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THE SOCIAL ORGANIZATION OF LABOUR RIGHTS IN ONTARIO: GOVERNING MIGRANT AGRICULTURAL WORKERS THROUGH THE AGRICULTURAL EMPLOYEES PROTECTION ACT

by

Philippe Raphael, HBA, University of Toronto, 2012

A Major Research Paper
presented to Ryerson University

in partial fulfillment of the requirements for the degree of

Master of Arts
in the Program of

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ABSTRACT

This research study is an introduction to the understanding of how labour rights are socially organized in Ontario. It uses a combined method of Institutional Ethnography and Foucauldian Critical Discourse Analysis to locate the historical, social, economic and political events that shape how the labour rights of migrant workers in the Ontario agricultural industry are governed. Migrant workers in the Ontario agricultural industry are not protected under formal labour relations legislation. Their employment relationship is currently governed through the *Agricultural Employees Protection Act (2002) (AEPA)*. This study examines the legal structures of the *AEPA* and the provincial parliamentary debates leading to the legislation of Bill 187- *The Agricultural Employees Protection Act*. This investigation points to the discovery that the *AEPA* provides no adequate protection to migrant workers and sustains the current practices that exist in Ontario's agricultural industry.

Key Words:

Seasonal; migrant workers; labour relations legislation; Agricultural Employees Protection Act

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Table of Contents

Preface

Having studied sociology, labour and employment relations in my years as an undergraduate student, I was astonished about how little attention researchers have paid to the exploration of migrant workers and labour relations. Prior to writing this MRP, I began researching on this topic only to discover that researchers in the field of labour relations overlook the impact labour relations has on migrant workers.

I stress the importance of the labour movement and unions because class inequality has become more complex through globalization. As will be outlined in this study, the claims to labour rights have also become more complex, challenging the existing notions that researchers in the field of labour relations have about labour rights. My father once told me about an incident at his workplace, which changed how I think about the unequal power relations between workers and their employers. As a recent immigrant to Canada, he began working in an industrial company in Toronto. His manager assigned him a project to work on, which required the use of heavy and complex machinery. After my father inspected the machinery, he refused to continue with the project because the machine was unsafe. Instead of addressing the unsafe working conditions, his manager threatened to fire him. Refusing to accept the manager's threat, he contacted the labour board and filed an unsafe workplace complaint. He was the first to do so in his company and the labour board told him he was one of the first people in Ontario to file such a complaint. Shortly after, his workplace became unionized and the conditions of employment rapidly started to change for the better. His resistance to unsafe working conditions is what brought change to the company.

As will be discussed in this research, migrant agricultural workers are not passive about their working conditions, however their claims to labour rights are largely ignored by the Ontario

government. I write this piece to unsettle the notions that researchers in the field of labour relations have about the workers who are impacted by inadequate labour relations legislations. Although this conceptualization is merely in its infancy, I write this piece as an introduction with the hope that more research, scholarly work and activism can be built on it.

Introduction

> The real political task in a society such as ours is to criticize the workings of institutions that appear to be both neutral and independent, to criticize and attack them in such a manner that the political violence that has always exercised itself obscurely through them will be unmasked, so that one can fight against them. (Foucault, 1971)

With the introduction of Bill 187, the *Agricultural Employees Protection Act,* in October of 2002, the Ontario government took steps to provide migrant agricultural workers with labour rights. Eight years later, the United Nations International Labour Organization found the Ontario government guilty of a human rights violation for the terms that are laid out in the very same Bill. What happened between 2002 and 2010 that changed the way the Bill was understood by the United Nations? Ontario's agricultural industry contains close to 30, 000 migrant workers (UFCW, 2011). They live and work in Ontario, however, are not covered under the same labour relations legislation as all other workers.

This research study uses institutional ethnography and Foucauldian critical discourse analysis to reveal how the labour rights of migrant workers in the Ontario agricultural industry are governed through the *Agricultural Employees Protection Act (2002) (AEPA).* The *AEPA* is a piece of labour relations legislation, which governs the employment relationship between migrant workers and their employers. Before the *AEPA* was legislated, it was formally known as Bill 187. I critically analyze the legal structures of the *AEPA* and conduct a discourse analysis of the political debates for Bill 187 held in the Legislative Assembly of Ontario. In doing so, I reveal the production of knowledge and information that is used to govern the labour rights of migrant workers in the Ontario agricultural industry. I argue that there is a problematic disconnect between the vulnerable and exploitive employment situations migrant workers experience in the agricultural industry and how their rights have been protected in the *AEPA.* The

AEPA does not provide adequate protection for migrant workers. It prohibits migrant workers from collectively bargaining with their employers, sustaining the current practices which exist in the Ontario agricultural industry. In doing so, the vulnerable and exploitive employment situations of migrant workers are sustained. Ultimately, the *AEPA* further marginalizes migrant workers in the positions they occupy in the segmented labour market.

In order to exemplify the above arguments, this MRP is split into the following six chapters. The first chapter includes the theoretical and methodological framework for this research study. It provides a brief introduction to the sociology of knowledge and organization that provides the necessary tools to begin the investigation. The second chapter outlines the history of agricultural labour in Ontario and the emergence of migrant workers in the Ontario agricultural industry through the Seasonal Agricultural Workers Program (SAWP). This chapter includes the problems that exist in the SAWP and a summary of how migrant workers have resisted these problems. The third chapter discusses the historical and contextual background of the *AEPA.* This chapter includes the key social and political events that pressured the Ontario government to draft and legislate the *AEPA.* The fourth chapter discusses the implications that the *AEPA* has on migrant workers. It unpacks the purposefully structured flaws of the *AEPA* by comparing it to formal labour relations legislations. The fifth chapter includes a discourse analysis of the provincial parliamentary debates for the legislation of Bill 187 that were held in the Legislative Assembly of Ontario. This chapter reveals the ruling relations that guided the decisions of the Members of Provincial Parliament (MPPs) that voted in favour of the legislation. The final chapter includes my concluding thoughts on the *AEPA* and how it has governed migrant workers in the Ontario agricultural industry. It also provides direction for what future research can address. Migrant workers are different from other workers in Ontario because they

are non-citizens. The labour relations legislations that govern their employment relationships in the industries they work in need to address their vulnerabilities as non-citizens created through the structures of temporary migration programs.

Chapter One: Theoretical and Methodological Framework

Introduction to Institutional Ethnography:

In this research, I deploy *institutional ethnography* developed by Dorothy E. Smith. Institutional ethnography is both a theory and a method of inquiry, exploring the ontology of the social (Smith, 2005). The ontology of the social explores *how* social reality exists instead of exploring *why* social reality exists (Smith, 2005). Institutional ethnography examines how social realities are shaped through ruling relations (Smith, 2005; Campbell and Gregor, 2002). Smith developed the term "ruling relations" reflecting on *Marxian Ideology* (1997); how the dominant concepts, ideas, ways of thinking and images in society reproduce those of the ruling class because these same people own the means of production in society. Smith states that institutions are 'functional complexes' of ruling relations because they organize and regulate society for functions such as education, science, law, health care, government and corporate profitability. Devault and McCoy (2006) state that relations of ruling are arranged in various organizational settings, which include bureaucracies and administrations. These institutions are "ruled forms of organization vested in and mediated by texts and documents" (Smith, 1987, p. 3). Smith states that texts and documents are important to the understanding of how work is organized and conducted in institutions. The production of texts and documents are based on general forms of knowledge that enter institutions through the relations of ruling (Smith, 1987). For this reason, knowledge is socially organized (Smith, 1990); its characteristic textual forms bear and replicate social relations.

Smith states that ruling relations shape institutional discourse and knowledge. Revealing the ruling relations in an institution is made possible through analyzing the discourse that appears in the texts and documents found in the institution. Smith (2005), Campbell and Gregor (2004)

state that texts and documents do not appear randomly; they fit the pre-existing plans or social structures that currently exist in society. I, therefore, explored the work of governmental officials in Ontario and the power embedded within labour relations legislation in the agricultural industry. I used institutional ethnography to specifically explore the ruling relations that guided the Members of Provincial Parliament (MPPs) to vote in favour of the legislation of the *AEPA*. I interrogate these relations of ruling through the lenses of race, capitalism, the economy, nationalism and security.

Problematizing the AEPA

Part of using institutional ethnography is going beyond identifying the social relations, issues, or a "problem" that exists in society and seeks to examine how a particular problem arises. This process is known as identifying a problematic (Devault, 2006, p. 295). Borrowed from Louis Althusser (1971, p. 32), Smith appropriates the word *problematic* and states that it is used in institutional ethnography to locate the "discursive organization of a field of investigation that is larger than a specific question or problem" (2005, p. 38). Exploring texts and documents explicate the problematic found in institutions, which coordinate people that are governed by the institution. In this study, I begin with the problematic that migrant workers in the Ontario agricultural industry are excluded from formal labour relations legislations. This is problematic because it prevents them from negotiating the terms and conditions of their employment with their employer. I problematize how the labour rights of migrant workers are governed through the *AEPA*. To understand this "problematic", I examine the texts and documents found in the Ontario provincial government—the institution that currently regulates the labour rights of migrant agricultural workers. This includes the policy document of the *Agricultural Employees Protection Act (AEPA),* as well as the political debates leading to the legislation of the *AEPA*. I

explore how migrant workers in the Ontario agricultural industry are governed differently from workers covered under formal labour relations legislation and the implications the *AEPA* has on migrant workers. I also locate the ruling relations, which guided the MPPs to vote in favour of the legislation of the *AEPA*. This revealed the understanding of what makes migrant workers different from other workers in the eyes of labour policy makers in the Ontario government. Ultimately, these differences shape how the labour rights of migrant workers in the Ontario agricultural industry are governed.

