Book for Employers*. The guidebook began with a statement of the TFWP’s purpose, to “allow eligible foreign workers to work in Canada for an authorized period of time if employers can demonstrate that they are unable to find suitable

Canadians/permanent residents to fill the jobs and that entry of these workers will not have a negative impact on the Canadian labour market” (CIC, 2006, p. 2). Directly following, the three federal departments that delivered and managed the program are named: CIC, Service Canada (the service delivery arm of HRSDC), and Canada Border Service Agency (CBSA). Service Canada processed employer LMO applications and ensured all requirements were met (CIC, 2006, p. 2). An LMO was “an opinion provided by Service Canada to CIC which assesses the likely impact that hiring the requested foreign worker(s) may have on the Canadian labour market” (CIC, 2006, p. 3). CIC, along with its visa offices at Canadian embassies, high commissions, and consulates outside of Canada, processed work permit applications “to determine who [was] eligible to work in Canada” (CIC, 2006, p. 3). CBSA border officers screened foreign workers at border crossings and airports to ensure they met admissibility requirements and if so, issued a work permit and allowed entry into Canada (CIC, 2006, p. 3).

Next, the guidebook described the four steps in hiring a temporary foreign worker. Step 1, determine if an LMO, also known as an employment confirmation, from Service Canada was required (CIC, 2006, p. 6). It is stated that some categories of work “pursuant to international agreements, such as the North American Free Trade Agreement and General Agreement on Trade in Service, and government policy” (CIC, 2006, p. 6) were exempt from an LMO. According to the guidebook, an LMO was usually required for high-skilled occupations, likely required for low-skilled occupations (requires at most a high school diploma or job-specific training), and always required for seasonal agricultural workers and live-in caregivers (CIC, 2006, p. 7). In the case of an exemption, it was required that information pertaining to the details of the job offer (copy of job offer/ employment contract; description of duties, wages, and working conditions; statement of essential qualifications; registrations and licenses employee

may need; language requirements; and start and end dates), employment details (name and address of employer; company site, location of any parent branch, subsidiary or affiliated company; and confirmation there is no going labour dispute at work site), employee details (name; date of birth; citizenship; address in country of residence; work experience; education qualifications; and professional or trade licenses), worker's port of entry, and explanation why the job offer was exempt from an LMO be provided to the immigration officer (CIC, 2006, p. 7).

If the work is not exempt, step 2 was to apply for an LMO (CIC, 2006, p. 7). The following factors were considered by Service Canada in an LMO application:

“[t]he occupation in which the foreign worker [would] be employed, [t]he wages and working conditions offered ... , [t]he employer's advertisement and recruitment efforts to hire Canadians/permanent residents, [t]he associated labour market benefits that may occur from hiring the foreign worker (e.g. transfer of knowledge/skills, creation/retention of jobs, etc.), [c]onsultations with organized labour if the position the foreign worker [would] fill is part of a bargaining unit, determination if the entry of foreign worker is likely to affect the settlement of an ongoing labour dispute” (CIC, 2006, p. 8).

Moreover, certain occupational categories required the submission of an employment contract as part of the LMO assessment (CIC, 2006, p. 8). If the employer's LMO was positive, Service Canada issued an employment confirmation and notified the employer in a written response (CIC, 2006, p. 8). The employer then had to forward a copy of the written response to the foreign worker along with a copy of the job offer and/or employment contract, as these documents were required when the worker applies for a work permit (CIC, 2006, p. 8). The guidebook stated a positive LMO did not guarantee that a work permit would be issued as visa and border services officers could refuse work permit applications and entry to Canada if they determined that the

foreign worker did not meet the qualifications required by the LMO or was otherwise inadmissible to Canada (CIC, 2006, p. 8). In the case of a negative LMO, Service Canada informed the employer in writing and no employment confirmation was issued. If an employer disagreed and had new information, they could “submit this information to the Service Canada Centre indicated on your refusal letter” (CIC, 2006, p. 8). Service Canada would then reassess the application taking into account the new information. (CIC, 2006, p. 8).

Step 3 was to apply for a work permit from CIC at a port of entry or visa office located in a Canadian embassy, high commission, or consulate outside of Canada. Once a positive LMO was received, the foreign worker could then apply for and obtain a permit to work temporarily in Canada (CIC, 2006, p. 8). Although some job categories were exempt from a work permit requirement, in most cases, it was a requirement for foreign workers. Further, workers who required a Temporary Residence Visa or a medical examination before entry into Canada, or alternatively were a seasonal agricultural worker or live-in caregiver had to “apply for a work permit outside of Canada” (CIC, 2006, p. 9). In terms of a medical examination, the manual stated that an examination was “not required for employment terms of six months or less” (CIC, 2006, p. 10) unless the worker was employed in an occupation “in which the protection of the public health [was] essential” (CIC, 2006, p. 10). In addition to failing the medical examination, the foreign worker’s work permit could be refused and themselves found inadmissible by visa officers on the basis of their criminal record, they did not meet the criteria and standards described in job offer provided by employer, were determined to be a security risk, and/or had not satisfied the visa officer that he or she would leave Canada at the end of the employment period (CIC, 2006, p. 10). Work permits applied for and approved at a port of entry were issued

directly, while overseas applications were approved in principle via a letter noting eligibility and actual work permit was issued by Border Service Officer at the port of entry (CIC, 2006, p. 11).

Finally, step 4 was the arrival of the foreign worker. To enter Canada, the foreign worker needed to arrive at a port of entry with their passport or travel document, copy of their positive LMO or confirmation from CIC of their exemption, authorization letter from CIC of approved work permit, signed job offer, temporary residence visa, and evidence of qualifications (CIC, 2006, p. 11). If approved, a border service officer issued the work permit and allowed entry, however, if the foreign worker did not meet requirements or was inadmissible in general, they would refuse to issue the work permit and/or entry into Canada (CIC, 2006, p. 11).

At the end of this decade, the TFWP was evaluated by the CIMM and the Office of the Auditor General of Canada (OAGC), their findings were published in their respective 2009 reports. First, the CIMM study found that the TFWP experienced substantial expansion due to Canada's "new immigration and labour market reality ... [which was] being met by growing numbers of temporary foreign workers ..." (CIMM, 2009, p. 1). The expansion, according to the report, related to two features of the TFWP. First, according to CIC, in the spring of 2008, there was a backlog of applications for permanent residency, the majority of which were potential immigrants in the skilled worker category (CIMM, 2009, p. 4). This backlog resulted in "waiting times [that were] not compatible with the fast-paced business environment, so employers [turned] to the [TFWP] to bring workers to Canada faster" (CIMM, 2009, p. 4). Second, the TFWP allowed employers "to bring in a different kind of worker than that provided for in the economic immigration stream" (CIMM, 2009, p. 4). Originally, TFWP included three streams: seasonal agricultural workers, live-in caregivers, and highly specialized skilled workers. However, "in 2002, the federal government recognized the need for unskilled labour and

introduced a pilot project (now a temporary worker program) for people with lower levels of formal training” (CIMM, 2009, p. 4). “Workers coming to Canada through these programs may not meet the selection criteria for economic immigrants in the areas of official language proficiency, level of schooling, or occupational classification” (CIMM, 2009, p. 4).

Based on these findings, “the Committee believe[d] that the [TFWP] ha[d] changed considerably from its roots as a focused program for rare instances of genuine labour market shortage” (CIMM, 2009, p. 5). Instead, for many participants (employers and workers alike), the TFWP had “become the faster and preferred way to get immigrants to Canada to meet long-term labour shortages” (CIMM, 2009, p. 5). “The expansion of the [TFWP] represent[ed] a failure of the economic stream of immigration to bring in the type of workers needed and in a timely fashion” (CIMM, 2009, p. 5). At the same time, “[b]ecause employers rel[ied] on the [TFWP] for the short-term and because it [took] time to implement more sustainable solutions, the Committee propose[d] no change to the current [TFWP] in terms of scope or purpose” (CIMM, 2009, p. 6). Specifically, the Committee recommended “the Government of Canada maintain the current [TFWP], possibly enhanced by the recommendations of this report, in order to fill labour needs that are of a temporary nature, such as labour needs that are seasonal or likely to be of a cyclical nature” (CIMM, 2009, p. 6).

In the Government of Canada’s official response to CIMM’s 2009 report, it stated that “there [was] an enduring role for the TFWP in Canada’s immigration system and welcome[d] the Committee’s recommendation to maintain the program” (Government of Canada, 2009, para. 5). The Government also noted that “[l]abour needs are not all permanent: the seasonal movements of agricultural workers, special events or projects ... and recent oil sand projects in Alberta are examples of cyclical, large and/or acute labour demands of a temporary nature” (Government of

Canada, 2009, para. 5). Continuing, “Some other needs fluctuate with the economy and are sometimes unpredictable, as evidenced by recent layoffs and lower demand for foreign workers resulting from the economic downturn” (Government of Canada, 2009, para. 5).

The 2009 CIMM committee report also found that, as required by their work permit, “live-in caregivers must live in their employer’s residence, and seasonal agriculture workers must live in a residence provided by the employer (generally on farm property)” (CIMM, 2009, p. 44). Further, “[e]mployers of workers with lower levels of formal training have to ensure housing is available” (CIMM, 2009, p. 44) and “[e]mployers of other categories ... , for instance, highly skilled, have no obligations to provide or assist with housing” (CIMM, 2009, p. 44). After hearing strong opposition to live-on or live-in requirement, in particular for caregivers, the CIMM “recommend[ed] that the Government of Canada remove the requirement that individuals with certain work permits live within or on the premise of their employer” (2009, p. 45).

The Government of Canada’s official response to the recommendation stated that “[a]part from the LCP, there is no requirement for [temporary foreign workers] to live on the premises of their work site or employers’ residences or rented accommodations” (2009, para. 34). “However, under the SAWP, employers are required to provide accommodation for their workers, and these are often located on the work premises for obvious practical reasons” (Government of Canada, 2009, para. 34). Moreover, the Government wrote that “[u]nder the SAWP, housing that [was] provided by employers must be inspected annually by the appropriate provincial/municipal authority ... [and] [i]ssues such as unacceptable lodging conditions [could] be addressed at SAWP intergovernmental review meetings, held each year before the crop season, as well as through complaints as they arise” (Government of Canada, 2009, para. 66). In terms of the LCP, the Government of Canada did not support the recommendation, stating the “LCP, as [was] the

case for other streams under the TFWP, is a demand-driven program [as it] facilitate[d] the employment of foreign nationals when Canadians or permanent residents [were] not available to provide in-home care for children, seniors or disabled persons” (Government of Canada, 2009, para. 66). Thus, “[t]he live-in requirement [was] a vital component of the LCP, given the continuing shortage of caregivers in Canada willing to live in the home of those they are caring for. There may be enough caregivers in Canada to satisfy labour market needs related to live-out care. Should the live-in requirement be eliminated, there would likely be no need to hire [foreign caregivers]” (Government of Canada, 2009, para. 66).

The Office OAGC report found that the TFWP supports two objectives of the *Immigration and Refugee Protection Act* (IRPA):

“support[ed] the development of a strong and prosperous Canadian economy, in which the benefits of immigration are shared across all regions of Canada; ... [and] facilitate[d] the entry of visitors, students, and temporary workers for purposes such as trade, commerce, tourism, international understanding and cultural, educational, and scientific activities” (OAGC, 2009, p. 7).

It was found that the TFWP had “no established limits on or target levels for the number of workers to be admitted... The number of applications processed each year depend[ed] mainly on the demand from employers” (OAGC, 2009, p. 26). The only exception was the LCP, which had target levels that were “adjusted each year to take into account the expected number of permanent residency applications to be received from these temporary residents” (OAGC, 2009, p. 13). Within this discussion, the Auditor General of Canada wrote that demand for the TFWP had grown significantly in recent years due to “increased economic activity in various parts of the country and large projects needing temporary workers, such as oil sands development”

(2009, p. 27). In response, “the government’s 2007 Budget provided close to \$150 million in additional funding to CIC and HRSDC over five years, with \$35.5 million annually thereafter, to improve the processing of applications” (OAGC, 2009, p. 27). The intent was to “reduce delays, respond more effectively to regional labour shortages, and improve the consistency and fairness of decision-making” (OAGC, 2009, p. 27).

4.3 2010 – 2019: Decade of Change

Moving into the final decade of examination, the 2010s was featured by a number of changes to Canada’s TFWP and in the social-economic-political climate. The decade began with slow economic performance as Canada’s economy continued to recover from the 2008-2009 recession (Department of Finance, 2018, p. 8). In 2011, Canada population elected the Conservative Party into a majority position and experienced a significant demographic shift with the first of the baby boomer generation turning 65 years old (Statistics Canada, 2015c, p. 51). The second half the decade is characterized by a good economic performance with real GDP growth and job creation showing an overall upward trend (Department of Finance, 2017, p. 4; 2018, p. 7-8), as well as the leadership of a new federal government. In 2015, Justin Trudeau and the Liberal Party of Canada won a majority government, the party has continued to hold onto its rule with their re-election in late 2019, though demoted to a minority position.

In term of Canada’s TFWP, in this decade the program experienced a number of changes to its structure and rules, starting with a series of amendments to the *Immigration and Refugee Protection Regulations* which came into effect in April 2011 (HRSDC *et al.*, 2012, p. 7). These amendments allowed HRSDC to assess, for all streams:

“the genuineness of the employer and the job offer; compliance with any federal-provincial agreements that apply to the employers of foreign nationals; whether the

employer making the offer provided previous foreign nationals with wages, working conditions and occupation that were substantially the same as those that were originally offered; under the [LCP], whether the employer has a legitimate need, can provide adequate accommodations to the caregiver, and has sufficient financial resources” (HRSDC *et al.*, 2012, p. 7).