Political Debates

Sharma states that political debates are important to investigate because they create the discursive framework in which policy is established (2001, p. 421). She states that political debates have great power in legislating policies. Therefore, what is stated in political debates is important to interrogate because those statements contain information that is used to legitimize state practices that are deemed problematic (Sharma, 2001, p. 421).

Examining the statements and arguments made in political debates reveal the performative practices that explicate the knowledge used that guide the votes of parliamentarians debating a piece of legislation. Lemke (2011), reflecting on Foucault, states that performative practices are governmental technologies that are complex mechanisms, which seek to guide and shape the conduct and decisions of individuals and collectives in order to achieve specific objectives (p. 30). Sharma's discussion of parliamentary debates contributes to Lemke's stance, when Sharma states that the performative practices in political debates reconstitute social realities that normalize state practices. Specifically, the discourses found in parliamentary debates are actively organized in a particular frame for the reader (or hearer) whereby a certain kind of 'knowledge' becomes produced and helpful for the accomplishment of achieving state

objectives (Sharma, 2001, p. 422). Kari Delhi argues that the knowledge used in policy texts and practices are "active" (1993, p. 87). The particular frames for which they are created and read enable concerted and organized courses of action that then become constituted in government departments, parliament, academic institutions and the media (Delhi, 1993, p. 87). In doing so, the knowledge produced to create and legislate policies becomes circulated, normalized and reproduced through multiple outlets, solidifying social realities (Delhi, 1993, p. 87).

For the focus of this study, I chose to analyze the provincial parliamentary debates for the legislation of the *Agricultural Employees Protection Act (2002)* held in the Legislative Assembly of Ontario (LAO). Before the *Agricultural Employees Protection Act (2002)* was legislated, it was proposed as Bill 187 to the Assembly on October 7th, 2002. The Bill had three different readings held in the LAO and was assented into law after the final reading on November 18th, 2002. Therefore, I analyzed the political debates held in the Legislative Assembly of Ontario between October 7th, 2002 and November 18th, 2002 concerning the legislation of Bill 187. The transcripts of the debates have been made into public documents that can be found on the Legislative Assembly of Ontario website (www.ontla.on.ca). I extracted these transcripts from the website and pasted them into a 150-page word document for a closer analysis.

The political debates for Bill 187 contain the knowledge, or information, that is used by the MPPs who voted in favour of the legislation that I deem as problematic. By examining the discourses found in the political debates, I revealed the ruling relations, which set out how migrant workers are understood by the MPPs who voted in favour of the legislation. This provides us with insight of how Bill 187 is understood as satisfactory for governing the labour rights of migrant workers.

Foucauldian Critical Discourse Analysis:

Campbell & Gregor (2002) argue that institutional ethnography does not provide an exact way of critically analyzing governmental texts and documents. For this reason, I complement my approach of using institutional ethnography by combining it with Jager & Maier's (2009) approach of Foucauldian critical discourse analysis, which for convenience they call FCDA. I chose FCDA because FCDA and institutional ethnography are found within the same post-structuralist paradigm. Theories and methodologies in post-structuralism explore how social realities exist. Jager and Maier (2009) state that FCDA addresses four main questions when analyzing texts. These include the following:

1. What is valid knowledge at a certain place and a certain time?
2. How does this knowledge arise and how is it passed on?
3. What functions does it have for constituting objects?
4. What consequences does it have for the overall shaping and development of society?

In order to answer the above questions, I first lay out the social, political and historical context for which Bill 187 was debated in. I then address the implications that the Bill has on migrant workers in the Ontario agricultural industry. I then answer the above questions laid out by Jager & Maier by presenting excerpts that are found in the transcripts of the political debates. These excerpts were chosen because they present important themes that are found in the arguments made by the MPPs who voted in favour of the legislation. These themes were discovered using an open coding system. I looked at how the following actors were discussed in the political debates: migrant workers, farm owners, unions, the agricultural industry, labour rights, employment relationships and the conditions of employment. These codes revealed similar patterns that can be categorized into the following themes: nationalism, global competitiveness,

neoliberalism and security. The excerpts I present reflect the themes found throughout the political debates. These excerpts are statements and arguments that are made in a full public provincial parliamentary speech. To reveal the full understanding of the statements and arguments made, I connected them to the particular social and historical contexts they were spoken in. I assessed these arguments and statements made by the MPPs by reviewing the literature on the legacies of their political party leaders that were in power right before Bill 187 (AEPA) was proposed to the legislature. Since this study is in large part about the labour rights of migrant workers, I also focused on key aspects that lead us to the understanding of how the employment relationship between migrant workers and their employer is understood by the MPPs who voted in favour of the legislation.

To explain and interpret my findings, I use an analytical method in institutional ethnography explained by Campbell & Gergor (2002). Campbell & Gregor state, "there is no technical fix for finding meaning in institutional ethnography" (2002, p. 93). They state, "your insights will be about how the data illuminate the way that the setting works" (2002, p. 93). Therefore, I present my analysis of the political debates as a whole, and, in connection to how the statements made by the MPPs who voted in favour of the legislation justify Bill 187 as a sound piece of labour relations legislation.

Limitations

This study is limited to the scope of identifying how the labour rights of migrant workers are governed in the Ontario agricultural industry. Labour policies are provincially regulated, and labour relations legislation is industry specific. Choudry & Thomas (2013) indicate that there are some provinces in Canada (such as Quebec and Manitoba) where migrant workers are unionized and currently hold collective agreements with their employers. For this reason, this study is

relevant only to Ontario. As well, I did not include a discussion of how the labour rights of migrant workers in other industries such as caregiving and domestic work are governed through labour relations legislation. This may have provided an important gendered dimension to this research. For the above reasons, this study cannot be generalizable for all migrant workers in Canada.

Chapter Two: Migrant Workers in the Ontario Agricultural Industry

This chapter provides a history of agricultural labour in Ontario. It begins with discussing the emergence of the Seasonal Agricultural Workers Program and the problems that exist in the program. It then presents the resistance and mobilization efforts of migrant workers. The last section in this chapter includes a discussion of how civil society groups and labour organizations have begun to respond to the struggles of migrant workers and why their efforts have been limited.

History of Agricultural Labour in Ontario

Canada's agricultural industry has historically been staffed by successive waves of recent immigrants, temporary visa workers and non-status migrants (Hennebry & Preibisch, 2012). The later half of the Second World War marked the beginning of Ontario's agribusiness (Wall, 1995). At that time in Canada, the agricultural sector transformed from small family farm operations into the larger commercialized farms that exist today. These commercialized farms are much different from family farm operations; they are highly mechanized, use complex machinery, operate year round (with the use of greenhouses) and involve the usage of chemical and pesticide treatments (Wall, 1995). These structural changes in the agricultural industry resulted in the need for more agricultural workers in Ontario. Farm operators were unable to find workers from the domestic labour supply since local community members were (and still are today) uninterested in working in the agricultural industry. For these reasons, the Canadian government searched for labour abroad to fill the labour shortages found in the agricultural industry.

In 1966, in an effort to find workers necessary for the agribusiness in Canada, the first formal bilateral agreement was made between Canada and Jamaica. This bilateral agreement was the first of five that Canada made with the following countries: Trinidad and Tobago in 1967,

Barbados in 1967, Mexico in 1974, and the Organization of Eastern Caribbean States in 1977 (Hennebry & Preibisch, 2012, p. 51). As indicated by Statzewich (1991), these countries were chosen on racialized notions; that people from Mexico and the Caribbean are naturally and biologically apt to do farm work. It was thought that they make for good harvesters due to their physical strengths and abilities to work in very hot climates (p. 136). These agreements continue to operate today with Mexico and many Caribbean countries and are formally known as the Seasonal Agricultural Workers Program (SAWP).

The SAWP permits employers producing agricultural products to hire seasonal help from participating countries under temporary work visas. Eligible employers must first try to hire workers already in the country before they are permitted to hire workers through the program. The program has become so popular in Canada that farm owners are now eligible to recruit and hire workers through the low-skilled Temporary Foreign Worker Program (TFWP) under the agricultural stream (Hennebry & Preibisch, 2012). Since Canadian citizens have more options for employment with better working conditions and higher wages, they are less likely to work in the agricultural sector (Sharma, 2001; 2006). In turn, agricultural work is characteristically associated with migrant workers who enter Canada through the SAWP and the TFWP.

The United Food and Commercial Workers union indicates that close to 30,000 migrant workers make up the bulk of agricultural workers found in Ontario today (UFCW, 2011). Bauder (2006) and Sharma (2006) state that racialized notions continue to operate today to justify the existence of the SAWP. Migrant workers are perceived in public and governmental discourse as "wanting these jobs", skilled for the jobs, and much more "equipped" than Canadian citizens to do these jobs (Bauder, 2006, p. 191-192). In addition, the Canadian government has stated that the program is a best practice that all countries can follow because it is beneficial to both

Canadian farmers and migrant workers alike, providing Canadian farmers (and greenhouse operators) with workers and employing workers from the global south who face unemployment and poverty (Greenhill & Aceytuno, 2000). However, researchers, scholars, and labour activists have highly criticized the program because it has negatively affected migrant workers (Hennebry & Preibisch, 2012). Smith and Butovsky (2007) indicate that agricultural workers in Canada are amongst the most brutally exploited and vulnerable workers in the working class. An in-depth understanding of why migrant workers are vulnerable and how they are exploited is explained in the following subsections.