Further, the new regulations also “established a limit of cumulative duration of four years from [temporary foreign workers] followed by a period of at least four years in which they may not be authorized to work in Canada” (HRSDC *et al.*, 2012, p. 7). These amendments aimed to support a variety of economic and immigration policy objectives, such as “temporarily filling labour shortages and skills gaps; enhancing Canada’s economic competitiveness and providing opportunities for Canadians; [and] managing impacts of foreign labour across international borders” (HRSDC *et al.*, 2012, p. 29). These objectives aligned with the TFWP, which:

“supports the labour market and overall economy; ... contributes to the Canadian Economic Action Plan by supporting business and helping employers address their short-term labour needs; [through] the high-skilled stream leads to skill transfer and job creation that, in turn, contributes to creating opportunities and a competitive economy; and ... facilitates growth in developing sectors and maintains production in industries that are experiencing shortages and might otherwise experience operational challenges” (HRSDC *et al.*, 2012, p. 29-30).

It was also found that “the objectives of the TFWP [were] consistent with: *‘a skilled, adaptable, and inclusive labour force and an efficient labour market’* key strategic outcome outlined in the HRSDC Report on Plans and Priorities for 2010 and 2011; and *‘migration that significantly benefits Canada’s economic, social and cultural development, while protecting the health, safety*

and security of Canadians' a key strategic outcome outlined in the CIC Report on Plans and Priorities for 2010 and 2011" (HRSDC *et al.*, 2012, p. 30).

Following in 2012 and 2013, the TFWP experienced a few rule changes. First, in 2012, to protect vulnerable foreign workers from the risk of abuse and exploitation in sex trade related businesses, the government introduced measures to prevent sex trade related businesses from accessing the TFWP. Specifically, ESDC was not to process LMIA applications for employers linked to the sex trade and CIC was not to process work permit applications from foreign workers intending to work for the sex trade related businesses (Economic and Social Development Canada [ESDC], 2014, p. 34). That same year, 2012, employers were given the flexibility to pay temporary foreign workers up to 15% below for high-skilled occupations and 5% below low-skilled occupations, provided the employer demonstrates the wage is the same as Canadian employees at the same location (ESDC, 2014, p. 31). A year later, 2013, this rule was amended so that employers had to "pay temporary foreign workers at or above the prevailing wage for that occupation in that region" (ESDC, 2014, p. 31).

Next, in April 2013, the Government added a measure to ensure only French and English could be identified as a job requirement (ESDC, 2014, p. 33). The measure was introduced to prevent employers from excluding qualified Canadians to increase their ability to hire a foreign worker (ESDC, 2014, p. 33). Following, in July 2013, a rule was added that required employers to use two additional methods of recruitment beyond the national Job Bank or an equivalent provincial/ territorial website (ESDC, 2014, p. 31). Prior to the reform, employers were only required to use one additional method (ESDC, 2014, p. 31). Additional questions were also applied to the LMO in July 2013 concerning the use of temporary foreign workers to facilitate the outsourcing of Canadian jobs (ESDC, 2014, p. 33). These new questions were created in

response to situations of employers utilizing the program as a transition to outsourcing (ESDC, 2014, p. 33). Lastly, in terms of the LCP, new measures were included to ensure genuineness of job offers, create a standardized LCP employment contract, establish requirements related to hours of work, overtime, and accommodation deductions in the LMO process, require employers pay for airfare to Canada and adjust wages annually, and expedite LMO and work permit processing for LCP workers in abusive and/or exploitative situations (ESDC, 2014, p. 34).

In June 2014, the Government of Canada implemented a re-organization of the TFWP. The program's structure was significantly changed as it was separated into two distinct programs: TFWP and the new International Mobility Program (IMP). Going forward, the TFWP would be led by ESDC and refer only to "streams under which foreign workers enter Canada at the request of employers following approval through a new labour market impact assessment (LMIA)" (ESDC, 2014, p. 1), such as the LCP, SAWP, and low-skill stream. Moreover, the sole objective of TFWP was to provide a "last resort for employers to fill jobs for which qualified Canadians are not available" (ESDC, 2014, p. 1). Government of Canada noted that these new boundaries meant a majority of jobs under TFWP would be low-skilled with developing countries as its main source of workers. The new program, IMP, on the other hand, is predicted to process a majority of permits for high-skilled and high-wage jobs with applicants largely coming from highly developed countries (ESDC, 2014, p. 1). IMP, led by CIC, encompasses "streams in which foreign nationals are not subject to an LMIA, and whose primary objective is to advance Canada's broad economic and cultural national interest, rather than filling particular jobs" (ESDC, 2014, p. 1). Streams exempt from an LMIA include those covered in bilateral and multilateral agreements with other countries (ESDC, 2014, p. 6).

In addition to dividing Canada's TFWP, the June 2014 re-organization involved two structural reforms of the remaining TFWP. Firstly, the classification of jobs is now based on the wage rather than the level of education and training required for the position (ESDC, 2014, p. 7). A position with pay under the median wage for the province/territory will be considered low-wage and those with pay at or above will be considered high-wage (ESDC, 2014, p. 7). Secondly, in alignment with the above reform, the former five primary categories under the TFWP were readjusted into five new categories (ESDC, 2014, p. 8). The high-skilled workers category, defined as occupations that typically require post-secondary education and/or formal certification, is now the high-wage category, referring to positions at or above the provincial/territorial median wage (ESDC, 2014, p. 8). Similarly, the low-skilled workers category, which referred to occupations that usually require lower levels of formal training (e.g. high school diploma or two years of job specific training), is now the low-wage category, defined by positions with wages below the provincial/territorial median (ESDC, 2014, p. 8).

The SAWP and Agricultural stream, which mirrored many of the requirements of SWAP but is not based upon formal managed migration agreements with Mexico and several Caribbean countries, were merged into a single category, called the Primary Agricultural Stream (ESDC, 2014, p. 8). This category includes positions related to on-farm primary agriculture, such as general farm, nursery and greenhouse workers, feedlot worker, and harvesting labourers, and positions under the SAWP (ESDC, 2014, p. 8). The fourth category, known as Highest-demand, highest-paid or shortest-duration, was newly created and referred to in-demand (skilled trades), highly paid (top 10%) or short-duration (120 days or less) positions that required quick LMIA service standards (ESDC, 2014, p. 8). Lastly, the fifth category, the LCP, which enables Canadians to hire foreign workers qualified to provide unsupervised full-time, at-home care to

children, seniors, and persons with disabilities, remained the same with no changes (ESDC, 2014, p. 8).

Moreover, the Government of Canada also implemented additional program rules. To start, the Government introduced a limit on the proportion of low-wage temporary migrant workers a business could employ. Specifically, employers with 10 or more employees were not allowed to have a low-wage temporary migrant workforce greater than 10% of their total workforce (ESDC, 2014, p. 10). The rule was planned to be phased in over 2 years so employers with a proportion greater than 10% had until July 1st, 2016 to bring their proportions at or below the cap (ESDC, 2014, p. 10). According to the Government, the new rule aimed to ensure the TFWP was used for its intended purpose, as a last resort for employers and not as or in a business model (ESDC, 2014, p. 10). The new rule should help to drive down the overall number of low-wage temporary migrant workers (ESDC, 2014, p. 10). To further support this objective, the Government also reduced the duration of work permits set out in the LMIA to a maximum of one year for all low-wage positions (ESDC, 2014, p. 12). This new rule forced employers to re-apply each year and decreased the length of time a temporary foreign worker could work in Canada (ESDC, 2014, p. 12). It must be noted, however, that the SAWP and LCP were exempt from both of these new measures and the Primary Agricultural Stream was exempt only from the one-year LMIA duration (ESDC, 2014, p. 26).

Additional rules have also been added to the labour market tests, resulting in the creation of an LMIA, formerly called an LMO (ESDC, 2014, p. 9). On top of information required for an LMO, an LMIA requires employers to disclose the number of Canadians who applied, were interviewed, and why they were not hired (ESDC, 2014, p. 9). Employers also have to confirm they are aware of the rule that “Canadians cannot be laid off or have their hours reduced at a

worksite that employs temporary foreign workers” (ESDC, 2014, p. 9). According to the Government of Canada, these additions will make the process more rigorous, allowing the government to better control the size of the temporary foreign worker force and thus, ensuring concerns over the negative impact of this workforce on the labour market are addressed (ESDC, 2014, p. 9). Moreover, in response to the public’s concerns, ESDC was given the authority to refuse applications for positions that require little to no education and training (e.g. food services, accommodations, and retail jobs) in economic regions with an unemployment rate at or higher than 6% (ESDC, 2014, p. 11). The Government explicitly stated that the objective of this rule is to enable youth and underrepresented groups to find employment (ESDC, 2014, p. 11).

Shifting towards high-wage employment, as of June 2014, the Government now requires employers who wish to hire a foreign worker for a high-wage occupation to submit a transition plan with their LMIA application (ESDC, 2014, p. 13). In the plan, the employer “describes the activities [they] are agreeing to undertake to recruit, retain and train Canadians and permanent residents and to reduce [their] reliance on the [TFWP]” (ESDC, 2019d, para. 13). Transition plans can also include an outline for how the employer is supporting the foreign worker transition to becoming a permanent resident (ESDC, 2014, p. 13). In this process, employers are also required to increase their recruitment activities, including reaching out to organizations serving groups traditionally underrepresented, such as new immigrants, aboriginal people, youth, and persons with disabilities (ESDC, 2014, p. 13). Finally, if the employer wishes to re-apply, they need to report on the success of their transition plan. The Government estimates that these additional measures will decrease the number of high-wage temporary foreign workers in Canada. It should be noted that a transition plan is not required if the job is time-limited in nature (one day to a maximum of 2 years), there is no reasonable expectation that one could transition

the position to a Canadian or permanent resident, the job will not exist after the departure of the temporary foreign worker, repeat use of the specific position is the norm for the industry, and the specific individual acquires a unique skill that is not readily available in Canada (ESDC, 2019d, para. 18).

To fully utilize the inspection powers granted to ESDC and CIC in December 2013, the June 2014 reforms included an increase in the number of employer inspections. Inspections are conducted at random (warrantless) and/or immediately upon receiving a complaint (ESDC, 2014, p. 17). Inspectors were granted the authority to conduct interviews with temporary foreign workers and other employees with their consent, compel employers to provide documents that verify rule compliance, impose conditions on employers to take reasonable efforts to ensure an abuse free workplace, and ban employers who break the rules (ESDC, 2014, p. 17). Moreover, inspectors are now able to review employer compliance with 21, rather than 3, program requirements (ESDC, 2014, p. 18). Newly reviewable requirements include, but are not limited to, compliance with federal and provincial/territorial employment and recruitment laws, having made reasonable efforts to provide a workplace that is free of physical, sexual, psychological, and financial abuse, and for employers of live-in caregivers, provided the foreign worker with adequately furnished and private accommodations in the household (ESDC, 2014, p. 18-19). To support the inspection process, information packages would be given to the worker by the CBSA at their port of entry (ESDC, 2014, p. 25). The package outlined workers' rights and responsibilities as well as whom to contact if they believe their rights are being violated (ESDC, 2014, p. 15). Through these information packages, the Government aims to better protect workers by giving workers the information needed to file complaints (ESDC, 2014, p. 25-26).

Finally, throughout the report, the Government's reasoning and objective of the TFWP and the new changes were provided. On multiple occasions, the report noted the importance of addressing concerns related to foreign worker protection and the negative impact of this foreign workforce on Canadian workers. The report describes the creation of a Job Matching Service to better link Canadian's with jobs that will soon be open to foreign workers (ESDC, 2014, p. 15-16). New fees were also applied to employers to support the Government's commitment to collect and analyze vacancy, wages, and unemployment insurance data to support the LMIA process (ESDC, 2014, p. 16). Lastly, to protect foreign workers and deter wrongdoing, the Government increased inspections and granted inspectors the authority to blacklist and impose fines of up to \$100,000 on employers who are found to have broken the rules (ESDC, 2014, p. 22-24).

In late 2014, following the re-organization, the LCP experienced additional significant reforms. First, on November 30, 2014, the time caregivers were given to gain two years of work experience needed for permanent residency was extended from three to four years (LOP, 2014, p. 7). As well, the live-in requirement was removed, which resulted in renaming the program as the Caregiver Program (LOP, 2014, p. 7). In concurrence with this significant reform, the Immigration, Refugee and Citizenship Canada's (IRCC) website was updated to state that the "Live-in Caregiver Program (LCP) [was] closed to new applicants" (2017, para. 2) with no information below on how to apply or its requirements. Instead, applicants could apply under the new Caregiver Program, known also as the In-home Caregiver Program (ESDC, 2019g). Like LCP, the Caregiver Program allowed families to "hire a foreign caregiver to provide care, in a private residence, to children, seniors or persons with certified medical needs, when Canadians and permanent residents are not available" (ESDC, 2019g, para. 1). A maximum of 2 official

private household employers could hire a foreign worker, “on a live in or live out basis” (ESDC, 2019g, para. 3), under one of 2 categories of in-home workers: caregivers of children, for “children under 18 years of age” (ESDC, 2019g, para. 4), or caregivers for people with high medical needs, which is for “elderly persons, 65 years of age or over and people with disabilities, a chronic to terminal illness” (ESDC, 2019g, para. 5).