Social exclusion

Stazewich (1991) and Sharma (2001) state that Canadian immigration policies have always been part of a nation-building project. Sharma states, Canadian identity is created based on racist notions of "white-ness". The temporary status of migrant agricultural workers prevents them from settling in Canada, and as a result they often feel socially excluded from the local communities they live and work in (Preibisch, 2007a). The legal restrictions to their settlement and the social isolation they face inform their experiences as racially marginalized.

Devalued and Deskilled work

Preibisch and Binford (2007) state that agricultural work is devalued and deskilled and found in the segmented (or secondary) labour market. This type of work is often reserved for racialized people from the global south (Stazewich 1999; Li 1998). The restructuring of the agricultural industry and the reliance on hiring cheap labour has created a niche market of lower waged jobs with less than desirable labour conditions. As a result, it has made the work even less desirable to citizens. Market forces keep agricultural work devalued and deskilled by keeping agricultural industries deregulated and by preventing migrant workers from attaining citizenship

(Bauder, 2006). Migrant workers, therefore, are paid less than Canadian citizens, benefiting the profit margins of employers (Bauder, 2006).

Vulnerable employment relationships

Satzewich (1991), Wall (1992), Basok (2002), and Sharma (2001) have argued that the SAWP creates an "unfree" employment relationship between migrant agricultural workers and farm owners in modern capitalist economies. Unfree labour is defined as an unbalanced employment relationship where workers sometimes perform acts against their own will in fear of being fired, deported and blacklisted[1]. Preibisch (2007a) states that migrant agricultural workers are made to be a "vulnerable" workforce. By law, migrant agricultural workers are tied to a single employer and are prohibited from actively seeking other employers or work in other industries (Basok, 2002). This precludes migrant agricultural workers from switching employers or fleeing from abusive employers unless they are willing to confront the real possibility of deportation (Preibisch, 2007a).

The recruitment and selection practices for hiring agricultural workers create an added layer of vulnerability. Mize and Swords (2011) explain that recruiters in the sending countries actively recruit local unemployed agricultural workers with limited education and families to support. Their familial responsibilities and lack of education make them less likely to leave the program or pursue work in higher skilled occupations. Their family responsibilities also deter them from overstaying their work visas (Mize & Swords, 2011).

Poor Living and Working Conditions

Preibisch (2007a) and Hennebry (2010) both indicate that the vulnerability and "powerlessness" of migrant workers prevent them from complaining about their living working

[1] Under the Seasonal Agricultural Workers Program in Canada, employers must fill out a progress report that is sent back to the recruiters of the program overseas (Human Resources and Skills Development, 2011). A negative review deters the chances of migrant workers to return to work the following season.

conditions for fear that they will be given a negative evaluation and deported. In both instances, migrant agricultural workers would be unable to return to the program the following year—essentially jeopardizing future employment opportunities. Preibisch (2007a) and Hennebry (2010) state, migrant workers are overworked, completing 12-14 hours of work per day. They perform laborious mechanical work with heavy lifting and are exposed to chemical and pesticide treatments daily. They are often improperly trained in the usage of dangerous equipment, chemical and pesticide treatments (Hennebry, 2010). This lack of training, and physically strenuous work increases their chances of experiencing workplace accidents. In many of their workplaces, migrant workers are not provided with proper safety equipment; such as, masks, gloves and goggles while using potentially dangerous and toxic equipment (Hennebry, 2010). Their health suffers because they perform these duties without the proper safety preventive measures. Consequently, they do not complain because they fear deportation.

Farm owners are also required to provide housing for migrant workers hired through the SAWP. Hennebry (2010) states that the living conditions that are provided are often times inadequate and hazardous. Many migrant workers live in crowded housing, with poorly ventilated rooms that do not have adequate cooking and washing facilities. They are provided with untreated water supplies and live in close proximity to pesticides and chemicals (Hennebry, 2010, p. 74). Hennebry (2010) also indicates that the federal government does not provide any significant guidelines or housing requirements employers must follow. In addition to this, workplaces are not inspected and do not follow guidelines to prevent workplace accidents. Due to the absence of formal housing requirements, employers often fail to provide migrant workers with adequate living conditions claiming that they cannot afford it (Tomic et al, 2010).

High health Risks

The living and working conditions migrant workers experience have an overall negative affect to their health and mental wellbeing (McLaughlin, 2009; Hennebry, 2010; Mize & Swords, 2011). McLaughlin (2009) indicates that migrant workers risk their health in Canada to support their families at home. The powerlessness of migrant workers increases their health risks; at the same time, employers neglect the workers' wellbeing (Mize & Swords, 2011).

Resistance and Efforts to Mobilize Migrant Workers in Ontario

Although migrant workers are vulnerable to the economic and political structures of the SAWP, they are not passive about their situations. Many workers have shown resistance in interesting ways. Preibisch (2004) and Basok (2002) discuss various forms of resistance in which migrant workers have participated in, which include the following: using their language barriers to share stories and experiences with each other without their employer understanding; seeking services from various labour organizations and community agencies (such as the United Food and Commercial Workers of Ontario, the Agricultural Workers Alliance, and Justicia4Migrants); and most importantly to this research study, attempting to unionize.

The literature of the resistance and mobilization efforts of migrant workers has pointed to the discovery that unions, labour activist groups, and civil society groups are interested in the struggles faced by migrant workers in the Ontario agricultural industry (Gabriel & MacDonald, 2011; Choudry & Thomas, 2013). In contrast, the Ontario government has widely ignored their struggles. Governmental websites such as F.A.R.M.S (Foreign Agricultural Resources Management Service) and HRSDC (Human Resources and Skills Development Canada) do not provide any information about the problems or issues that migrant workers face in the Ontario agricultural industry. They do not provide statistics or research on these issues, or, initiatives

taken to address these issues. Although community groups and civil society organizations do not completely represent the voices of migrant workers, Preibisch (2007a), Wee & Sim (2003) and Ball & Piper (2004) indicate that these groups serve as "watchdogs" to encourage political and public awareness and debate about the issues facing migrant workers working in developed nations. Ball and Piper (2004) state that migrant worker activism in receiving countries can actively "advocate for the human and labour rights of foreign migrant workers" (p, 1015). In doing so, they push governmental bodies to recognize the broader rights of migrant workers when they have gone unrecognized (Ball & Piper, 2004, p. 1015).

The role of unions and civil society groups

Smith and Butovsky (2007) state that amongst academics and social movement activists, there is a strong assumption that extending trade union rights to migrant workers would eliminate discriminatory features of the SAWP, which include the deregulation of their worksites. Researchers such as Gabriel & MacDonald (2011) suggest that civil society groups—such as Kairos-Toronto, Canadian Labour Congress, United Food and Commercial Workers (UFCW), and the Migrant Workers Community Program in Leamington, Ontario—provide migrant workers with programs that are beneficial for them that are not provided to them by the Ontario and Canadian government. These programs include: English language classes (to help eliminate language barriers between agricultural workers and their employers); health and safety education and training; legal services; providing educational scholarships to the family members of migrant workers; and educating the public on migrant worker issues. In doing so, Gabriel and Macdonald (2011) suggest that civil society groups, such as unions, can provide "migrant agricultural workers in Ontario the right to access health care, safe working conditions, employment insurance (EI), parental leave, pensions [and] the right to organize" (p. 47). Grugel & Piper

(2007) also state that unions (and other civil society groups) "mitigate the human suffering migration entails" (p. 48). They provide migrant workers with social citizenship. Gabriel and MacDonald (2011) define social citizenship as the following: the ability to "live the life of a civilized being according to the standards prevailing in that society" (p. 47). While providing migrant workers with legal citizenship status is most desirable, Grabiel and MacDonald (2011) indicate that unions, community organizations, faith groups, or other non-state actors, expand the conventional understanding of citizenship from formal "legal" citizenship to social citizenship. Social citizenship is important for migrant workers because it provides them with agency and autonomy. It helps mitigate and deteriorate their exploitive and vulnerable employment situations made through the structural aspects of the SAWP. For this reason, this research focuses on how the labour rights of migrant workers are organized in Ontario's agricultural industry.

Difficulties in organizing migrant workers in Ontario:

Choudry and Thomas (2012) indicate that the efforts to organize migrant workers have been limited in Ontario. Michael Ford (2004) stipulates that difficulties in organizing migrant workers include intersecting issues of immigration and labour. Researchers in the field of labour, such as Smith & Butovsky (2007) and Adams (2006), fail to understand the barriers imposed on migrant workers for starting grassroots movements, which largely stem from their non-citizen status. While, researchers in the field of (im)migration, such as Gabriel & MacDonald (2011) and Choudry & Thomas (2013) neglect to mention the historical class based struggles of the labour movement.

Many researchers in the field of migration have indicated that migrant workers do not have the right to unionize because they lack legal citizenship (Gabriel & MacDonald, 2011).

However, this assumption amongst researchers in migration is not completely true. In Canada, legal citizenship is federally regulated, but labour policies are provincially legislated. Labour rights are governed through labour relations legislations and are industry specific. Migrant workers are able to unionize in industries that are protected under formal labour relations legislation. Choudry & Thomas (2012) point to this discovery in their work. They indicate that migrant workers in the agricultural industry in Manitoba and Quebec have successfully unionized and are currently under formal collective agreements with their employers. However, Ontario's agricultural industry is not covered under formal labour relations legislation. Coincidentally, migrant workers make up the bulk of the agricultural industry in Ontario. Thus, migrant workers in the Ontario agricultural industry cannot practice their labour rights because their industry has no adequate labour relations legislation.

In addition, researchers in the field of labour relations ignore the impacts that informal labour relations legislations have on workers in the industries that they regulate. Researchers such as Roy Adams (2006) and Savage (2008) focus on the legal structures of the *Agricultural Employees Protection Act,* however, neglect to explore how these structures impact migrant workers in Ontario's agricultural industry. Migrant workers are different from most workers in Ontario because they lack legal citizenship. Their ability to grieve to their employers, about issues pertaining to their inadequate living and working conditions, is especially difficult for them because they fear deportation. Therefore, migrant workers do not complain about their situations for this reason (Preibisch, 2004; Basok, 2002). This research study addresses these issues by specifically exploring how the labour rights of migrant workers in the Ontario agricultural industry are governed through the *AEPA*. As indicated above, migrant workers are not passive about their exploitive and vulnerable situations; however, the Ontario government

has widely ignored their efforts to change their employment situations. The following chapter presents the history of their unionizing efforts and the emergence of the *AEPA*.

Chapter Three: Historical and Contextual background of the Agricultural Employees Protection Act (2002) (AEPA)

Understanding the history and background of the *AEPA* is a central piece to this study. To this end this section will briefly introduce the history of the *AEPA* and the unionization efforts of migrant workers in the Ontario agricultural industry. This section provides the historical, political, economic, and social events that took place prior to and after the legislation of the *AEPA*. It also discusses how the government of Ontario purposefully evades the mobilization efforts of migrant workers.

1943 to 1989

In Ontario, agricultural workers have always been exempted from "labour relations legislation that facilitates freedom of association and collective bargaining" (Choudry & Thomas, 2013, p. 217). Between 1943 and 1948, agricultural work was excluded from the *Federal Industrial Relations and Disputes Investigation Act* (1948) and the *Ontario Collective Bargaining Act (1943)* for the reason that farm enterprises have such low profit margins that they could not respond to the demands of workers (Butovsky & Smith, 2007). In 1948, the Ontario government established the *Labour Relations Act (LRA)* which, "provided basic labour rights to most private sector trade unions [that] was predicated on the concepts of 'fairness and balance' between capital and labour" (Walchuk, 2009a, p. 152). Walchuk (2009a) states that the agricultural industry was excluded from the *LRA* because the Ontario government deems the agricultural industry as "unique" from all other industries; in that, food is perishable, harvested seasonally, and, that small family farms cannot sustain the added costs that come along with union protections (Walchuk, 2009a).

Contrary to the Ontario government's view on the agricultural industry, Wall (1992) has indicated that the economic restructuring of the agricultural industry has changed farming practices in Ontario. The face of agriculture containing small family farms exists at a very small scale in comparison to the many large corporate farming operations that exist today, competing for consumer demand in the global food market (Wall, 1992). Food is produced throughout the year, using greenhouse operations, pesticides, and chemical enhancers for mass production and consumption. Nevertheless, workers in the agricultural industry are still excluded from formal labour relations legislation and work in harsh employment conditions.

1990 to 1994

In 1990, in a surprise upset of the then popular Liberal party of Ontario, the left-leaning New Democrat Party (NDP) were elected into power under the leadership of Bob Rae. As a supporter of workers rights and organized labour, Bob Rae's government introduced the *Agricultural Labour Relations Act (ALRA)* in 1994. The *ALRA* gave agricultural workers the right to bargain collectively with their employer. However, under the *ALRA,* the right to strike was prohibited as a compromise to the liberal government to protect small family farms from "devastating labour disputes" (Craig, 1995). Under this legislation, unresolved disputes between employers (farm owners) and workers were forced into mediation and final arbitration (Chowrdy & Thomas, 2013). Later in 1994, 200 migrant workers at Highline Mushroom Factory in Leamington, Ontario unionized. They certified the United Food and Commercial Workers Union of Ontario as their exclusive bargaining agent (Russo, 2012).

1995- Early 2001

In 1995, the Progressive Conservative party was elected into office, under the leadership of Mike Harris. Ralph et al (2007) indicate that this time represented a turn in politics from the

liberal left to the conservative right with a focus on business development. Martinello (2002), a researcher in labour relations, explains that the Harris government's legacy, formally known for the Common Sense Revolution, sparked heightened controversy for cutting social services and taxes, decreasing governmental intervention and providing initiatives for businesses and corporations to accumulate higher profits. Part of the agenda was cutting union power as a strategy to keep industrial sectors as deregulated as possible. The agricultural industry was one of them.

Within the same year, Mike Harris was elected into the Provincial government of Ontario and he introduced the *Labour Relations and Employment Statue Law Amendment Act (LRESLAA) (1995)*. The *LRESLAA* proposed to reverse the many union-friendly regulations the NDP implemented, which included the *ALRA*. This passed with little objection from the Liberals who appeared to be moving right of centre and in a political moment when the NDP had lost its brief groundswell popularity (see Desahies, 2005 for a discussion on the rise and fall of the NDP in Ontario). With the *ALRA* now inactive, the once unionized workers at Highline Mushroom Factory were no longer protected by the UFCW. Farm owners were no longer legally obliged to collectively bargain with their employees, or recognize the representations UFCW made on behalf of the workers. From 1995 to 2001, agricultural workers still had no legal protection for their labour rights. They were once again excluded from formal labour relations legislation in Ontario.

Late 2001 to 2002

In 2001, after the World Trade Center attacks in the United States of America, the Canadian government began restructuring border services and national security strategies to protect the rights and privileges of Canadians (See Wonders, 2007 for full discussion). Wonders

(2007) states that this was a time when hostility and dismay towards migrants and immigrants was high. Farm owners using offshore labour in Ontario were no different. Within the year 2001, a group of 20 migrant workers tried to unionize under the protection of the UFCW while working in a tomato greenhouse operation in Leamington, Ontario. Despite their efforts, and no legal labour protection, the employer terminated the workers for their attempt, and the workers were deported back to Mexico shorty after (Encalada Grez, 2006). Appalled by the incident, the United Food and Commercial Workers Union (UFCW) launched a court challenge claiming that the exemption of the agricultural industry from formal labour relations legislation is an infringement on the Rights and Freedoms of agricultural workers. This court challenge is formally known as *Dunmore v. Ontario*. The challenge was taken to the Supreme Court of Canada, where the Court ruled in favour of UFCW. The decision of the case determined that the termination of the workers for unionizing was a violation of their right to associate as legislated in the *Canadian Charter of Rights and Freedoms* under subsection 2(d). The Court gave the Ontario government 18 months to draft and implement a piece of legislation that respected the rights and freedoms of agricultural workers (Choudry & Thomas, 2013). In accordance to the Court's ruling, Member of Provincial Parliament (MPP) Helen Johns, the Minister of Agriculture and Food under the leadership of the Progressive Conservative Harris government, proposed Bill 187 *Agricultural Employees Protection Act (2002) (AEPA)* to the Legislative Assembly of Ontario on October 7th, 2002.

During this time, the Ontario Liberal government, under the leadership of Dalton McGuinty, was campaigning to better rural and agricultural communities. This stance came, arguably, as a result of a leaked recording in which McGuinty stated he did not care about the regulation of farm food safety inspections (Baille, 2002). After the leaked recording, the

McGuinty government launched the Rural Economic Development Plan (RED). RED focused on creating economically sustainable rural communities by keeping agricultural productions competitive (OMAFRA, 2002). This was part of the Liberal Party of Ontario's agenda during the political debates for the legislation of Bill 187 held in the Legislative Assembly of Ontario.

The votes in the third and final reading of Bill 187 indicated that all the Members of Provincial Parliament (MPPs) from the Progressive Conservative and Liberal parties voted in favour of the legislation, while the New Democratic Party were in opposition to it. The NDP were against the Bill because the proposed labour relations legislation would only provide workers with the right to "associate" with unions. Essentially, employers would have no legal obligation to collectively bargain with their employees. Despite the NDP's best efforts to pressure the Harris government to redraft a new Bill that legally obligated farm owners to collectively bargain with their workers, Bill 187 was passed into legislation on November 18th, 2002. On this day, media news sources indicated MPP Helen Johns (the Minister of Agriculture and Food, who proposed the Bill to the legislature under the leadership of the Harris government) stated the following:

> It is a good day [for] both farmers and their employees. With passage of the Agricultural Employees Protection Act, 2002, we have the means to protect Ontario's harvest and food supply from disruptions caused by strikes and lockouts while respecting the individuals and constitutional rights of employees. (qtd in Canada News Wire, 2002)

2003 to 2010

In October of 2003, the McGuinty Liberal government was elected into office and the Rural Economic Development (RED) plan was underway. In 2004, a group of agricultural workers from Rol-Land Farms (a large mushroom operation) formed an Employees' Association with the United Food and Commercial Workers union (UFCW). UFCW tried to make claims on behalf of the employees, but the employer refused to recognize the union. After the incident,

UFCW filed a legal complaint to the Ontario Court of Appeal claiming that the *AEPA* was unconstitutional because it did not provide workers with the right to collectively bargain (Choudry & Thomas, 2013). The legal battle took place between 2004 through to 2008. The challenge was brought to the Ontario Court of Appeal, and the union claimed that the *AEPA* was unconstitutional. They claimed that the legislation infringed on the workers' rights to associate by not legally obliging employers to recognize unions as representatives of their employees. The McGuinty government was given 18 months to draft and implement a new piece of legislation. However, content with the legislation initiated by the Harris Government, the McGuinty government appealed the decision and the case went to the Supreme Court of Canada; this case is formally known as *Fraser v. Ontario*. In spite of the best efforts of UFCW, the Liberal government was able to prove to the Supreme Court that the *AEPA* was constitutional because it allowed employee associations to make representations to employers, "which employers must consider and discuss in good faith" (Faraday et al., 2012 cited in Choudry & Thomas, 2013).