Furthermore, as of December 2014, the Caregiver Program was “no longer a stand-alone stream” (HUMA, 2016, p. 3). Instead, “LMIA applications for caregivers [were] assessed in the high-wage or low-wage streams, while the live-in component [was] no longer mandatory” (HUMA, 2016, p. 3-4). In effect, to qualify under TFWP, the caregivers must “provide care on a full-time basis (minimum 30 hours per week); work in the private household where the care is being provided: [and] meet the requirements set [by ESDC and IRCC]” (ESDC, 2019g, para. 2). The last qualification referred to the caregiver’s ability to “speak, read, and understand at least one of Canada’s official languages” (ESDC, 2019h, para. 8), and their education and work experience. Temporary foreign workers hired for lower-skilled occupations “require[d] a certain amount of experience, short work demonstrations, on-the-job training, or no formal educational requirements” (ESDC, 2019h, para. 9) while high-skilled occupations “require[d] post-secondary education (for example, university degree, college diploma)” (ESDC, 2019h, para. 9). For the employer to qualify, they must meet “the program requirements for the Streams for high-wage or [l]ow-wage positions including paying the prevailing wage for the occupation in the location where the work will be performed, and conducting the necessary recruitment and advertisement requirements” (ESDC, 2019g, para. 7).

Additionally, if an employer wished to hire a caregiver in regulated occupations, they “must ensure that arrangements are made with the appropriate regulatory body for the

certification, registration or licensing of the [caregiver]” (ESDC, 2019h, para. 10). Employers must also “demonstrate their financial ability to pay the caregiver’s wages” (ESDC, 2019h, para. 22) and “transportation costs (for example, plane, train, boat, car, bus) of the caregiver to the work location in Canada” (ESDC, 2019h, para. 26). Additionally, “[e]mployers of low-wage in-home caregivers ... must ensure that suitable and affordable accommodation is available to the [caregiver]” (ESDC, 2019h, para. 34). Lastly, although “[e]mployers cannot require a caregiver to live in their home” (ESDC, 2019h, para. 32), if the employer and caregiver decide that a live-in arrangement is the most suitable then the employer must ensure the “accommodation is being provided in the home of the person receiving care[,] ... is [a] private and furnished bedroom[, the] bedroom door has a lock and safety bolt on the inside[, and] ... meets the municipal building requirements and the provincial/ territorial health standards” (ESDC, 2019h, para. 32). A “foreign caregiver [cannot be] charged room and board for the accommodations, as per the policy” (ESDC, 2019h, para. 32).

In addition to the changes to the LCP, the Government of Canada created a fourth stream, known as the “support for permanent residency stream” (HUMA, 2016, p. 3). This new stream allows employers to “apply to the [TFWP] for an LMIA to either support an application for permanent residency, or as a mechanism to allow a foreign national to be able to work in Canada while they apply for permanent residency” (HUMA, 2016, p. 3). To hire a foreign national under the permanent residency stream, the job offer must meet the criteria of either the Federal Skilled Worker Program, Federal Skilled Trades Program, or Canadian Experience Class (ESDC, 2019l, para. 2-5).

Following the significant changes to the TFWP in 2014, the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities

(HUMA) studied the TFWP and released a 2016 report outlining its findings. One finding by the Committee pertained to the introduction of a 10% workforce cap on employers with 10 or more employees in June 2014. The report found that exemptions to the cap were given to “on-farm agricultural primary positions, caregiver positions and, for applications received in 2016, industries hiring temporary foreign workers in low-wage seasonal positions that are no more than 180 calendar days in length” (HUMA, 2016, p. 5-6). Further, it was found through information provided by witnesses from various sectors that the 10% cap had a negative impact on production levels and their ability to capitalize on trade opportunities (HUMA, 2016, p. 14-16). In response, the Committee recommended the cap be increased to 20% (HUMA, 2016, p. 30).

In the Government of Canada’s official response to HUMA 2016 report, it stated “[t]he Government is committed to making the TFW[P] work for all workers, for businesses, and for the Canadian economy [and] [a]s announced on December 13, 2016, the Government has already begun its work to improve the Program” (Government of Canada, 2017, para. 4-5). This included “extending the exemption on the cap for seasonal industries for 2017” (Government of Canada, 2017, para. 5). Following this response, on April 10th, 2017, ESDC released a statement outlining the implementation of additional changes in reaction to HUMA’s report. In the statement, it is noted that the Government planned to “work with sectors that are heavy users of the [TFWP] to create Canadian workforce development strategies in partnership with employers, organized labour, and other stakeholders” (ESDC, 2017a, para. 6). In the interim, however, the Government would “maintain the current 20% cap for employers that were [TFWP] users prior to the introduction of the cap (2014) and the 10% cap for more recent Program users” (ESDC, 2017a, para. 6). Additionally, in recognition of the unique labour market needs of some employers, the

Government “extended the exemption for employers seeking TFWs for up to 180 days for the 2017 calendar year” (ESDC, 2017a, para. 6).

Shortly after the ESDC implemented the above changes, in June 2017, the department introduced a new pilot stream under TFWP, known as the Global Talent Stream (ESDC, 2017a, para. 17). The new pilot was created to address HUMA’s recommendation regarding the importance of “Canada’s access to individuals with unique international skills and talent to support economic growth and prosperity” (ESDC, 2017a, para. 15). In order to “better support[t] access to highly-skilled temporary foreign workers, ... achieve better overall economic and social benefit for Canadians[,] and reflect the realities of labour market needs in Canada” (ESDC, 2017a, para. 18), the TFWP’s new Global Talent Stream “will service high-growth Canadian companies that need to access unique global talent and companies that need to hire highly-skilled foreign nationals for in-demand occupations that are on a national global talent shortage list” (ESDC, 2017a, para. 17). According to the Government of Canada, this objective is supported by a “dedicated team at [ESDC, which] will provide ... streamlined, client focused service” (ESDC, 2019j, para. 13), “a service standard of 10-business days...; [p]ersonalized, high-touch assistance throughout the assessment process; and [e]ligibility for your highly-skilled global talent workers to have their work permits processed in two weeks by [IRCC]” (ESDC, 2019j, para. 14).

Canadian companies will be able to hire under this stream via two categories. Category A is for employers who “have been referred to the Global Talent Stream by one of the Stream’s designated partners and ... are hiring unique and specialized talent ... to help the firm scale-up and grow” (ESDC, 2019k, para. 1). Wages for Category A must be “at least \$38.46 per hour (\$80,000 annually) or equivalent to the prevailing wage for the occupation if it is higher than

\$38.46 per hour” (ESDC, 2019k, para. 59). Category B is for employers who “are seeking to hire highly-skilled foreign workers to fill positions in occupations found on the Global Talent Occupations List” (ESDC, 2019k, para. 2). Occupations listed include, but not limited to, computer engineers, mathematicians and statisticians, digital media designers, and computer programmers and interactive media developers (ESDC, 2019k, para 67). Wages for Category B should be at the prevailing wage unless a minimum is noted on the Global Talent Occupations List (ESDC, 2019k. para. 67).

In terms of requirements, employers have “no minimum recruitment requirements ... [but] are encouraged to recruit Canadians and permanent residents before offering the job to a temporary foreign worker” (ESDC, 2019k, para. 34). Instead, employers “need to demonstrate that there will be positive, lasting benefits for Canadians resulting from hiring global talent, such as increasing skills and training investments, knowledge transfer and job creation in Canada” (ESDC, 2017a, para. 17). Employers are “required to work with [ESDC] to develop a Labour Market Benefits Plan that demonstrates [their] commitment to activities that will have lasting, positive impacts on the Canadian labour market” (ESDC, 2019k, para. 15). Those hiring through Category A “must commit to creating jobs for Canadians and permanent residents as [their] mandatory benefit” (ESDC, 2019k, para. 18), while those hiring through Category B “must commit to increasing skills and training investments for Canadians and permanent residents” (ESDC, 2019k, para. 19). In addition to the categories’ mandatory benefits, for both categories, employers “must also commit in the Plan to achieving a minimum of two complementary benefits with at least one activity for each benefit” (ESDC, 2019k, para. 20). “Complementary benefits, could include, but are not limited to job creation, investment in skill and training, transferring knowledge to Canadians and permanent residents, enhanced company performance

and implementing best practices or policies as an employer for your workforce” (ESDC, 2019k, para. 21).

At the beginning of the following year, January 2018, additional housing inspection requirements came into effect for SAWP employers. In addition to providing temporary foreign workers with “adequate, suitable, and affordable housing as defined by the Canadian Mortgage and Housing Corporation” (ESDC, 2019f, para. 5) situated “either on-farm (for example bunkhouse) or off-site (for example commercial establishment)” (ESDC, 2019f, para. 5), employer’s housing inspection reports must now “indicate that the housing has been inspected within the last eight months prior to the date the LIMA application is received by Service Canada ...; and indicate the maximum number of workers permitted per approved accommodation” (ESDC, 2019f, para. 8). “Failure to meet the requirements for the housing inspection report without justification will result in the LIMA application being considered incomplete” (ESDC, 2019f, para. 12).

On ESDC’s webpage for the SWAP, detailed employer requirements are also given. Employers can hire temporary foreign workers from “participating countries for a maximum period of 8 months, between January 1 and December 15, provided they are able to offer the workers a minimum of 240 hours of work within a period of 6 weeks or less” (ESDC, 2018b, para. 2). To qualify for the SAWP, employers must meet 3 criteria:

“the [temporary foreign workers] hired must be citizens of Mexico or participating Caribbean countries; production must be in specific commodity sectors [e.g. fruits and vegetables, including canning and processing; flowers; nursery-grown trees; dairy; and poultry]; [and] the activity must be related to on-farm primary agriculture” (ESDC, 2018b, para. 3).

According to the bilateral agreements upon which the SAWP operates, these participating countries are responsible to “recruit and select the [temporary foreign workers]; make sure workers have the necessary documents; maintain a pool of qualified workers; and appoint representatives to assist workers in Canada” (ESDC, 2018b, para. 5). Moreover, participating governments also ensure selected workers meet all the requirements, which include being “experienced in farming; at least 18 years of age; a citizen of one of the participating countries; and able to satisfy the: Canadian immigration laws; and laws of the worker’s home country” (ESDC, 2018b, para. 6).

These requirements somewhat differ under the Primary Agricultural Stream, which “allows employers to hire Temporary Foreign Workers [from any country] for a maximum period of 24 months” (ESDC, 2018c, para. 1; 2019e). To qualify, “employers must meet 2 criteria: production must be in specific commodity sectors [e.g. fruits, vegetables, flowers, nursery grown trees, dairy, and poultry]; and the activity must be related to on-farm primary agriculture” (ESDC, 2018c, para. 2). Employers are still required to “pay for the round-trip transportation costs ... of the temporary foreign worker to the location of work in Canada, and back to their country of permanent residence” (ESDC, 2019b, para. 2) and provide “no-cost transportation to and from the on-site/offsite housing location to the work location” (ESDC, 2019b, para. 4). Moreover, employers must also provide “adequate, suitable and affordable housing as defined by the Canadian Mortgage and Housing Corporation” (ESDC, 2019b, para. 5) that is either on-farm or off-site. Employers supplying on-farm housing “can deduct a maximum of \$30 per week (pro-rated for partial weeks) from [temporary foreign worker’s wage]” (ESDC, 2019b, para. 6). For off-site housing, employers “can deduct a maximum of \$30 per week (pro-

rate for partial weeks) from [lower-skilled workers]... and must ensure that the rent does not cost more than 30% of [a higher-skilled worker] gross monthly earnings” (ESDC, 2019b, para. 6).

Halfway into 2018, specifically June 18, the Caring for Children Program and Caring for People with High Medical Needs Program were ended (IRCC, 2019b, para. 12). According to IRCC and ESDC, the departments will “no longer process new work permit applications to work as in-home caregiver if: ...applying through the TFWP” (IRCC, 2019b, para. 10; ESDC, 2019c, para. 1). IRCC website states that caregivers who have been working in Canada may be eligible for the “Home Child Care Provider Pilot ... [or] the Home Support Worker Pilot” (2019b, para. 13 & 15), however, no new applicants from individuals outside of Canada will be processed (2019b, para. 10). Like previous caregiver programs, caregiver candidates must meet certain language levels, have a Canadian post-secondary diploma or certificate of at least 1 year, or education that is equivalent, and work experience in childcare or home support (IRCC, 2019c, para. 11). Both pilots are officially separate from the TFWP and are solely managed by IRCC (IRCC, 2019b, para. 10; 2019c, para. 4-5).

The final change that occurred in the examined period appeared on the webpage *Hire a temporary foreign worker in a high-wage or low-wage position – After you apply*. It states that LMIA applications that meet certain criteria will be expedited with a processing time of ten business days (ESDC, 2018a, para. 5). The expedited process is given to applications if “[t]he positions requested ha[s] a prevailing wage that is equal or above the top 10% of wages earned by Canadians or permanent residences in the province/territory where the job is located” (ESDC, 2018a, para. 6), “[t]he positions are for skilled trades on the list of eligible occupations; and [t]he wage offered is at or above the provincial or territorial hourly median wage” (ESDC, 2018a, para. 7), “[t]he positions requested are for a period of employment of 120 calendar days or less;

and [t]he wage offered for the requested positions is at or above the provincial or territorial hourly median wage” (ESDC, 2018a, para. 8), or “[t]he job offer is to support a skilled worker’s application for permanent residence under one of the Immigration, Refugees and Citizenship Canada’s Express Entry eligible programs” (ESDC, 2018a, para. 9).

As of present, ESDC’s webpage for the TFWP lists six streams, which are the High-wage stream, Low-wage stream, Support a Foreign worker’s Permanent Residency Stream, Primary Agriculture Stream, which encompasses the SAWP and Primary Agricultural Stream, In-home Caregiver Stream, which officially ended in June 2018 and was replaced in June 2019 by two pilot programs under the management of IRCC, and Global Talent Stream (ESDC, 2019a, 2019i; IRCC, 2019b, 2019c).