The Ontario Government's Human Rights Violation:

In 2010, the International Labour Organization (an organization under the umbrella of the United Nations) condemned the Ontario and Canadian government for violating their international commitments to provide agricultural workers their human right to collectively bargain (Adams, 2006; UFCW, 2011)[2]. These include conventions *no. 87 Freedom of Association and Protection of Rights to Organize*, and *no. 98 Right to Organize and Collective Bargaining*. The battle for recognizing the labour rights of migrant workers in Ontario's agricultural industry is ongoing. This historical timeline has shown the Ontario government's continuous efforts to deny migrant agricultural workers their right to unionize. The labour rights

[2] For a full discussion on conceptualization of labour rights as human rights: *Labour left out: Canada's failure to Protect and Promote Collective Bargaining as a Human Right in Canada*. Adams, Roy J. (2006).

of migrant workers are still governed under this informal labour relations legislation. The following chapter provides legal structures of the *AEPA* in comparison to formal labour relations legislations and the implications the *AEPA* has on migrant workers.

Chapter four: Implications of the AEPA on Migrant Workers

This chapter provides the problematic legal structures of the *AEPA* and how the *AEPA* impacts migrant workers in Ontario. I argue that the structures of the *AEPA* provide no adequate protection for migrant workers in Ontario's agricultural industry.

Legal Structures of Formal Labour Relations Legislation

Giles & Starkman (2009) state that there exist three actors in any formal labour relations legislation. These include employers, employees and a third party employees' association. A third party employees' association is formally known as a trade union. A trade union represents employees in an employment relationship and makes representations to the employers on behalf of the employees. Employers are legally obliged to collectively bargain with their employees and the union. Once these negotiations are settled, all parties become legally bound to a collective agreement. In any collective agreement, the fourth clause must set out the terms and conditions of employment in respect to the "physical work environment (such as safety rules, behaviour in the workplace, for example, rules on discipline), and the broader "human rights" of employees" that must be respected by the employer (Giles & Starkman, 2009, p. 288). Giles & Starkman (2009) state that unions provide a voice for the employees during the collective bargaining process. Collective bargaining provides employees with the ability to vocalize their grievances to a union without the fear of reprisal. The union takes up these grievances with the employer and negotiates a set of rules with the employer to satisfy the grievances made by employees. This is especially important for migrant workers because they are different from all other workers in Ontario. Since they have temporary work visas, their reprisal includes deportation (Preibisch, 2007a, p. 102; Smart 1998; Basok 2002; UFCW 2002; Preibisch, 2003). Migrant workers do not

grieve to their employers about their unsafe working conditions for fear that they will be deported. This inhibits migrant workers from expressing their grievances to their employer.

Legal Structures of the *AEPA*

The *AEPA* does not contain the same structures found in formal labour relations legislations. The *AEPA* provides workers with the right to associate with unions, however, does not provide workers with the right to collectively bargain with their employers. Employers are not legally obliged to negotiate any of the terms and conditions of employment with employees. Chapter 16, Section 5, subsection 1 of the *AEPA* reads the following: "the employer shall give an employees' association a *reasonable opportunity* to make representations respecting the terms and conditions of employment of one or more of its members who are employed by that employer" (emphasis added)[3]. Researchers such as Roy J. Adams (2006) and labour lawyers such as Faraday et al (2012) indicate that "reasonable opportunity" provides no actual "teeth" or power for employees and unions to make any claims to their employer (Adams, 2006, p. 35). It does not change the unilateral and imbalanced power structures, which exists between migrant workers and their employers. They are less likely to make any representations to their employers for fear that the employer may "dispose" of them and find other workers through the SAWP that are willing to live and work in these conditions (Preibisch, 2007a, p. 102; Smart 1998; Basok 2002; UFCW 2002; Preibisch, 2003).

In *Fraser v. Ontario,* the Supreme Court of Canada ruled that employers must consider and discuss representations from employees or unions in *good faith*. Under the *AEPA,* good faith requires that parties meet and engage in 'meaningful dialogue' (Faraday et al., 2012). However, in a formal piece of labour relations legislation, *good faith* implies that employers and employees

[3] Emphasis added: The full act can be found in the appendix: *Agricultural Employees Protection Act, 2002;* S.O 2002, Chapter 16. Available online at: www.e-laws.gov.on.ca/html/statues /english/elaws_statutes_02a16_e.htm

will come to an agreement. *Good faith,* however, does not exist in the legislation of the *AEPA* because employers and workers are not obliged to come to an agreement. The *AEPA* has no provisions or regulation of how *reasonable opportunity* must be conducted by employers, or how *good faith* must be practiced. In other words, the *AEPA* does not successfully provide employees with an avenue to make their grievances, or, negotiate the terms and conditions of employment with their employer. The policies set out in the *AEPA* are merely superficial because they do not legally oblige employers to recognize and respond to the grievances made by their employees. In other words, the *AEPA* is completely inadequate for protecting migrant workers in the Ontario agricultural industry.

Hostility of Employers Towards Unions

In 2007, Kerry Preibisch interviewed Stan Raper from the United Food and Commercial Workers (UFCW) about the legal battle concerning the group of migrant workers on Rol-Land farms, which led to the initiation of the *AEPA*. The transcript is published in *Organizing the Transnational*, edited by Luin Goldring and Sailaja Krishnamurti (two well-known researchers in the field of transnational labour). In the interview, Stan Raper states:

> They [employers] knew we wanted to do a lot of things: one, health and safety; two advocacy; three, promote the right to unionization and basically advocate for workers on their behalf. They've [employers] never seen that before and responded at first with hostility. They were very angry and accused us of just wanting to take the workers' money for unionization and let them rot. We told them that all services that we provide are free, that union pays for the staff and the centre to be there, that were networking with the community to make the lives better for foreign migrant workers who go into the Leamington[4] area, that we're not there to collect money, and that they can say and do whatever they want. (Preibisch, 2007b, p. 117)

This excerpt from the interview indicates that employers are resistant to the presence of unions in their operations. The hostility towards unions makes employers less likely to recognize unions

[4] Leamington is a small town in South Western Ontario that has many large farming and greenhouse operations. It is also known as Ontario's tomato capital. It is one of the areas in Ontario most populated by seasonal migrant workers.

that make representations to them on behalf of migrant workers. Although the *AEPA* obliges employers to provide unions with a *reasonable opportunity* to make representations on behalf of employees, their hostility towards unions make them less likely to take into consideration the representations made by the union.

Sustaining Current Practices:

Roy J. Adams (2006) states that the *AEPA* is a contemporary form of an undemocratic labour practice in Ontario. It purposefully structures the employment relationship to reinforce the imbalanced power relations between workers and their employers. Its structure sustains all the decisions concerning the terms and conditions of employment up to the employer. It does so by not legally obliging the employer to negotiate the terms and conditions of employment with their employees. For this reason, the employment relationship is sustained. Sharma (2006), Bauder (2006) and Basok (2002) indicate that the current employment relationship between migrant workers and their employers are "unfree" and indentured. Employees are tied to their employer and unable to change employers should they feel they are being mistreated. By providing no balance to the unequal power relationship between workers and their employers, the *AEPA* merely sustains the current indentured employment relationship that exists between migrant workers and their employers.

Disconnect between Experience and Policy

Although the statement MPP Helen Johns made regarding the legislation of the *AEPA* that November 18th, 2002 was a "good day" for farm owners and agricultural workers in Ontario, the implications that the *AEPA* has on migrant workers suggests otherwise. The *AEPA* was created after migrant workers tried to unionize as a form of resistance to their abysmal employment situations (Preibisch, 2007b; Basok, 2002). The Ontario government, however, has

inadequately responded to their unionization efforts by implementing a piece of labour relations legislation which prevents them from formally unionizing their workplaces and collectively bargaining with their employers. This chapter has shown that the *AEPA* provides no actual protection to migrant workers in the Ontario agricultural industry. Using Smith's words (2005, p. 206), a "problematic" has surfaced in the organization of how the labour rights of migrant workers are governed in the Ontario agricultural industry. The *AEPA* is problematic because it does not adequately address the structural problems of the SAWP that prevent migrant workers from actively vocalizing their grievances to their employer. In doing so, a disconnect appears between, on the one hand the assertion that the *AEPA* is a sound piece of labour relations legislation that provides protection for migrant workers and, on the other hand, the legislation not recognizing the vulnerabilities of migrant workers.

The literature on migrant workers indicates that providing access to legal citizenship provides migrant workers the opportunity to alleviate the many exploitive and vulnerable situations they face (Sharma 2002; Lenard & Staehele; 2012). In response to this, Gabriel and MacDonald (2012) indicate that although legal citizenship is the most desirable, social citizenship can provide the some of same benefits (p. 47). Union membership is one avenue through which migrants can find a form of social citizenship, as indicated by Gabriel and MacDonald (2011). Unions can negotiate the terms and conditions of employment on behalf of migrant workers which in turn mitigates their exploitive and vulnerable employment situations and the harmful affects their workplaces have on their health. However, the *AEPA* prevents migrant workers from formally unionizing their workplaces, therefore, minimizing the power of unions to negotiate better conditions for migrants with their employers. This suggests that the

AEPA further restricts migrant workers from accessing social citizenship in Ontario and sustains the current exploitive and vulnerable employment situations migrant workers are in.

The Ontario government has fought to uphold the legislation of *AEPA*, and evaded changing the regulations set out in the *AEPA*. To understand how the Ontario government legitimates the *AEPA* as a sound piece of labour relations legislation, I analyzed the political debates leading to the legislation of the *AEPA*. The next chapter provides an analysis of the political debates. It reveals the ruling relations, which guided the MPPs to vote in favour of the legislation of the *AEPA*.

Chapter five: Analysis of the Political Debates

This chapter presents an analysis of the political debates leading to the legislation of Bill 187- *Agricultural Employees Protection Act*. Each political party has Members of Provincial Parliament (MPP) that sit in the legislature, representing each of their respective ridings. The MPPs voted on the piece of legislation after three readings of the Bill. 91% of the MPPs voted in favour of the legislation. All the votes in favour of the legislation came from the MPPs from the Progressive Conservative and Liberal Party of Ontario. All the votes in opposition to the legislation came from the MPPs from the New Democratic Party of Ontario (A detailed representation of the voting structure and distribution of the seats in the Assembly can be found in Appendix A). The NDP were in opposition to the Bill because it did not provide migrant workers with the ability to unionize and collectively bargain with their employers. The political debate presented various statements and arguments that were often conflicting with each other. However, the majority of seats in the Assembly were representatives of the Progressive Conservative Party and Liberal Party. In addition, the piece of legislation was drafted on behalf of the Ministry of Food and Agriculture under the direction of MPP Helen Johns from the Progressive Conservative Party of Ontario. For these two reasons, the analysis of this investigation is geared towards understanding the statements made by spokespersons for this issue in these two political parties. Their statements reveal the knowledge and information used to legitimize the inadequate protection the *AEPA* provides for migrant workers. There were many statements and arguments made throughout the debate, however, many overlap and demonstrate the same concepts. For this reason, only a few have been highlighted here. A tally of the repetition of these utterances are not presented, for Foucault states, it is not the repetition of such

utterances that are important, but the perspectives that are made possible through such utterances (1981, p. 52-53).

Part of understanding the problematic exclusion of migrant workers from formal labour relations legislation begins with an investigation of the broader implications that operate away from them. The Ontario government, the institution that regulates the exclusion of migrant agricultural workers from formal labour relations legislation, conducts its work within existent social relations. Smith (2005) states that to understand the problematic is to map out the powerful forces, which coordinate these social relations. These are called ruling relations. Ruling relations are forms of consciousness and organization that "are objectified in the sense that they are constituted externally to particular people and places" (Smith, 2005, p. 13). Smith (2005), reflecting on Michael Foucault's (1970) concept of discourse, states that an important dimension of ruling relations is found in discourse used in the institution (p. 17-18). Discourse, Foucault suggests, locates systems of knowledge and knowledge making that are independent from people. "People derive this knowledge from the discursive surroundings into which they are born and in which they are enmeshed throughout their lives" (Jager & Maier, 2009, p. 34). Knowledge is therefore conditional. Its validity depends on people's location in history, geography and class relations. An analysis of discourse found in the Ontario government reveals the knowledge that is connected to the power relations (or to what Jager and Maier, 2009 refer to as, power/knowledge complexes), which guided the MPPs to vote in favour of the legislation. Discourse exercises power because they institutionalize and regulate ways of thinking and talking (Jager & Maier, 2009). To understand the institutionalized ways of thinking that guided the MPPs to vote in favour of Bill 187, the discourses found in the debate must be interrogated. These discourses, along with an analysis of what they reflect are presented below:

Nationalism:

Sharma (2006) states that territorial claims provide the groundwork for contemporary organization of difference. They provide boundaries for people of a nation and a place where they can imagine their home to be. This is also known as nation building. Parliamentarians use the concept of nation building to legitimize state practices that exclude certain groups of people from the same entitlements as others (Sharma, 2006).

Nation building was present during the political debates under interrogation here. The agricultural industry in Ontario is understood as operating on the land that is home to the "first settlers" of Canada—purposefully erasing Canada's past colonial history of land appropriation and genocide of Aboriginal Peoples[5]—for the reason of privileging citizens over non-citizens of the state. In the political debates, those that belong in the boundary of the state, Canadian citizens and especially farm owners, are understood as primarily important to the government over those who do not belong to the state—the non-citizen migrant worker. This is exemplified in the following excerpt taken from the political debates. MPP Ramsay from the Liberal Party of Ontario states the following:

> As a farmer who still lives on a farm, it's certainly an honour and a pleasure to speak to this bill tonight. I start with talking about agriculture in general. *It was the first occupation that the people who settled these parts of the world we now call Ontario embarked upon*. It was necessary, obviously simultaneously, to obtain shelter and be able to produce food. Most of southern Ontario and a lot of northern Ontario provided a very fertile and productive land base, which today is one of the best agricultural producing areas in the world… *Agriculture has a special place with people but also with [this] government*. (Hansard 29 October 2002, 37:3, emphasis added)

MPP Ramsay states that agriculture "has a special place with people", implying that citizens of the state have a connection with the agricultural industry, for it contains historical significance to

[5] For a thorough, full and complete understanding of Canada's past colonial history, and its successful erasure for the image of the, peaceful and tolerant state see: Philip Cohen, 'Homing devices.' In *Re-situating identities*. Ed. V. Amit-Talai and C. Knowles. Broadview Press.

them. He successfully deploys the notion that agriculture is part of Canada's national identity. Sharma (2006) states that nation-building projects construct certain spaces as the homeland for some and not others (p. 53). Labeling the agricultural industry as historically significant in the political debates, using Sharma's words, is a tactic of deploying a nation building discourse, one that allows for the organization of difference to take place. That is, underpinning this farmers' support for the Bill is an assumption that farmers' are the sole concern for government polices that seek to protect the agricultural industry. Absent from this discourse are those employed to work on the farms, those without whom, the supply of food necessary for a strong nation would be impossible. The large, and essential, contribution that migrant workers make to the nation is not only invisible but also purposefully neglected in the political debates. In consequence, the Bill is meant to continue to privilege farm owners and citizens over migrant workers.

Migrant workers live and work within the borders of Canada, however, they are understood as people who are not part of the nation and remain invisible, but necessary labour for the nation's food supply. Nationalism, Sharma (2006) states, fragments highly interdependent social relationships in ways that are gendered and racialized. Such notions deny marginalized, vulnerable, temporary migrant populations entitlements to rights that citizens can expect. They particularize people into sets of nations so that they are easily governable and manageable. Sharma states that discourse, such as suggested by the quote above, shapes social realities that privilege some and penalize others (2006). Nationalist discursive practices work through relations of ruling and reproduce, ideologically as well as materially, unequal social relations.

The divide between migrant workers and the rest of Canadian society operates on the notion of citizenship. Identifying and classifying migrant workers as people who are seasonal and temporary solidify the notion that they are non-citizens (Sharma, 2006). In doing so, their

non-citizen status legitimates denying them rights that are associated with citizens. Labeling migrant workers as seasonal and non-citizens was present in the political debates. The following excerpt exemplifies this practice. MPP Ramsay from the liberal party of Ontario states the following:

> Agriculture has moved from the base of just being the family farm that historically has been made up of a family of husband and wife, with children chipping in. As farms grew larger and more affluent, they were able to hire hired hands to help. Most farmers need some sort of labour assistance, *mostly on a seasonal basis*, and many of those people come from overseas. *The migrant workers come in, and there are a lot of them from around the world, a lot from the Caribbean countries*. (Hansard 29 October 2002, 37:3, emphasis added)

In his statement, MPP Ramsay labels migrant workers as "seasonal" and describes them as people from the global south— racialized and economically marginalized people in need of these jobs. He successfully makes the distinction that they are people who are only temporarily in Ontario to help farm owners. This is, however, problematic. Researchers such as Hennebry, Preibisch and McLaughlin (2010) indicate, after sampling 600 migrant farm workers in Ontario who participated in the SAWP, that the average return rate of migrant workers to Ontario is between 7 to 9 years and sometimes workers return consecutively for 25 years. Hennebry, Preibisch and McLaughlin (2010) indicate that migrant workers are not necessarily temporary, but are constructed as if they are through the structures of the SAWP— since they are forced to leave each time their temporary visas expire. Bauder (2008) indicates that labeling migrant workers as temporary materializes the notion that they are not really here. Their temporary, non-citizen status is then used to legitimize the fact that they do not need to be treated the same way as citizens. The Bill, as a consequence, is understood by the MPPs as satisfactory for migrant workers, since they are not privileged enough to have the same rights as citizens.

Citizenship status is also a "social relation of power that acts both at the level of the nation-state and with the global political economy" (Preibisch, 2007a, p. 98). Sharma states that classifying migrant workers as "seasonal" or temporary, as MPP Ramsay did, is not "simply [a] semantic exercise" (2006, p. 150). It is "fundamentally, about creating the possibility for more effectively challenging ruling relations that oppress, exploit and vulnerablize people" who are deemed as non-citizens (2006, p. 150). The temporary status of migrant workers is a tool that creates the conditions for adherence that benefits the ruler's way of living (Sharma, 2006, p. 151). Restricting low wage migrant workers from access to citizenship (or in this case, from formal labour rights) preserves unequal relationships between them and their employers, sustaining the privileged quality of life of their rulers—citizens.

Global Competitiveness and Neo-liberalism

The agricultural industry is part of a larger global economic system for which Ontario competes in. In the beginning of the political debates, MPP Helen Johns reminds the Assembly that the Harris government has tried to keep farmers competitive in the global food market since 1995 (Hansard, 22 October 2002, 37:3). Farmers have become reliant on the SAWP for the reason that it creates cheap sources of labour to fuel the capitalist economy (Bauder, 2006). In doing so, the SAWP has worked as a strategy to suppress wages in a laborious and demanding industry, making the work undesirable to local community members. Gordon (2010) indicates that the removal of tariffs and taxes in bilateral migration agreements (such as that in the SAWP between Canada and Mexico and Caribbean countries) is part of an overall scheme in developed countries to sustain the suppressed wages of work in segmented labour markets that are necessary to be completed for the sustainability of a nation. The Bill, therefore, keeps

agricultural work in the segmented labour market to sustain cheap costs of labour created through the SAWP.