Chapter 5: Analysis of the TFWP's Development

The findings outlined in the previous chapter showcase that, over the three decades, Canada's TFWP has gradually changed into the program it is presently. The existence of change, in itself, is clearly seen through a comparison of the TFWP in the early 1990s, which included three streams, the general TFWP, SAWP, and LCP, with requirements focused on validating the employment shortage and employee credentials, and the current program, consisting of five streams and increased requirements for the employer and employee. However, to answer the research question, the manner in which the change occurred must be illustrated in more detail. To answer the first part of the research question, how have the rules and structure of Canada's TFWP developed over the period, an analysis utilizing the lens of "Gradual Institutional Change" as outlined by Mahoney and Thelen (2010) was conducted. The analysis illustrated that the TFWP has undergone gradual change, defined in institutionalist literature as slow incremental change that, once accumulated together, produces noticeable modifications (Mahoney & Thelen, 2010; Rocco & Thurston, 2014, p. 37). Further, this perspective was also used to answer the second half of the research question, specifically, how did internal and external factors affect the process of development? Mahoney and Thelen (2010) illuminated the impact of internal factors by shedding light on how the small scale and pace of this change maintains and perpetuates forward existing rules and structures. In terms of external factors, Brenner and Theodore's (2002) theory of "Actually Existing Neoliberalism" guided the analysis of how the surrounding environment informed the development of the TFWP.

5.1 Gradual Change: The Layering of New Rules

The development of Canada's TFWP displays the process of gradual change through the utilization of the layering, the act of attaching and/or adding new rules onto pre-existing ones,

and continued adherence to the program's existing regulations (Mahoney & Thelen, 2010). Layering is seen through the expanding number of requirements for the LCP, High-skill Stream (known as the High-wage stream as of June 2014), Low-skill Stream (established in 2002 and renamed the Low-wage Stream in June 2014), and SAWP over the period. Starting with the LCP, when originally established in 1992, the LCP required the employee, also known as a caregiver, to meet three qualifications (CIC, 1999a, p. 36; CIC, 1994a, p. 3). To qualify, the employee had to have completed the equivalent of a Canadian high school education, six months of full-time training in a classroom or 12 months of full-time employment in the fields or occupation related to the job, and the ability to read, speak, and understand either English or French at a level that allowed them to function independently (CIC, 1994a, p. 3). Then, in 2002, CIC added a fourth qualifying requirement, which is that employees needed a signed employment contract with their employer that defined the employee's job duties, hours of work, salary, benefits, and working conditions required by provincial or territorial labour laws (CIC, 2002, para. 9). A few years later, in response to concerns over the wellbeing of caregivers, additional employer rules and requirements were implemented.

In 2011, amendments to the *Immigration and Refugee Protection Regulations* allowed the HRSDC to determine whether employers applying under the LCP had a legitimate need for a caregiver, could provide adequate accommodations, and had sufficient financial ability pay to the caregiver (HRSDC *et al.*, 2012, p. 7). Following in 2013, additional rules were added to standardize the LCP employment contract, require employers to pay for employee's airfare to Canada, and establish clear requirements for hours of work, overtime, and accommodations deductions (ESDC, 2014, p. 34). These multiple instances of change implemented over the decade were not created through the revision or replacement of existing rules but instead,

through the attachment of new ones to the existing regulations (Mahoney & Thelen, 2010). By gradually adding rules to the program's employee and employer requirements, the Government of Canada shifted the program to be more proactive in protecting employees without actually amending existing rules (Mahoney & Thelen, 2010)

More recently, in late 2014, the Government of Canada removed the live-in requirement for the LCP after heavily defending the requirement for multiple years (LOP, 2014, p. 7). Before its removal, however, the Government of Canada argued that the live-in requirement was fundamental to the LCP as there was no shortage of live-out caregivers in Canada (2009, para. 66). Thus, removing the requirement would undermine the objective of LCP, which is to fill a specific labour shortage (Government of Canada, 2009, para. 66). Opposition groups, on the other hand, argued the live-in requirement put foreign caregivers at greater risk for abuse and harm from their employers (CIMM, 2009, p. 45). In 2011, following the 2009 CIMM report, which included these concerns, instead of replacing or removing the rule, the Government added more requirements to improve evaluation of employers, specifically, "whether the employer has a legitimate need, can provide adequate accommodations to the caregiver, and has sufficient financial resources" (HRSDC *et al.*, 2012, p. 7). Then, in 2013, additional measures were attached to the LCP to support caregiver wellbeing (ESDC, 2014, p. 34). For example, processes were implemented to expedite LMO applications and work permit processing for LCP workers in abusive and/or exploitative situations (ESDC, 2014, p. 34). These actions showcase the mode of layering as the new regulations were added on top of the existing framework to create change, a process that acted to also maintain the pre-existing features.

The removal of the live-in requirements in late 2014 also highlights the mode of layering (LOP, 2014, p. 7). Although appearing to be direct action by the Government to address

caregiver vulnerability, in actuality, the requirement was amended. Instead of requiring all caregivers to live-in the private household of their employer, after 2014, caregivers had the ability to live outside or inside the private household (ESDC, 2019h, para. 32). It is stated that, if the caregiver and employer agree, the caregiver can live-in the private household of their employer (ESDC, 2019h, para. 32). Due to the imbalanced power relationship between a Canadian citizen and a foreign national looking for employment and path to residency, it is conceivable that caregivers would agree to live-in to secure employment. Therefore, this change in the living requirements of caregivers officially removed the live-in requirement, but in practice, it simply provided caregivers with the option to live-out (Mas, 2014, para. 1). In effect, from this perspective, the removal of the live-in caregiver program aligns with the mode of layering described by Mahoney and Thelen (2010) since the ‘removal’ was achieved through the attachment of a live-out option.

Layering is also seen through the evolution of the High-wage and Low-wage streams. First to clarify, the High-wage Stream was known before June 2014 as the High-skill Stream, and similarly, before June 2014, the Low-wage Stream was known as the Low-skill Stream. To begin, both streams have experienced change through the attachment of new rules onto their existing regulations and requirements. In 2011, a new regulation was added onto both streams that established a mandatory four-year period ban from working in Canada following a cumulative four years of work (HRSDC *et al.*, 2012, p. 7). Then, in April 2013, a new measure was added to ensure only English or French could be identified as a job requirement (ESDC, 2014, p. 33). A few months later, in July 2013, a rule was added that required employers to use an additional two methods of recruitment beyond the national job bank or provincial/ territorial equivalent (ESDC, 2014, p. 31). A year later in 2014, for the Low-wage Stream, the Government

limited the duration of work permits to a maximum one year (ESDC, 2014, p. 12), and for the High-wage Stream, added a new requirement onto the LMIA application, called a transition plan, which outlines how the employer will reduce its reliance on the TFWP through the recruitment, retention, and training of Canadians and permanent residents (ESDC, 2014, p. 13). Most recently, in 2018, the ESDC implemented measures to expedite the LMIA application process for high-wage workers (ESDC, 2018a, para. 5). From these instances of change, it can be seen that the High- and Low-wage Streams experienced change through the attachment of new regulations onto those existing, not through the replacement or revisions of rules.

Lastly, the most recent example of layering occurred in January 2018 with the implementation of new housing regulations for SAWP employers (ESDC, 2019b, para. 11). On top of the existing inspection process, the Government of Canada, as of January 2018, requires employers to ensure and prove that their employee housing has been “inspected within the last eight months prior to the date the LMIA application is received by Service Canada” (ESDC, 2019b, para. 12) and specify the “maximum number of workers permitted pre approved accommodation” (ESDC, 2019b, para. 12). Again, these new rules have been added onto the existing housing regulations and inspection requirements for SAWP employers. Thus, following the theory of gradual change as described by Mahoney and Thelen (2010).

From all of these examples, one can see that across the TFWP, change has occurred through the attachment of a new rule or measure onto the existing regulatory framework than the revision or replacement of those existing (Mahoney & Thelen, 2010). Thus, through the lens of Mahoney and Thelen’s (2010), one can conclude that Canada’s TFWP experienced gradual change as its development occurred through the mode of layering. In the next section, the

conclusion is supported further by analyzing how this mode of change emphasizes a program's pre-existing features.

5.2 Influence and Perpetuation of the Existing Program

An important by-product of gradual change is the continued adherence to the pre-existing rule and structure (Mahoney & Thelen, 2010). Due to the implementation of small incremental change, significant portions of the existing program are maintained and remained untouched over a long period. This longevity allows these features to become entrenched, resulting in their perpetuation. Originally, the TFWP consisted of three streams, the SAWP, LCP, and general foreign worker stream, which is geared towards highly skilled workers (CIMM, 2009, p. 4). Since then the program has expanded and developed forward with the original program and its three streams influencing this process.

In 1997, Canada's TFWP experienced its first expansion with the creation of a new pilot stream for software professionals, also known as Information Technology (IT) Specialists Stream (CIMM, 1997, para. 17). This pilot's regulations relied heavily on those of the general foreign worker stream with the key distinction being the "streamlining [of] the HRDC validation process through a blanket validation of seven IT occupations known to be in very short supply in Canada" (CIMM, 1997, para. 17). In other words, employers hiring foreign nationals under this stream followed the same process and regulations as those hiring the general stream, except were exempt from acquiring an LMO (CIMM, 1997, para. 17; CIC, 1999b, p. 45). A year later, in 1998, the government created another pilot project following the same formula (CIC, 1999b, p. 45). Specifically, the Government introduced a stream dedicated to spouses of highly skilled temporary workers, which allowed these individuals to bypass the HRDC validation process

(CIC, 1999b, p. 45). Again, the foundation of this pilot project drew heavily from the general stream, differing only in the circumvention of the HRDC validation.

Adherence to the existing processes and structure of the TFWP continued in 2002 with the introduction of the Pilot Project for Hiring Workers in Occupations that Usually Require a High School Diploma or Job-specific Training, which was made a permanent fixture following the end of its trail (HRSDC, 2004b, para. 1; CIC, 2006, p. 7). The Low-skill Stream was founded upon the general stream in terms of its hiring process as it required an approved LMO application from HRSDC and approval from CIC that the foreign national met the job requirements (HRSDC, 2004b, para. 6). To adjust the stream to meet its specific objective, which is to allow employers to hire temporary foreign workers whose skill level is below the requirements for immigration, additional requirements were layered on top of the processes taken from the general stream. For instance, in addition to the general considerations taken by HRSDC in its review of an LMO application, for positions under the Low-skill Stream, the department also assessed employers' efforts to recruit Canadians and permanent residents from areas and populations with high unemployment and utilize federal and provincial unemployment programs (HRSDC, 2004b, para. 4). Moreover, additional requirements were added for employers under this pilot, including helping the foreign worker find affordable and adequate housing and paying for the workers' airfare from and to their home country (HRSDC, 2004b, para. 4). Therefore, the development of the Low-skill Stream drew influence from the general stream, adhering to its hiring process and requirements. It deviated from the general stream through the new requirements added on top of the existing structure and regulations as these additions altered the general stream into a low-skill focused stream.

A more recent example is the establishment of the Global Talent Stream in June 2017, which was created to “service high-growth Canadian companies that need access to unique global talent and companies that need to hire highly-skilled foreign nationals for in-demand occupations” (ESDC, 2017a, para. 17). Like the examples above, this stream’s requirements and processes draw from those pre-existing in the TFWP generally, differing only through the attachment of stream specific rules that adjust the regulations and process to adhere to the stream’s specific objective (Mahoney & Thelen, 2010). This is seen through a unique requirement of the Global Talent Stream, known as the Labour Market Benefits Plan, as its foundation draws from a High-wage Stream requirement but is adjusted through the layering of additional requirements (ESDC, 2019k, para. 15-29). A Labour Market Benefits Plan outlines the employer’s “commitment to activities that will have lasting, positive impacts on the Canadian labour market” (ESDC, 2019k, para. 15). For Category A, employers must create jobs for Canadians and permanent residents, and for Category B, they just commit to increasing skills and training investments for Canadians and permanent residents (ESDC, 2019k, para. 18-19). Additionally, employers must commit to achieving two complementary benefits and note activities to produce these benefits (ESDC, 2019k, para. 20).

The creation of Labour Market Benefits Plan draws from a High-wage Stream requirement called a transition plan, which was implemented in June 2014 (ESDC, 2014, p. 13). A transition plan is part of an employer’s LMIA application and describes the activities the employer will “undertake to recruit, retain, and train Canadians and permanent residents” (ESDC, 2014, p. 13) in order to reduce its reliance on the TFWP. One can see that the foundation of the Labour Market Benefits Plans is the transition plan requirement, as both require potential TFWP employers to demonstrate how they will achieve future economic propensity for Canada

and its workforce (ESDC, 2014, p. 13; 2019k, para. 15-21). More specifically, both plans ensure companies that are hiring temporary foreign workers are investing in the Canadian workforce (ESDC, 2014, p. 13; 2019k, para. 21). Further, the creation of these plans, beginning with the transition plan in 2014, illustrates a continued adherence to the TFWP's attempt at finding a balance between the needs of industries and the needs of the Canadian workforce. Therefore, through the example of the Labour Market Benefits Plan, one can see the influence of existing regulations and structures in Canada's TFWP development. As well, this example highlights the use of layering as additional requirements were added onto the plan to change the requirement to fit the specific objective of the Global Talent Stream.

Thus, from the lens of Gradual Change Theory, one can see that these fourth examples, the IT Specialists Stream, pilot project for highly skilled worker's spouses, Low-skill Stream, and Global Talent Stream, illustrate the importance of the TFWP's pre-existing structure and regulations in its development, especially its expansion (Mahoney & Thelen, 2010). Adherence to the pre-existing structure(s) and regulations is significant because it results in the perpetuation of original aspects of the program.