Gordon (2010) states that unlike goods in tax-free trade, migrant workers are humans. In bilateral trade agreements, however, they are treated and exchanged as goods. They are dehumanized and treated as commodities that are part of the economic functions of capitalist enterprises. This representation of migrant workers is evident in the political debates and can be exemplified in the following excerpt. MPP Beaubien from the Progressive Conservative party of Ontario states the following before the third and final vote of the Bill:

> The member from Elgin-Middlesex-London [(Referring to MPP Peters)] pointed out that this government likes to put roadblocks in front of the agricultural community. I strongly disagree with that. The purpose of this bill is to remove roadblocks in the agricultural community. By having a *reliable source of labour* that will plant and harvest the crops in a timely manner, when the weather allows it, it allows us to provide an affordable, reliable source of food to the residents of Ontario. (Hansard, 30 October 2002, 37:3, emphasis added).

Preibisch (2007a) states that the use of the phrase "reliable source of labour" is often used in industry and government discourse to illustrate the necessary use of migrant workers (p. 100). It is in this way we come to understand a term such as this as a discursive tool that creates power and privilege within relations of ruling. The structures of temporary migration programs actually indenture them to their employers and the justification for this is the discourse of "reliability" (Preibsisch, 2007a). Consequently, migrant workers often perform dangerous acts against their will in order to keep their visas, stay employed and avoid deportation. Preibisch (2007a) states, "this discursive [practice] underscores the key advantage that foreign workers represent" in comparison to domestic workers with legal citizenship (p. 100). Workers with legal citizenship of the state cannot be indentured to their employer. On the other hand, migrant workers are non-

citizens, and therefore are capable of being indentured to their employer (Sharma, 2001). Sharma (2001) states that governments have actively taken a role in creating this indentured relationship as a response to capitalist global demands. Basok (2002) states that the "lack of freedom and powerlessness [of migrant workers in Ontario are] particularly valuable to capitalist accumulation" in the agricultural industry (qtd in Goldring & Krishnamurti, 2007, p. 101). In this discursive practice of labeling migrant workers as "reliable sources of labour", they become constituted as commodities for the use of keeping employers economically competitive in developed nations (Sharma, 2006; Bauder; 2006; Prebisch, 2007a; Gordon, 2010). Bill 187, as stated by MPP Beaubien, is about removing roadblocks in the agricultural industry, implying that providing migrant workers with formal labour rights would decrease their reliability as indentured sources of labour. In doing so, the Bill is constituted as keeping migrant workers under informal labour relations with their employers to continue to use them as commodities of the economic system.

In bilateral migratory trade agreements, destination countries offer new rights or impose new restrictions to agreements made with sending countries. Gordon (2010) states that the protection for migrant workers in bilateral trade agreements between countries has gone unheeded in practice. This has been particularly evident in the context of the "enforcement of workplace rights for migrants" (Gordon, 2010, p. 1141-1142). Governments are reluctant to provide migrant workers with the right to unionize, because it imposes regulations on the agricultural industry. Unions and civil society groups negotiate for better living and working conditions with employers on behalf of migrant workers who certify them as their exclusive bargaining agent. For this reason, governments are reluctant to provide migrant workers with formal labour rights that would allow unions to enter the employment relationship. This distaste

for regulation is evident in the political debates and is exemplified in the following excerpt from the debate. MPP O'Toole from the Progressive Conservative party of Ontario states:

> On this particular bill -- you always have to bring it back to the riding, to the people I represent in Durham. I honestly believe, when I think of the Ocala Orchards or Archibald Orchards and the number of people that they have, seasonally, I might add, to harvest the crops for the food I eat -- it almost brings tears to my eyes. *To think that they can be shut down by some inordinate group of people -- I think of Sid Ryan*[6] *and people like that who would shut it down at the most opportune time*….. But this is about the safety of food, the quality of food. This is about fresh, quality food in the province of Ontario. *There are those who want to stop this*. (Hansard, 29 October 2002, 37:3)

MPP O'Toole negatively represents unions in his statement. He suggests that they are destructive to the production of food in Ontario and states that the Bill will ensure the inability of unions to cause disruption and "destruction" to the agricultural industry. Coincidentally, the power of unions to negotiate better living and working conditions for migrant workers with employers is kept minimal in the Bill.

The Bill, as mentioned earlier, was created under Mike Harris' Common Sense Revolution. His strategy was to keep unions out of the employment relationship. Martinello (2010) explains that this initiative on behalf of the Harris government was meant to deregulate industries to boost economic profits for businesses and corporations. Unions are threats to the global competitive advantage for farm owners in Ontario because they not only mitigate the vulnerable and exploitive employment relationship, but also impose better working conditions and better health and safety regulations for migrant workers. This may add extra costs to

[6] Sid Ryan is the leader of the Ontario Federation of Labour. It is an umbrella organization for all trade unions in Ontario. Taken directly from website (*www.ofl.ca*): The OFL pushes for legislative change in every area that affects people's daily lives, including health, education, workplace safety, minimum wage and other employment standards, human rights, women's rights, workers' compensation, and pensions. It also makes regular presentations and submissions to the Ontario government and mounts internal and public awareness campaigns to mobilize the kind of political pressure that secures positive change for all workers – whether or not they belong to a union.

employers, which include supplying workers with better health and safety equipment and increasing their wages. This may also decrease the profits of employers by possibly decreasing the amount of output that they benefit from should unions negotiate fewer working hours in a day. Formal labour relations legislations are not favorable by governments because they allow unions to enter the employment relationship (Adams, 2006). Therefore, the Bill decreases union power as a way to evade the pressures imposed by unions on employers.

Although the SAWP and other bilateral agreements are understood as providing equal benefits to both Canada and to the nations in the global south, they have detrimental affects on migrant workers and developing nations. Gordon (2010) states that bilateral labour migration agreements are often negotiated in secret and their contents, at times, are not even made public, concealing the detrimental affects the agreements cause for migrant workers and sending nations (p. 1129). In addition, migrant workers are dependent on the jobs through the SAWP and stay in the program to support their families. In turn, the sending nations are dependent on migrant workers. This is because migrant workers send remittances back home to their families for which the governments in developing nations collect taxes from (Gordon, 2010). In addition, governments in developed nations (in this study, specifically Canada) support labour migration because they can receive labourers who are willing to work in deregulated industries. Migrant workers and developing nations depend on the developed nation's labour shortage (Gordon, 2010, p. 1139). In addition, developing nations do not pressure the governments of developed nations to impose better living and working conditions for their nationals for fear that developed nations will look elsewhere for workers. For these reasons, migrant workers have no choice but to work in the indentured, devalued and deregulated jobs in the developed nation if they seek employment abroad (Gordon, 2010). In fact, bilateral labour migration agreements are

understood as good for all parties involved. Concealing coercive state practices and ignoring the negative impacts bilateral trade agreements have on migrant workers and developing nations is evident in the political debates. This is exemplified in the following excerpts taken from the political debates. Below is a conversation between MPP Barrett from the Progressive Conservative Party of Ontario and MPP Peters from the Liberal Party of Ontario:

> MPP Barrett (Haldimand-Norfolk-Brant):… I represent labour-intensive agriculture. I represent offshore labour. *We have a very good working relationship with people from Trinidad, Barbados, Mexico, Brazil and Jamaica…* We heard, through consultation, that Ontario's agricultural *employers value the working relationship they have with their employees*, the men and women who they do work side by side with in farming; they value the relationship that they already have. They believe it's a good one and they believe it's *one that should not be tampered with or jeopardized.* (Hansard, 22 October 2002, 37:3, emphasis added)
>
> MPP Peters:…To the member from Haldimand-Norfolk-Brant, my riding is much like yours. The reliance on offshore labour is so important to that harvest. I made reference to that, the role they play, from planting to harvest, from pruning to harvest. *I say 99% of those individuals who rely on offshore labour treat their employees well.* (Hansard, 22 October 2002, 37:3, emphasis added)

The MPPs indicate in their exchange that the relationship between the Ontario government and the participating countries in the SAWP are good. The indentured relationship is understood as "valuable" and, according to MPP Peters, 99% of employers treat migrant workers well. However, researchers such as Hennebry, Priebisch & McLaughlin (2010) indicate otherwise. For instance, after conducting a quantitative study with 800 migrant Mexican migrant workers in the Ontario agricultural industry their findings indicate the following: 55% of the respondents indicated that their work was hazardous to their health, and 50% of the respondents indicated that their living conditions were poor (p. 74-75). Their published piece was titled, "*Not just a few bad apples",* contesting the notion that unfair treatment in the agricultural industry does not exist on a grand level. In fact, their research study has shown that unfair treatment exists on a very large

scale in Ontario's agricultural industry. These discursive practices of the MPPs in the political debates create, what Smith (2005) refers to as, virtual realities. These "virtual realities" do not reflect the true and complete depiction of the impact that bilateral trade agreements have on migrant workers and developing nations. Therefore, the MPPs in favour of the legislation conceal the coercive state practices to describe the current situation in the agricultural industry as good.