One example of this adherence is the development of the LCP. Since the establishment of the LCP in 1992, the program included three key requirements for caregivers: a Canadian high school equivalent education, training and/or occupational experience, and English or French language skills (CIC, 1994a, p. 3; 2002, para. 9). A 2002 publication of the LCP guidelines outlined the continuation of these three requirements, and the addition of a fourth caregiver requirement, specifically, the necessity of a signed contract with the employer (CIC, 2002, para. 9). In 2014, the LCP underwent several significant changes. First, the LCP lost its individual stream status, meaning going forward employers' caregiver requests would be assessed based on

the wage of the caregiver (HUMA, 2016, p. 3). In effect, jobs with wages above the median wage were assessed according to the requirements of the High-wage Stream and positions with a wage at or below the median wage were assessed based on Low-wage Stream requirements (HUMA, 2016, p. 3). Then, later in 2014, the mandatory live-in requirement was removed, resulting in the next evolutionary step of the program, known as the Caregiver Program. Despite these multiple changes in 2014, foreign caregivers still needed to meet the three qualifications, specifically, ability to speak, read, and understand English or French, and experience in the occupation (e.g. prior on-job training for low-wage positions), and formal education (e.g. university degree for high-wage positions) (ESDC, 2019h, para. 2-9). Moreover, the training requirement was emphasized under the Caregiver Program (ESDC, 2019h, para. 10). Since late 2014, when working in regulated occupations, a caregiver required a certificate, license, or proof of registration with the regulatory body (ESDC, 2019h. para. 10). Continuation of these requirements is even seen in the IRCC's caregiver pilot program (IRCC, 2019c, para. 11). In June 2018, the Government of Canada ended two pilot streams under the umbrella of the Caregiver Program (IRCC, 2019b, para. 12). Going forward, work permits for caregivers already working in Canada would remain under the TFWP and those hiring foreign nationals outside of Canada could only do so through the Home Child Care Provider Pilot and Home Support Worker Pilot, both managed solely by IRCC (IRCC, 2019b, para. 10; 2019c, para. 4-5). Again, though separate from the TFWP and underneath another department, the three main requirements remained key for caregiver eligibility (IRCC, 2019b).

The Government of Canada's perpetuation and expansion of these three qualifications is linked to their presence in the first version of the LCP. The requirements were enacted with the establishment of the LCP in 1992 because they supported the program's objective, which was to

fill a specific labour shortage, and the ability to use the program as a path to permanent residency (CIC, 1994a, p. 1 & 3). In terms of objective, in 1992, the purpose of the LCP was to “bring workers to Canada to do live-in work as caregivers when there [were] not enough Canadians to fill the available positions” (CIC, 1994a, p. 1). These three qualifying requirements for caregivers upheld this objective by justifying the importation of a foreign national over the hiring of a Canadian citizen or permanent resident (CIC, 1994a, p. 3). The ability for caregivers to use the program as a path to permanent residency also correlates with the inclusion of the three requirements (CIC, 1994a, p. 1). According to the Government, these three qualifications guaranteed the capability of the foreign national as a caregiver while also ensuring the foreign worker had success in Canada generally (CIC, 1994a, p. 3). For example, the Government stated the requirement of a high school equivalent education was necessary because it was proven to improve outcomes for those who immigrated to Canada (CIC, 1994a, p. 3). This can also be argued for the other two qualifications. The higher training requirement would increase foreign nationals’ ability to compete in the job market, especially if certain training is a market standard, while language abilities would support employment opportunities and social integration (ESDC, 2019h, para. 10).

As the LCP was justified over its existence by the Government, the three qualifying requirements were entrenched. With each instance of change to the program, the maintenance of the three original requirements without revisions acted to validate their value in the program. In effect, when the Government conceded to external pressures and removed the live-in requirement, thus, changing the LCP into the In-home Caregiver Program, these three requirements were brought forward (ESDC, 2019h, para. 8-9). Both the first pilot program under the TFWP umbrella and the second pilot managed by the IRCC included the original three

qualifying requirements (ESDC, 2019h, para. 8-14; IRCC, 2019c, para. 11). This highlights the extent to which these requirements were entrenched as valuable and necessary since the purpose of the pilot programs are distinct from that of the LCP. As noted by the Government of Canada, the shortage of live-in caregivers is significantly more than live-out caregivers, with the latter possibly being non-existent (2009, para. 66; CIC, 1994a, p. 3). Therefore, it can be deduced that these original requirements would not satisfy the needs of the in-home caregiver program, which aimed to fill a narrower shortage than its predecessor. Moreover, the expansion of the original three requirements further supports this interpretation as it illustrates that they did not meet the needs of the new pilot programs. Thus, this example showcases how the gradual development of the program resulted in the perpetuation of original rules as their longevity without revision acted to entrench their necessity, leading to their continuation despite lack of compatibility.

A final example of the perpetuation of original features is the maintenance of the validation of employment offer by ESDC, known previously as EIC, HRDC, and HRSDC. Since the beginning, an LMIA has been a key and constant feature of the TFWP. Even when streams allowed an employer to circumvent an LMIA application, it is the result of ESDC pre-approving the LMIA because of a recognized shortage (CIMM, 1997, para. 45). Thus, even when circumvented, an LMIA is a part of the hiring process under the TFWP. In the early 1990s, for all streams, employers were required to give details of the job offer to the CEC, which then assessed whether it met wage and working standards, reasonable efforts to hire and/or train a Canadian citizen and permanent resident were taken, and if the hiring of the temporary foreign worker created or maintained employment in Canada and/or had a positive economic impact on Canada (EIC, 1992, p. 2; CIC, 1995, p. 5). If the job offer and employer's efforts satisfied the requirements, the CEC then issued a confirmation of the offer of employment (EIC, 1992, p. 3).

The purpose of the process was to ensure the use of the TFWP was justified. In other words, the program provided employers with a tool to meet their labour needs while also ensuring Canadian workers were first considered (CIC, 1995, p. 1)

In the early 2000s, the process of receiving a confirmation of the offer of employment became known as an LMO (HRSDC, 2003a, para. 2). The purpose of the departmental review remained unchanged, which is seen through the continued importance of comparable wages and working conditions, recruitment efforts of Canadians, and the positive impact of hiring the temporary foreign worker (HRSDC, 2003a, para. 4). At the same time, new requirements were added, for example, the phrasing ‘filling a labour shortage’ was included as a consideration for the impact of hiring the foreign worker and whether the hiring would affect a labour dispute (HRSDC, 2003a, para. 2). If the job offer met these requirements, in other words, the employer received a positive LMO, an employment confirmation was issued (CIC, 2006, p. 8).

Moving forward to 2014, an LMO became known as an LMIA with the addition of new requirements for employers (ESDC, 2014, p. 9). Now, on top of the requirements of an LMO, employers must disclose the number of Canadians and permanent residents who applied for the position, were interviewed, and why they were not hired (ESDC, 2014, p. 9). Moreover, employers are also required to confirm they are aware that Canadians cannot be laid off or have hours reduced if there is a temporary foreign worker at the worksite (ESDC, 2014, p. 9). These new additions, according to the Government of Canada, address concerns over the size of the temporary foreign worker population and its impact on the Canadian workforce (ESDC, 2014, p. 9). From the evolution of the LMIA, one can see how gradual change, resulting from the layering of regulations onto existing ones, has emphasized these existing program features in consequence. Change through the attachment of new measures onto the existing framework acts

to bring original features forward as the program evolves. In effect, although receiving targeted modifications over the decades to ensure the LMIA was reflective of current needs, the origins of the feature were maintained. Thus, this example not only illustrates the influence of the existing program on the TFWP's development but also the mode of layering as the changes to the LMIA over the period occurred by adding new rules on top of those already existing.

From these examples, it is seen that the evolution of the TFWP was significantly influenced by its existing state, including regulations, structure, and objectives. These features have influenced the development of the program by shaping new streams, their requirements, and their processes. Moreover, the influence of pre-existing features over the long-term has resulted in their entrenchment, which in turn, has impacted the TFWP's development as means to adapt the program to current and/or future needs must be formed around these entrenched features. This analysis not only further supports the conclusion that Canada's TFWP has undergone gradual change, as the perpetuation of existing features is identified by Mahoney and Thelen (2010) as an indicator of this kind of change but also illustrates the influence of internal factors. Specifically, it sheds light on how the program, itself, has impacted its development by influencing the structure of new streams and, due to the by-product of gradual change, constraining change through the continuation of original features.

5.3 June 2014 Overhaul: An Example of Abrupt Change?

The June 2014 reorganization of the TFWP, at first glance, appears to directly challenge the conclusion that the program has undergone gradual change over the three decades in question. All at once, effective June 2014, the Government of Canada divided the TFWP, implemented structural changes, and enacted new rules (ESDC, 2014). An analysis of the June 2014 overhaul through the lens of Mahoney and Thelen (2010), however, reveals that the

changes implemented are consistent with the mode of layering and continue to adhere to the pre-existing program. To begin with structure, the Government separated the TFWP into two programs based on whether the hiring of the foreign national required an LMIA (ESDC, 2014, p. 1). Essentially, employees that did not require an LMIA were placed under the new IMP and employment that did require an LMIA remained under the TFWP (ESDC, 2014, p. 1). This structural change which seems significant, in actuality, is minor as it did not, in itself, significantly alter the hiring process. The departments involved and information required by the employer and employee remained unchanged by the creation of a new program dedicated to a subsection of the TFWP. Further, employer and employee requirements for streams remaining under the TFWP were unaltered by the division of the program.

Continuing with structural changes, the Government also made changes to the TFWP streams. Specifically, the High-skill and Low-skill Streams were now be defined by the positions wage rather than the education and training level required and SAWP was placed within a broader agriculture focused stream, known as the Primary Agriculture Stream (ESDC, 2014, p. 7-8). Again, these structural modifications showcase small change. In terms of the High-skill and Low-skill Streams, changing the definition of these two streams from the level of education and/or training with the wage of the position can be viewed as displacement, the act of replacing an old rule with a new one (ESDC, 2014, p. 7). However, the change does not alter the positions under the streams but instead reinforces the prior definition since, for example, jobs that require higher levels of education and/or training often yield higher wages (ESDC, 2014, p. 7). In effect, this rule change more accurately reflects the mode of layering as the revised definition, based on wage, adds to the pre-existing definition. Thus, the replacement of the High- and Low-skill

Streams with new definitions is another example of small change as it did not significantly alter or impact the pre-existing structure of the streams (Mahoney & Thelen, 2010).

Furthermore, the development of a Primary Agricultural stream also displays incremental change and adherence to pre-existing structures as described by Mahoney and Thelen (2010). The Primary Agricultural Stream includes SAWP and the general Primary Agriculture, which allows the Canadian agricultural industry to hire agricultural workers from countries outside of the SAWP agreement (ESDC, 2014, p. 8). The SAWP, Primary Agricultural Stream requires that the position involves the production of specific commodities (e.g. vegetables, dairy, poultry, etc.) and is related to on-farm primary activity (ESDC, 2018c, para. 2). Moreover, both streams require the employer to provide no-cost transportation and adequate housing (ESDC, 2019b, para. 2-5; HRSDC, 2004a, para. 6). The streams deviate in that employers under the Primary Agricultural Stream are not limited to hire workers only from states who have a formal agreement with Canada (ESDC, 2018b, para. 3; 2018c, para. 2). As well, for SAWP, sending governments are responsible for the recruitment of employees and validation of their credentials, whereas, under the Primary Agriculture Stream, this responsibility is held by the employer, similar to the rest of TFWP (ESDC, 2018b, para. 5; 2018d, para. 2). From this, one can see that the new agricultural stream draws from the existing SAWP and TFWP. The SAWP provides a basis for the general position requirements and to fill in gaps of the hiring process conducted by foreign countries under SAWP, the government adopted the process of the general High- and Low-wage Streams. This outcome showcases the influence of the TFWP existing regulations and how existing structures and regulations become perpetuated and eventually entrenched.

In terms of rules, a number of new rules were implemented as part of the June 2014 re-organization. Collectively these new rules created substantive change, enough to be viewed as

abrupt by classical institutionalists. However, doing so limits the understanding of the June 2014 rule changes. If one looks at the rule additions individually, it is seen that they are directed and impact single streams and/or subset programs. Further, it becomes clear that the changes to the TFWP's regulations occurred through the layering of additional rules on top of existing ones, not direct amendments. For example, to address concerns over the hiring of foreign nationals for high wage jobs desired by Canadians and permanent residents, the Government attached an additional requirement to the LMIA hiring process, called a transition plan (ESDC, 2014, p. 13). Employers are now required to explain how they plan to find a Canadian citizen or permanent resident to fill the position going forward or how they will support the foreign national temporarily hired in their process to become a permanent resident of Canada (ESDC, 2014, p. 13; ESDC, 2019d). This example clearly illustrates the mode of layering as the Government enacted change through the attachment of a new rule that altered the program to address a current concern and/or need (Mahoney & Thelen, 2010).

Another example is the attachment of new rules on the Low-wage Stream to address concerns over misuse of the program by employers (ESDC, 2014, p. 10). Specifically, the Government of Canada became aware that some employers were integrating Canada's TFWP into their business models, rather than using the program as a means to fill an acute labour shortage (ESDC, 2014, p. 10). To address these concerns, the Government added a new rule which states that employers with more than 10 employees are not allowed to have a temporary migrant workforce that equals more than 10% of their total workforce (ESDC, 2014, p. 10). Again, the implementation of this new rule illustrates the mode of layering as the Government attempted to create change in employer actions and the size of the workforce by adding another rule on top of those existing. None of the current rules were amended or replaced, instead, a new

rule was attached. In all, despite appearing to be an example of abrupt change, a deeper analysis of the June 2014 ‘Overhaul’ through Mahoney and Thelen’s (2010) lens displays a pattern of incremental change that aligns with the illustrates of gradual change seen across the three decades.

5.4 Impact of the Surrounding Environment

Shifting to Brenner and Theodore’s theory, Actually Existing Neoliberalism, this perspective highlights the influence of the environment surrounding the TFWP in its development (2002). This environment includes the economic sphere (e.g. condition of Canada’s economy, industries, and employers), political sphere (e.g. ruling party and surrounding government programs/policies), and social sphere (e.g. demographic trends). Through this lens, this research was able to uncover correlations between features of the surrounding environment and periods of continuity and discontinuity in the TFWP’s objective, rules, and structure(s).

To begin, examining the objective of Canada’s TFWP through this lens suggests a lack of influence of the surrounding environment on the program’s development as the official objective remained constant across the timeline. From the beginning of the examined period, the Government has stated the objective of the program is to allow “employers to recruit foreign workers needed for the Canadian labour market” (CIC, 1995, p. 1) while also “ensur[ing] the employers ha[d] considered Canadian citizens and permanent residents and that the entry of foreign workers [would] not adversely affect employment or career opportunities for Canadian citizens and permanent residents” (CIC, 1995, p. 1). Despite changes in Canada’s political, economic, and social environment, the official objective has not changed. In 2006, a guidebook published by the Government stated that the purpose of the TFWP was to “allow eligible foreign workers to work in Canada for an authorized period of time if employers [could] demonstrate

that they [were] unable to find suitable Canadians/ permanent residents to fill the jobs and that entry of these workers [would] not have a negative impact on the Canadian labour market” (CIC, 2006, p. 2). Following in 2014, the Government reconfirmed the official objective, explaining that the TFWP provided a “last resort for employers to fill jobs for which qualified Canadian [were] not available” (ESDC, 2014, p. 1). More recently, in 2016, in response to a HUMA report, the Government of Canada once again restated the importance of fulfilling job shortages and putting Canadian workers first. Specifically, the TFWP “work[s] for all workers, for businesses, and for the Canadian economy” (Government of Canada, 2017, para. 4-5). From these official statements, it can be seen that the official objective of Canada’s TFWP has remained constant despite changes in the surrounding environment.

In addition to being found officially stagnate, the examination of the TFWP’s objective revealed the influence of the departments that deliver the program, specifically, IRCC (known previously as CIC and EIC) and ESDC (known previously as HRSDC, HRDC, and EIC). In terms of IRCC, its purpose is to execute Canada’s immigration plan, and from the background work presented in Chapter 1, it was discovered that this plan emphasizes the economy by putting greater weight on an immigrants’ economic potential (Ferrer *et al.*, 2014, p. 848; Green & Green, 1999, p. 431). The official objective of the TFWP aligns with this goal as it focuses on supporting Canadian employers and, in general, the economy (CIC, 1995, p. 1; Government of Canada, 2017, para. 4-5). Moving to ESDC, this department focuses on improving the quality of life for Canadians, mainly through promoting an efficient, inclusive, and highly skilled Canadian labour force (ESDC, 2019a, para. 1). Again, the TFWP’s objective aligns with the focus of the ESDC, as the second half of the objective is to ensure citizens and permanent residents are considered first and not affected by the employment of foreign nationals (CIC, 1995, p. 1; 2006,

p. 2). This balance between the needs of the employers, and indirectly the economy, and the Canadian labour force displays the influence of the departments Canada's TFWP is situated between. Further, this convergence of department goals highlights the influence of the pre-existing landscape. Therefore, although constant across the timeline, Brenner and Theodore's (2002) illumination of the pre-existing structures, in this case, established federal departments, demonstrate how government programs are shaped to fit in and align with the existing landscape.

Furthermore, an examination of the TFWP's rules and structure(s) reveals that the surrounding environment has influenced the program's development and though stagnate across the decades officially, the objective of the TFWP has fluctuated in practice. Originally, the TFWP was focused on the importation of high-skilled workers (LOP, 2014, p. 3), as seen through the establishment of two pilot projects in the late 1990s, specifically, the IT Specialists Stream and the fast tracking of work permits for spouses of highly skilled workers (CIMM, 1997, para. 17; CIC, 1999b, p. 45). The introduction of these streams, a structural change, shows that, at the time, the objective of filling labour shortages referred heavily to shortages for high-skilled positions. This conclusion is also supported by a Library of Parliament report, which notes that before 2002, Canada's TFWP was focused on highly skilled workers (LOP, 2014, p. 3). In 2002, however, the program shifted its focus towards low-skilled workers (LOP, 2014, p. 3). In addition to SAWP and LCP, two original streams designed to allow for the importation of workers for lower-skilled positions, the Government established the Pilot Project for Hiring Foreign Workers in Occupations that Usually Require a High School Diploma or Job Specific Training (HRSDC, 2004b, para. 2). This structural change highlights an opening for greater numbers of low-skilled labour. It also displays a change in the TFWP's objective, unofficially, as the program's role shifted from prioritizing high- to low-skilled positions.

The switch from high- to low-skilled labour corresponds to the economic environment of this period, specifically, from the 1990s into the early 2000s. Canada entered the 1990s in an economic recession, seen tangibly through an 11.3% unemployment rate in 1992 (Wilson *et al.*, 1994, p. 3). The impact of this economic downturn progressed into the late 1990s through continued high unemployment rates (Fortin, 2001; Statistics Canada, 2019b). According to Statistics Canada (2019), the national unemployment rate as of June 1995, the midpoint of the decade, was 10.3%. The rate continued to be high until the end of the decade with 9.1% in June 1997 and 8.4% in June 1998 (Statistics Canada, 2019b). These statistics illustrate a surplus of Canadian labour, rather than a shortage. Therefore, for employers to justify a “shortage” in the workforce and the necessity to hire a foreign worker, the position would need to require specific skills and qualifications not generally found in the workforce. Low-skilled labour, theoretically, can be conducted by a larger segment of the labour force, thus, during economic downturns with high unemployment, there should be a surplus of availability for low-skilled positions. This line of argumentation is expressed by the Government of Canada in its June 2014 report when it outlined ESDC’s new authority to refuse applications for low-skilled positions in areas of high unemployment (ESDC, 2014, p. 11). Thus, one can see that Canada’s economic environment, specifically the negative state of the economy, influenced Canada’s TFWP by directing the program towards highly skilled labour.

By the early 2000s, Canada was out of an economic recession and experiencing good economic growth (Department of Finance, 2000, 2002, 2006). The new decade began with 4.9% GDP growth in the first quarter of 2000 (Department of Finance, 2000, para. 1). GDP growth continued into 2002 with 6.2% growth in the first quarter and 4.3% in the second, and into 2006 with 3.8% in its first quarter (Department of Finance, 2002, 2006). Canada was also experiencing

high employment with an unemployment rate of 6.8% in April 2000, 7.7% in June 2002 and 6.1% in June 2006 (Department of Finance, 2000, 2002, 2006; Statistics Canada, 2019b). This reduced unemployment rate was supported by the “strong pace of job creation” (Department of Finance, 2000, para. 4). In the first four months of 2000, Canada experienced a “gain of 115, 000 net new jobs” (Department of Finance, 2000, para. 4). Followed by, 386,000 net new jobs in the first eight months of 2002 (Department of Finance, 2002, para. 6) and 220, 000 in the first 6 months of 2006 (Department of Finance, 2006, para. 4). These indicators demonstrate that Canada’s economic condition had improved compared to the 1990s, leading to greater job growth and employment. Increased employment allows for greater opportunity to experience a labour shortage, especially for positions seen as less desirable, like low-skill positions that are often compensated with lower-wages. This is supported by CIMM’s 2009 report, which found that the Low-skill Stream had become extremely popular in this period (CIMM, 2009, p. 4; LOP, 2014, p. 4). With the reduced availability of labour due to high employment, employers began to use the Low-skill Stream to obtain a “kind of worker not available through the economic immigration stream” (CIMM, 2009, p. 4), specifically, low-skilled labour which is disadvantaged through the point system. From this, one can see that the economic environment influenced the TFWP’s development through its emphasis on low-skilled labour. This economic demand directed the program’s expansion, seen in the establishment of a new stream and unofficially altering its objective by prioritizing the fulfillment of shortages for low-skilled positions.

The application of Brenner and Theodore’s (2002) perspective also revealed the influence of economic actors, such as employers and employees, on the development of Canada’s TFWP. In terms of the employee or, more broadly, Canadian workers, in the early 2010s, news articles emerged concerning the misuse of the TFWP by the mining, banking, and fast food sectors

(Nuttall, 2015; Keller, 2014; Keevil, 2013; Kirby, 2014). It was uncovered that businesses in these sectors, as well as others, were hiring temporary foreign workers despite the availability of labour, especially for low-wage positions (Keller, 2014; Nuttall, 2015). For example, in 2013, a story broke that “dozens of employees at Canada’s largest bank[, Royal Bank of Canada, were] losing their jobs to temporary foreign workers” (Tomlinson, 2014, para. 2). Later that same year, news emerged that Tim Hortons was hiring foreign workers when a temporary foreign worker went to the media concerning alleged abuse by his employer (Carletti & Davison, 2012). These reports, along with others regarding other companies, such as McDonalds, HD Mining, Husky Energy’s Sunrise, sparked anger within the Canadian workforce with workers and advocacy groups arguing the importation of foreign workers distorted the reality of the market by negatively impacted Canadian’s employment opportunities and driving down wages (Canadian Press, 2013; Nuttall, 2015; O’Neil, 2012; Keller, 2014).

In response to the concerns, in June 2014, the Government of Canada implement a 10% proportion cap on employers with more than 10 employees (ESDC, 2014, p. 10) and gave ESDC the authority to refuse applications for low-skilled positions, specifically those that require little to no education and/or training, in economic regions with an unemployment rate at or higher than 6% (ESDC, 2014, p. 11). The Government explicitly noted that the new measure aimed to address public concerns by limiting the size of the temporary foreign workforce and ensuring jobs are available to Canadians first, an outcome that was predicted to also support the employment of youth and unrepresented groups (ESDC, 2014, p. 10-11). These examples display the influence of the Canadian workforce on the development of the TFWP as workers’ concerns informed the implementation of program restrictions. Without these demands, the TFWP could have gone unchanged or even experienced expansion to better accommodate employer needs.

Thus, the timing of the adoption of these new measures, supported by explicit comments by the Government of Canada, illustrates the influence of Canada's workforce.

Another important economic actor is the employer. Referring back to the implementation of new rules in June 2014. As mentioned above, in the early 2010s, multiple reports emerged concerning employers' misuse of the TFWP (Nuttall, 2015; Keevil, 2013; Kirby, 2014). The Government of Canada also acknowledged the misuse, stating that employers had wrongfully integrated the TFWP into their business models as a long-term labour solution (ESDC, 2014, p. 10). In response, the Government implemented a 10% proportion cap on employers with more than 10 employees (ESDC, 2014, p. 10). The cap aimed to control the size of the temporary workforce and ensure Canadians are the first to be considered for employment opportunities (ESDC, 2014, p. 10). Although the new rule was phased in gradually over 2 years, thus, giving employers time to bring the proportion of their temporary foreign workforce down to target levels (ESDC, 2014, p. 10), employers pushed back against the cap. During its study of the TFWP, HUMA found that exemptions to the cap were given to "on-farm agricultural primary positions, caregiver positions and, for applications received in 2016, industries hiring temporary foreign workers in low-wage seasonal positions that [were] no more than 180 calendar days in length" (HUMA, 2016, p. 5-6). Moreover, HUMA heard from industry experts from various sectors, which in this analysis are considered economic actors, who argued that the 10% cap had negatively impacted production levels and employers' ability to capitalize on trade opportunities (HUMA, 2016, p. 14-16). Based on these testimonies, HUMA recommended the cap be increased to 20% (HUMA, 2016, p. 30). The Government responded to the recommendation by stating that it would "work with sectors that are heavy users of the [TFWP] to create Canadian workforce development strategies in partnership with employers, organized labour, and other

stakeholders” (ESDC, 2017a, para. 6). However, in the interim, the Government would “maintain the current 20% cap for employers that were [TFWP] users prior to the introduction of the cap (2014) and the 10% cap for more recent Program users” (ESDC, 2017a, para. 6). Furthermore, “recognizing the unique labour market needs of some employers, the Government ... extended the exemption for employers seeking [temporary foreign workers] for up to 180 days for the 2017 calendar year” (ESDC, 2017a, para. 6). This response by the Government demonstrates the influence of employers and their industries. Despite not being able to reserve the decision, these economic actors were able to directly affect the program’s development by further delaying the implementation of a new rule that would produce a change to employers’ restrictions and the number of foreign workers in Canada.

More recently, the establishment of the Global Talent Stream also highlights the impact of economic actors on the TFWP’s development. In June 2017, ESDC introduced a new pilot stream under the TFWP, known as the Global Talent Stream (ESDC, 2017a, para. 17). The new stream aims to “better support[t] access to highly-skilled temporary foreign workers, ... achieve better overall economic and social benefit for Canadians[,] and reflect the realities of labour market needs in Canada” (ESDC, 2017a, para. 18). This goal is achieved by “service[ing] high-growth Canadian companies that need to access unique global talent and companies that need to hire highly-skilled foreign nationals for in-demand occupations that are on a national global talent shortage list” (ESDC, 2017a, para. 17). The stream was specifically created to address HUMA’s recommendations regarding the importance of “Canada’s access to individuals with unique international skills and talent to support economic growth and prosperity” (ESDC, 2017a, para. 15). During HUMA’s study of Canada’s TFWP, the committee heard from employer representatives about their concerns over the negative impact of new regulations on the High-

wage Stream, specifically the requirement of a transition plan (HUMA, 2016, p. 16). According to these economic actors, Canada's shortage of high-skilled workers is well documented, and though education and training have had a positive impact on the supply of high-skilled workers, "Canadian business will continue to require reasonable access to high-skilled foreign workers" (HUMA, 2016, p. 16). The necessity of a transition plan hinders this access, especially for instances when "companies are looking to hire highly specialized individuals, such as top global investors or specialized health professionals, who often cannot be found domestically" (HUMA, 2016, p.16). As noted, the Global Talent Stream was a direct response by the Government to address these concerns from economic actors. Therefore, the establishment of the Global Talent Stream further displays the influence of the economic environment on the development of Canada's TFWP as this structural change was a direct result of demands from economic actors. Overall, the analysis of the economic sphere revealed that the TFWP's development was impacted by forces in this sphere, specifically, the condition of Canada's economy and economic actors, as these factors were linked to multiple instances of change in the program.

5.5 The Political Sphere: Influence of the Government

In addition to the economic environment, Brenner and Theodore's (2002) theory also illuminates the impact of the political sphere, including the Government, its programs and policies, and the ruling political party's ideology. A state's economy and its government are not mutually exclusive with both influencing and reacting to the other. This is seen in the example of the TFWP's transition from high- to low-skilled labour used above, as the TFWP, a government program, was shifted by the Government in reaction to the condition of the economy. Moving further in the 21st century, however, the pattern described in the previous section does not repeat.

An examination of this period through the lens of Brenner and Theodore (2002), shows that the economic environment in this period was not as influential compared to the political sphere.

In 2008, Canada experienced another economic downturn, which despite officially lasting only two years, from 2008 to 2009, continued to be felt in the years following due to a sluggish economic recovery (Dodge & Dion, 2016, p. 138; Department of Finance, 2009, p. 7). During this period, the TFWP did not follow the pattern seen above by readjusting back towards high-skilled positions. Instead, the Low-skill Stream continued, and the TFWP remained untouched until 2011 (HRSDC *et al.*, 2012, p. 7). Brenner and Theodore's (2002) perspective illuminates the political environment as the major influence on the program during this time. This period is marked by a change in government with the 2006 election of the Conservative Party, which ran on a platform that focused heavily on growing the economy through the implementation of economic policies based on neoliberalism (McKercher & Sarson, 2016; Brabazon & Kozolanka, 2018, p. 256; Dawson, 2016). For example, the Federal Government entered into negotiations with foreign states to further liberalize international trade, and, at the same time, reduced personal and corporate domestic taxes (Gordon, 2016, para. 6 & 9; Dodge & Dion, 2016, p. 147). In terms of migration, the Conservative government saw Canada's immigration system as a tool for greater economic growth, which it aimed to achieve by strongly prioritizing the entry of economic-class immigrants (Ibbitson, 2014; Omidvar, 2016, p. 179).

Simultaneously, this period was also characterized by a CIC backlog, resulting in long processing times for permanent resident applications, a majority of which had the potential to be categorized as skilled workers (CIMM, 2009, p. 4). Employers responded to the backlog by turning to the TFWP as its processing times were more compatible with the fast pace of business (CIMM, 2009, p. 4). This misuse of the TFWP by employers was noted in CIMM's 2009 report,

leading the committee to argue that the program was no longer serving its purpose of filling labour market shortages (CIMM, 2009, p. 5). Continuing the Low-skill Stream during the 2008-2009 economic recession and following slow recovery supports CIMM's argument since the June 2009 unemployment rate of 8.7% and June 2010 rate of 7.9% suggests the opposite of a shortage, especially for positions requiring little education or training (Statistics Canada, 2019b). The Conservative government, however, disagreed with this argument, and instead, argued that the TFWP has an "enduring role" (Government of Canada, 2009, para. 5) in Canada's new economy focused immigration system (Omidvar, 2016, p. 179; Asomah, 2014, p. 122). This statement, along with the Government's decision to allow for continued employer misuse, illustrates the influence of the political environment. With the economic growth as its focus, the Harper Government saw the TFWP as a means to indirectly support economic immigration, which was being hindered by bureaucratic backlogs (CIMM, 2009, p. 5), and further entrench its economic ideology as the program's market-driven foundation aligns with neoliberal thought (Omidvar, 2016, p. 179; OAGC, 2009, p. 26). This interpretation is also supported by the 2007 Budget, which "provided close to \$150 million in additional funding to CIC and HRSDC over five years, with \$35.5 million annually thereafter, to improve the processing of applications" (OAGC, 2009, p. 27). It can be concluded that these two characteristics of the political sphere, a backlogged immigration system and the election of a new government with a neoliberal perspective, significantly influenced the TFWP during this period, resulting in the continuation of the Low-skill Stream despite the economic downturn (Brenner & Theodore, 2002).

Another example of the influence of the political environment on the TFWP is the continuation of SAWP, including the Primary Agricultural Stream, and the LCP, despite both programs receiving extensive criticism from academia (Callon, 2016; Sharma, 2012; Walsh,

2014; Walia, 2010) and migrant workers (Read *et al.*, 2013; Ligaya, 2011; Mehta, 2015). Beginning with the SAWP, as learned from this research's background work, the program emerged in response to farmers' concerns over agricultural labour shortages (Gabriel & McDonald, 2011, p. 48). According to the rising number of foreign workers admitted under the program, this concern has not faded but has increased (CIC, 2003, p. 8; ESDC, 2014, p. 5). Concurrently, numerous scholars have argued against the program, citing its structure and rules as creating an imbalance of power between workers and their employers, producing an isolated environment for workers, and exploiting labourers economic potential while denying their access to Canada (Walia, 2010; Walsh, 2014; Asomah, 2014; Narushima & Sanchez, 2014). In response to these criticisms, the Government has implemented additional regulations to address concerns (ESDC, 2014, p. 17-19 & 25-26; 2019f, para. 5), however, ending or limiting the program was not one of them. Instead, the Government expanded temporary migration for the agricultural industry through the establishment of the Primary Agricultural Stream in 2014 (ESDC, 2014). Although separate from the managed migration agreements that define SAWP, the Primary Agricultural Stream adheres closely to SAWP's rules and structure while expanding on its purpose by allowing employers to hire from any foreign state (ESDC, 2014, p. 8 & 36; 2018c). Moreover, the SAWP and Primary Agricultural Stream were exempt from multiple new measures implemented in June 2014, such as the cap on low-wage foreign workers and 1-year LMIA duration (ESDC, 2014, p. 26).

Over the course of 30 years, from 1990 to the present day, Canada experienced a Chrétien Liberal government (1993-2003), Martin Liberal government (2003-2006), Harper Conservative government (2006-2015), and Trudeau Liberal government (2015-present), all of which have displayed continued support for SAWP, with the Harper government most visibly

showing support through the establishment of the Primary Agricultural Stream (ESDC, 2014). Brenner and Theodore's (2002) perspective illuminates the motivations of political parties as a key factor in the continued support for the agricultural streams despite changes in government. Canada's agricultural sector represents an important interest group as well as a vital economic industry, two features that are intertwined. Ensuring the vitality of Canada's agricultural sector is extremely important as it not only comprises a key proportion of the economy (CIC, 2012, p. 42) but also ensures Canadians have access to agricultural products without reliance on foreign states (O'Hagan, 1976; Hollander, 2005; Hosoe, 2013). In addition, the agricultural industry has come together under influential organizations (Koc *et al.*, 2008, p. 128), such as the Dairy Farmers of Canada, Canadian Federation of Agriculture, Ontario Federation of Farmers, and Canadian Cattlemen's Association, to name a few. These organizations' influence extends into electoral periods, as they direct their members to support parties that uphold their interests (Sharp, 2019; Vigliotti, 2019; Montpetit, 2019). These interests include stable access to low-wage seasonal labour. In effect, all governments, despite the ruling party, are motivated to support and secure the vitality of the industry for economic and political reasons. This accountability has led to the maintenance of SAWP, the expansion of agricultural interest through the creation of the Primary Agricultural Stream, and exemption of these streams from additional measures (ESDC, 2014, p. 8 & 26). Therefore, Brenner and Theodore's (2002) illuminates the influence of the surrounding environment in this example by displaying how political motivations are linked to the Government's decision to uphold SAWP despite the program receiving significant criticism.

From the analysis of the continuity of the SAWP and agricultural temporary foreign workers, more generally, the role of government ideology also emerged. Brenner and Theodore's (2002) theory highlights how governments implement new ideologies through targeted

regulations and/or revisions. The exemption of SAWP and the Primary Agricultural Stream from several June 2014 measures displays this process. Since its establishment in 1966, SAWP has created a flexible low-wage migrant workforce in Canada (Preibisch, 2010; Walsh, 2014), which is an outcome that aligns with neoliberalism, the economic ideology that the Harper government drew upon (McKercher & Sarson, 2016). The alignment between the Harper government's ideology and the SAWP provides context to its decision to uphold SAWP, expand agriculture migration, and exempt these streams from new regulations.

Neoliberalism promotes deregulation, limited intervention from the state, and labour flexibility as these features allow the economy to grow naturally and without hindrance (Brenner & Theodore, 2002). Through the lens of Brenner and Theodore (2002), the Harper government's actions regarding the agricultural streams of TFWP during the June 2014 re-organization showcase an intent to further entrench neoliberalism, though modified, within the TFWP. The creation of the Primary Agricultural Stream displays the Government's support for the importation of seasonal agricultural migrant workers, a flexible labour force, and the exemption of this stream, along with the SAWP, from new regulations, reconfirms its support for a flexible labour force as well as de-regulation and limited intervention of the state. This entrenchment of neoliberalism is modified, however, as the SAWP and Primary Agricultural Stream also represent state intervention and regulation. The existence of this flexible labour source, exempt from certain restrictions, is delivered and managed by the state. Thus, without the intervention of the Government of Canada, the SAWP and the Primary Agriculture Stream would not exist, in general, or be exempt from additional regulations. Therefore, the SAWP and Primary Agricultural Stream demonstrates the influence of government ideology, as it both informed changes to the TFWP and became embedded within the program through this process.

Moving to LCP, the main grievance against the program is tied to the mandatory live-in requirement. Multiple scholars have called for the removal of the live-in requirement as it places the caregiver in a vulnerable position, mainly increasing the chance for exploitation and abuse (Bourgeault *et al.*, 2009; Walia, 2010; Callon, 2016). The CIMM heard these advocates during its study on temporary foreign workers and non-status workers, and in its report, recommended the removal of the live-in requirement (CIMM, 2009, p. 45). Despite the recommendation and external criticism, the Government of Canada upheld the requirement, stating “[t]he live-in requirement [was] a vital component of the LCP, given the continuing shortage of caregivers in Canada willing to live in the home of those they are caring for” (2009, para. 66). Looking to the surrounding environment, in accordance with Brenner and Theodore (2002), one notices that the Federal Government’s childcare program during the period aligned with its support for the LCP. As noted above, in 2006, Canada elected the Conservative Party into government, a position it held until 2015. Childcare was a key part of its election platform as the party promised to throw away the Liberal Party’s publicly funded childcare plan, and instead launch the Universal Child Care Benefit (Gordon, 2016, para. 8; McKenzie, 2014, p. 408), a program that would provide monthly financial assistance to families with children under six (HRSDC, 2011, para. 1). The Government argued that giving childcare money directly, instead of through a publicly funded program, gave parents the flexibility to choose their method of childcare (HRSDC, 2011, para. 1), which includes the LCP.

The emphasis on choice and flexibility reveals that the alignment between the Conservative government’s stance on childcare and its economic ideology, as these features are promoted by neoliberal thought (McKenna, 2015; Lee & Johnstone, 2013, p. 3; Bezanson, 2014). This interpretation is confirmed by the Government in its official response to the CIMM 2009

report, which states that the LCP “is a demand-driven program” (2009, para. 66). A foundational idea of neoliberalism, which the Conservative government’s economic ideology draws from, is allowing demand, in other words, consumer choice, to direct the market (Connell, Fawcett & Meagher, 2009). Imposing a national childcare system would directly interfere with this process by controlling choice (McKenzie, 2014, p. 408; Lee & Johnstone, 2013, p. 3). Therefore, the LCP’s alignment with the childcare stance of the Conservative government impacted its development in that its continuity directly correlates with the election of the Conservatives in 2006. If the Liberal Party had continued to rule, resulting in the completion of a publicly funded childcare program, the caregiver stream would have most likely been narrowed significantly or even ended completely (Clark & Fagan, 2004; McKenzie, 2014, p. 408). Thus, the election of the Conservative government influenced the continuity of the LCP as the program’s existence aligned, and even supported, the new government’s childcare policy stance and economic ideology. In all, these examples illustrate how the TFWP was influenced by the surrounding political environment, as the Government’s ideologies and objectives correlated with instances of continuity that probably would not have occurred under a government with a different ideology.

5.6 The Impact of Society and Demographic Trends

During the application of Brenner and Theodore’s (2002) theory onto the LCP, it was uncovered that the social environment also played a significant role in its continuity. In the findings, it was found that the LCP emerged from the FDM program, which was established in 1981 (CIC, 1999a, p. 36). From background research on Canada’s history of temporary migrant programs before the 1990s, it was discovered that the FDM program was created as a means for the Government to indirectly ‘support’ the growing number of working mothers (Macklin, 1992, p. 693). The trend of working women, and mothers, has continued to grow with the percentage of

women aged 25 to 54 climbing to 76% in 1990 and then passing 80% in 2002 (Statistics Canada, 2018a, chart 1). Women's increasing employment has reinforced the need for childcare services, however, except for those living in Quebec, Canadians must meet their needs through private childcare services that are costly and have been unable to meet consumer demand (McKenzie, 2014, p. 404-407; Johal & Granofsky, 2015, p. 2 & 7-8). It is here that one can see the influence of the social environment, as this shortage results in the continued use of the LCP by working mothers in need of childcare services, which, in turn, creates the perception that the program is filling an important societal need by suggesting that the market is specifically experiencing a shortage in supply for live-in caregivers (Government of Canada, 2009, para. 66). Canada's shortage of live-in caregivers, which, from the Government's perspective, is confirmed through the popularity of LCP, influences its decision to continue the program despite it receiving extensive criticism. This interpretation is confirmed by the Government of Canada when it stated that there is "enough caregivers in Canada to satisfy labour market needs related to live-out care" (2009, para. 66), therefore, "[s]hould the live-in requirement be eliminated, there would likely be no need to hire [foreign caregivers]" (2009, para. 66).

The significant influence of this social trend is further supported by the Government of Canada's decision to continue the LCP after the removal of the mandatory live-in requirement. As discovered in the vertical analysis, in November 2014, the Government removed the mandatory live-in requirement (LOP, 2014, p. 7), resulting in the closure of the LCP stream (IRCC, 2017, para. 2). However, despite the Government stating there was no shortage of live-out caregivers, it replaced the LCP with the Caregiver Program (LOP, 2014, p. 7; ESDC, 2019, para. 1). The Government's decision to create the Caregiver Program further illustrates the influence of the social environment as it displays an awareness of how the emergence of working

mothers has impacted society, mainly creating a significant demand for childcare services (Johal & Granofsky, 2015, p. 2-3). Therefore, Brenner and Theodore's (2002) perspective highlights not only the influence of the political environment but also the social environment as the societal trend of working mothers supported the continuation of the LCP and its next phase, the Caregiver Program. Characteristics of Canada's political and social environment acted together as the stream provided the Conservative government with a response to the societal impact of working mothers that aligned with its ideology based on reduced government intervention and greater market choice.

The influence of the social environment is also seen through the increased visibility of caregiving for the elderly in the new Caregiver program. From its establishment in 1992, the purpose of the LCP has included caring for elderly relatives (CIC, 1994a, p. 1), however, in 2014, this feature was elevated in the Caregiver Program (ESDC, 2019g, para. 4). The Caregiver Program included two streams, one for the caregiving of children and the second for the caregiving of elderly persons and those with disabilities (ESDC, 2019g, para.3). The application of Brenner and Theodore's (2002) lens onto the choice to create a two-stream structure illuminates the influence of the social environment, specifically, Canada's aging population. In 2014, the year the new program was launched, Statistics Canada reported that Canada's population consisted of more individuals between the ages of 55 and 64 than those between 15 and 24 years old (2014, p. 58). Moreover, it was predicted that the demographic weight of those over 65 years old would surpass the youngest bracket, 0 to 16 years old, in the following year (Statistics Canada, 2014, p. 57). This prediction was correct since, in 2015, the Canadian population consisted of 31, 5000 more individuals 65 years and older than those under the age of 14 (Statistics Canada, 2015c, p. 51).

Canada's aging population is the result of three converging demographic characteristics. First, in 2011, three years before the establishment of the Caregiver Program, the first of the baby boomer cohort turned 65 years old (Agree, 2017, p. 63; Statistics Canada, 2015c, p. 51). The movement of Canada's largest cohort into their late 60s is then compounded by the increasing life expectancy of Canadians and lower birth rates (Statistics Canada, 2015c, p. 50-51; Statistics Canada, 2018b, p. 1; Agree, 2017, p. 63). Together these demographic characteristics have resulted in an older Canadian population. Therefore, like the social trend of working mothers, Canada's aging population has resulted in a growing demand for caregiver services, except in this instance, it is for elderly persons. The correlation between the elevated visibility of caregiver services for elderly persons in the Caregiver Program and the demographic shift towards an older population with Canada's largest cohort entering their late 60s, along with greater life expectancy and lower birth rates, displays the influence of the social environment on the TFWP. In previous decades, the Caregiver Program, known then as the LCP, although including elderly caregiving, was largely promoted and viewed as a childcare option. It was not until 2014, with the actualization of Canada's aging population, that elderly caregiving was prioritized through an individual stream.

Another social trend that emerged around the establishment of the new Caregiver Program, and is connected to Canada's aging population, is known as "aging-in-place" (Hwang, 2008, p. 215; Wiles *et al.*, 2011, p. 357). Aging-in-place emerged from older Canadians increasing desire to maintain their independence for as long as possible, mainly by continuing to live in their own homes (Hwang, 2008; Johnson *et al.*, 2018, p. 401; Wiles *et al.*, 2011, p. 357). This desire for independence is achieved through home care, a set of health services provided at home to "enable older adults to remain safely in their homes" (Johnson *et al.*, 2018, p. 401).

According to a Statistics Canada study, a significant number of older adults were already utilizing home care services before the 2014, with approximately 880,000 seniors (65 years of age and older) and 682,000 baby boomers (45-65 years of age) receiving care at home in 2012 (Sinha & Bleakney, 2014, p. 2-3). As Canada's population continues to age demand for home care will continue to increase, likely putting pressure of these health services, especially those that are publicly funded, like in Ontario, Manitoba, Quebec, and Prince Edward Island (Johnston et al., 2018, p. 401 & 414). The societal impact of this trend was recognized by the Government and opposition parties, making it a national priority (Johnston *et al.*, 2018, p. 414). Considering this context, one can see that the social trend of aging-in-place influenced the development of the TFWP. The Caregiver Program's structure elevated the visibility of its elderly caregiving option, thus, highlighting the Government's response to the growing demand for homecare resulting from an aging population. Thus, the alignment of the Government's decision to elevate the position of elderly caregiving in the Caregiver Program and the shift towards an older population further demonstrates that the social sphere influenced the TFWP's development.

Overall, the application of Brenner and Theodore's (2002) theory of "Actually Existing Neoliberalism" illuminated several instances in which change and lack of change to the TFWP correlated with events and features of the surrounding environment. From this analysis, influences emerged from multiple spheres, which showcased not only the influence of external factors but the significant extent of their influence. It was found that periods of discontinuity in the TFWP were linked to fluctuations in Canada's economic climate as well as significant demographic trends. Further, periods of continuity were linked to the political landscape, such as the ruling political party, and the rise of dual-earner families. Although this analysis did not cover all events in the surrounding environment, its ability to draw connections to three key

spheres of Canada's larger landscape provides the evidence needed to conclude that the development of the TFWP was influenced by the surrounding environment.

Chapter 6: Conclusion

Current literature on Canada's TFWP focuses heavily on the program's impact on migrants, their families, and sending countries (Hennebry *et al.*, 2016; Bourgeault *et al.*, 2009; Walia, 2010; Sharma, 2012; Walsh, 2014; Beckford, 2016; Narushima & Sanchez, 2014). In these works, scholars have connected negative outcomes on migrants to the rules and structure of the TFWP (Gabriel & McDonald, 2014; Callon, 2016; Asomah, 2014), however, they have failed to examine the rules and structure, themselves, and their evolution. This work chose to fill this gap by asking, how has Canada's TFWP, itself, and the surrounding environment influenced the program's development since 1990? To answer this research question, this study investigated two sub-questions, how have the rules and structure of Canada's TFWP developed over the period? And how internal (e.g. existing rules and structure) and external (e.g. surrounding environment) factors affect this process?

The first part of the analysis, guided by Mahoney and Thelen (2010), revealed that Canada's TFWP did indeed undergo gradual change as the program's development was implemented through the mode of layering. This was specifically seen through the attachment of new rules onto the existing regulatory framework of the High- and Low-wage Streams, SAWP, and LCP. These findings are also supported by the influence of the existing program on its development. Mahoney and Thelen (2010) describe adherence to existing rules and structures as a by-product of incremental change. It is argued that the continued presence of rules and structures for extended periods without change results in their entrenchment, therefore, forcing change to occur around these fixed features (Mahoney & Thelen, 2010). In all, these findings answer the first sub-question as they lead to the conclusion that, over the three decades, the rules and structure of the TFWP have developed gradually through the mode of layering.

Due to its focus on the internal working of the program, Mahoney and Thelen's (2010) theory also highlighted the influence of internal factors on the TFWP's development. The analysis demonstrated that the TFWP's existing rules and structures have informed changes to and expansions of the program. For example, it was found that the foundation of new pilot programs is the original general stream's structure and rules and that in order to shape the new stream to fit its specific objective, additional rules are placed on top of this foundation. Moreover, it was discovered that this process re-emphasized the influence of existing features by entrenching their place within the TFWP. From these findings, it is concluded that internal factors, specifically, the existing program, influenced the TFWP's development by shaping expansion and restricting change.

In addition to internal factors, the impact of external factors was also examined with the support of Brenner and Theodore's (2002) theory. This perspective illuminated the influence of surrounding government landscape and the economic, political, and social spheres of Canada. Looking at the surrounding economic environment, it was found that Canada's economy condition shaped the program's objective in the 1990s and early 2000s, and economic actors, such as employers and employees, were able to impact rule implementation. In terms of the political climate, it was discovered that the government, mainly the ruling political party and its ideology, influenced the continuity of streams and informed the program's objective. The influence of the government is also seen in terms of the surrounding bureaucratic landscape. It was found that the federal departments that the TFWP is situated between influenced its objective as it demonstrated a convergence of their objectives. Finally, the analysis also displayed the significant influencing the social environment, specifically, social demographics, such as Canada's aging population along and mothers' increasing employment. Both of these

demographic trends informed the development of the TFWP by creating a demand for caregivers. From these findings, it can be concluded that the development of Canada's TFWP over the period was impacted by external factors from multiple spheres of the surrounding environment. In total, this evidence means that the development of the TFWP's was influenced by internal program features and external factors.

Together, the findings of these sub-questions lead to the conclusion that since 1990 the TFWP has evolved gradually through the incremental attachment of new regulation onto its existing framework, a process that was informed by the program itself and Canada's economic, political, and social climate. The use of layering to create change influenced the program's development by entrenching existing rules, structures, and objectives, leading to their perpetuation and, in turn, shaping future changes. Canada's surrounding environment presented external pressures that directed the TFWP towards both change and continuity. Therefore, in all, this research has found that the development of Canada's TFWP since 1990 was influenced by the program, itself, and the environment in which it is situated.

The conclusions drawn from this research should be considered within the context of their limitations. Firstly, this analysis was guided by a theoretical perspective designed to highlight incremental change and the influence of the surrounding environment. In effect, the application of alternative theoretical frameworks, especially those which illuminate different variables, could yield different conclusions concerning the development of Canada's TFWP. Therefore, the TFWP's development could include factors not discovered within this research's findings. Additional findings could also be uncovered by those with greater access to data. Due to the time and financial restrictions of this thesis, the sample upon which its findings are drawn from is not exhaustive. This research was limited to textual government documents that were

publicly accessible via the internet or physically available to the author in Ottawa. It is likely that research with the resources and time to move beyond this scope will find additional textual documentation. Further, greater resources and time could also allow for interviews with present and/or past government officials with direct knowledge of the program and changes to its features. In-depth interviews could yield information on the decision-making process within the government, such as why an additional rule was chosen? What other options were considered? And how was stakeholder feedback included in the process? Again, the inclusion of this information could result in additional and/or different conclusions. Lastly, due to the narrow focus of this work, specifically the examination of a single government program, the conclusions drawn are not completely generalizable. The conclusions of this thesis can be applied to similar cases or broadly taken to guide future research, such as the influence of existing rules and structures. The exact finding of this work, however, should not be assumed to apply to other government programs in Canada or elsewhere. Thus, as all these limitations suggest, the conclusion of this research should be viewed as knowledge advancements in the development of the TFWP and more broadly, exploratory work on the development of government programs.

Going forward, future research should aim to overcome this research's limitations. It is recommended that more research be conducted on the development of Canada's TFWP but with the guidance of other theories to confirm and/or expand the conclusions drawn in this work. Moreover, future research should aim to illuminate the impact of government actors, both those apart of creating change (e.g. policy analyst) and those who implement change (e.g. immigration officer). Understanding the internal decision-making process of these actors could advance knowledge of why certain changes were taken? What influenced this decision? And how changes practically impact employer and employee experience? Although this work found that the TFWP

underwent significant change over three decades, the internal decision-making process and the degree to which this change was enforced and resulted in detectable change is still not answered. Lastly, researchers should utilize this work as a guide or catalyst for examining the development of other government programs, and even policies. Whether utilizing a similar theoretical framework or not, increasing the amount of literature of government program development will support the establishment of more generalizable findings.

Beyond academia, this research has brought forth questions concerning the accessibility of information pertaining to changes made to the rules, structure(s), and objective(s) of government programs. In order to achieve this, it is recommended that the Government of Canada, and other governments, increase the transparency of its development process. This could include outlining changes enacted, the reasoning for the change, and supporting information and evidence. Implementing this recommendation would support more enriched discussions with key stakeholders and those directly affected, an outcome that should, in theory, lead to improved program and policy development. More generally, enacting this recommendation would improve democracy through increasing government accountability and the population's access to information. Furthermore, through this research's analysis of the influence of the surrounding environment, the unique position of Canada's TFWP in the broader landscape was displayed. The program's connection to three major spheres, specifically, economic, political, and social, revealed its far-reaching impact. However, the span of the TFWP's impact is not explicitly noted in the documents analyzed, and moreover, the outward effect of the program is largely discussed in the context of a single sphere of the surrounding environment. In effect, this research recommends that the Government of Canada create and strengthen links between offices and departments covering different spheres. The establishment of lines of communication between

departments of different focus will support the ability to address and understand the TFWP's overall impact, as well as how the change will be felt in different spheres.

In all, this research revealed that the development of Canada's TFWP occurred gradually through the layering of new regulations incrementally onto the program already existing framework and that this process was influenced by the pre-existing program and factors from the surrounding environment. These findings more generally showcased the complexity of government program development and that future research will need to be conducted to fully understand this process and how it connects to the program's intend and unintended outcomes.

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