Hennebry, Preibisch and McLaughlin (2010) indicate that the fear of deportation restricts migrant workers from refusing unsafe work, which also leads to increased health risks. Tomic et al (2010) indicate in their study that employers are reluctant to provide agricultural workers with the proper safety equipment and adequate living and working conditions. They also are reluctant to provide agricultural workers with the proper elements needed to use heavy and dangerous equipment (Tomic et al., 2010). However, in the political debates, the workplace accidents, harsh living and working conditions were understood as a matter that both employees and employers must be conscious of. The unequal power relations between migrant workers and their employers are ignored. This is exemplified in the following excerpt taken from the political debate. MPP Di Cocco from the Liberal Party of Ontario makes the following statement in relation to the health and safety issues that are existent in the agricultural industry:

> Everyone knows how important it is that *every single person* who goes on a job site -- it doesn't matter what job site -- is *conscious* of and understands all of the safety responsibilities that both *employers* and *employees* have to deal with. (Hansard 30 October 2002: 37:3, emphasis added)

In this statement, MPP Di Cocco implies that health and safety is a problem for which employers and employees must be aware of, equally. Migrant workers are understood as autonomous in their employment situations, where the notion that no such indentured, exploitive, or, vulnerable situations exist. MPP Di Cocco's statement undermines the unbalanced power relations that exist

between employers and migrant workers. The power relations that exist between them, therefore is invisible. Sharma and Wright (2009) indicate that these interpretations of reality "normalize patriarchal, elitist, and exploitive social relations" that exist in a community (p. 124). These statements ideologically detach the historical, social, economic and political processes that have created these standards through unequal distributions of power (Sharma & Wright, 2009, p. 124). The MPPs in favour of the legislation make these statements, which normalize and further perpetuate the elitist and exploitive social relations that exist between migrant workers and their employers. In doing so, the Bill regulates the labour relations of migrant workers and employers based on such notions.

Security

Baudrillard and Guillame (1992) state that the defiance or resistance to existent social relations is understood as a threat to civilization by elitists. Coincidentally, Bill 187 was created after a series of events, which began with migrant workers resisting their vulnerable and exploitive employment situations. Their efforts to unionize were a form of resistance to the unequal power relations that have caused their current poor employment conditions. As outlined in the third chapter above, their mobilization efforts caused a legal battle that ruled the Ontario government to draft and debate Bill 187. Bill 187 was debated in the Ontario Legislature a year after the incidents of 9/11 in the United States of America, when increased hostility towards migrants and immigrant workers was high (Wonders, 2007). Sharma states that parliamentarians help to organize a "problem of foreigners existing within the space occupied by Canadians and ruled over by the Canadian state" to legitimize state practices that legislate the rights of non-citizens unequally (Sharma, 2006, p. 85-86). This is especially heightened when policies rely on "tropes of nationhood and nation-state sovereignty for their legitimization" (Sharma, 2006, p.

86). Similarly, the agricultural industry is part of the Canadian nation's food supply, and, as indicated above, part of an overall nation-building project. The Ontario government texts and documents noted in this MRP reveal that there are no unequal power relations between migrant workers and their employers. By doing so, the resistance efforts of migrant workers are constituted as threatening to the nation and to the existing "good" social relations. This very same notion was evident in the political debates. MPP Peters from the Liberal Party of Ontario stated the following:

> After September 11 we heard a lot about security and protecting our borders and protecting our airports. But do you know what we didn't hear about? Not once did we hear from anybody on that side about protecting our food supply and recognizing that food should be part of a national security system. We depend on food. We need the farmers to earn a good living, but we as individuals need those farmers to remain competitive and remain in production. We need those farmers to be there. We need to recognize that we live in one of the most bountiful provinces in the world. There are countries that are envious of what we produce in this province. We need to do everything we can to protect the agricultural industry, and we can't continue to take the farmer for granted. (Hansard, 30 October 2002, 37:3)

In the above statement, MPP Peters makes a connection between food supply and national security and implies that the Bill is intended to protect the nation's food supply and keep farmers competitive. Sharma (2001, p. 422) states that parliamentarians actively participate in a discourse of "our" and "we" as a nation-building technique during political debates, which re-imagine the Canadian identity as, *white*. In doing so, the "problem" or "threat" is understood as coming from a racialized group of people (in this case, migrant workers) who are in the state that do not belong to the state. By using the collective "we", MPP Peters is able to draw totalizing assumptions about who "we" know to be, on the one hand, endangered citizens, and on the other, the dangerous non-citizens. The resistance of migrant workers to their vulnerable and exploitive employment situations is conceived by the MPPs as threatening, and therefore, in need of regulation.

Lemke (2011), in reflection of Foucault, states the suspensions of basic rights of some individuals are legitimated when practiced "in the name of a general guarantee of security" of others in the state (p. 49). The denial of labour rights for migrant workers has worked in the same way. Sharma (2011) states that by recruiting migrants through temporary labour migration programs, the state "ensures that that the majority of migrants working in Canada lack most, if not all, of the rights associated with membership in the Canadian polity" (p. 95). The Canadian border becomes constituted as a "physical boundary separating nationalized spaces [authorizing] the state to carry out practices against non-nationals that are unconstitutional and that are deemed unacceptable, undemocratic, and even manifestly unjust if carried out against citizens or permanent residents" (Sharma, 2011, p. 95). Similarly, denying migrant workers with labour rights protects the "basic rights" or *supra rights* of Ontario citizens (Lemke, 2011, p. 50). Through denial of formal labour relations legislation, the Ontario government reconfigures the fact that they are denying migrant workers with labour rights in order to protect the *supra rights* of the legal citizens of the state.

Conclusion:

This research has outlined how the labour rights of migrant workers are governed in the Ontario agricultural industry through the *Agricultural Employees Protection Act (2002) (AEPA)*. I examined how the *AEPA* impacts migrant workers in the Ontario agricultural industry. To do this, I examined the legal structures of the *AEPA* and analyzed the provincial parliamentary debates for the legislation of Bill 187. The analysis of the political debates revealed the ruling relations that guided the MPPs to vote in favour of the legislation.

I argued that the *AEPA* is an informal piece of labour relations legislation, which governs the employment relationship between migrant workers and their employers. The *AEPA* does not legally oblige employers to collectively bargain with their workers. This is problematic because migrant workers are different from all other workers in Ontario. They do not have legal citizenship in Canada and are tied to one employer. For the above reasons, migrant workers are unable to vocalize their grievances to their employers because they fear repercussions for instance, deportation (Preibisch 2007a; Basok, 2002).

The *AEPA* is a piece of labour relations legislation that fails to provide adequate, formal labour rights to migrant agricultural workers. It provides no power for migrant workers to negotiate the conditions of employment with their employer and minimizes the power unions would have to represent employees in a negotiation process with employers. In doing so, the terms and conditions of employment are still unilaterally decided by the employer. I argued that this is problematic because it sustains, what Basok (2002), Sharma (2006) and Bauder (2006) refer to as, an unfree and indentured employment relationship between migrant workers and their employers. The *AEPA* keeps the agricultural industry deregulated and upholds the cheap cost of

labour created though the SAWP. These conditions benefit the employer at the expense of the wellbeing, health and safety of migrant workers.

Despite the resistance and mobilization efforts of migrant workers, the MPPs from the Liberal and Progressive Conservative parties of Ontario voted in favour of the legislation of Bill 187. Since migrant workers are non-citizens, they were understood by the MPPs as capable of being treated differently and unequally from the citizens of the state. Migrant workers are dehumanized and understood as commodities that can be bought and sold in the labour market for capitalist interest. Their vulnerable and exploitive employment situations are concealed in governmental texts and documents. The efforts of migrant workers to unionize (as a way to resist these unequal social relations) were understood by the MPPs as threatening to the nation. Excluding migrant workers from formal labour relations legislations was understood as a way to protect the rights of citizens in Ontario. These ruling relations provided the MPPs with the rationale to vote in favour of the legislation and legitimize the exclusion of migrant workers from formal labour relations legislation.

The statements made by the MPPs in favour of the legislation undermine the power relations between migrant workers and their employers. These statements reproduce, what Smith refers to, virtual realities, whereby the coercive practices that exist in bilateral migration agreements are understood as good for all parties involved. I argue that the statements made by the MPPs normalize the elitist and exploitive social relations that exist between migrant workers and their employers. Their statements detach the historical, social, economical and political processes that have created the substandard conditions of employment migrant workers experience in their workplaces. Ultimately, these statements ignore the present unequal social relations legitimizing Bill 187 as a good piece of labour relations legislation.

The International Labour Organization has found the Ontario government guilty of a human rights violation, for denying migrant workers with the right to collectively bargain with their employers. However, the Ontario government actively evades changing the structures of the *AEPA* and providing migrant workers with a formal piece of labour relations legislation. For this reason, migrant workers are still struggling to have their labour rights recognized by the Ontario government. I argue that migrant workers need an adequate piece of labour relations legislation that legally obliges employers to collectively bargain with them. This may provide migrant workers with the ability to vocalize their grievances without the fear of deportation. This would also help address some of the exploitive and vulnerable situations they face in their employment relationships. Pressuring governments to recognize the rights of migrant workers should not only be done at the federal level, but also at the provincial level. This is because labour policies are provincially legislated and labour relations legislation is industry specific. By restricting migrant workers from formally unionizing, the Ontario government has also inhibited migrant workers from accessing social citizenship (Gabriel & MacDonald, 2011). Walchuk (2009b) states that the inability for workers in the segmented labour market to unionize further creates divisiveness and disunity amongst workers. This further marginalizes workers in the segmented labour market from achieving solidarity to fight economic and social inequality in Canada. Therefore, by denying migrant workers the right to unionize, the Ontario government upholds the marginalized positions migrant workers occupy in the segmented labour market.

This research has provided an introductory understanding of how labour rights are organized in Ontario. While completing a literature review on the *AEPA,* I was astonished to find that very little attention, in the cross discipline of immigration and labour, has been paid to understanding the relationship between migrant workers and labour relations legislation. Future

research can usefully further identify this gap in the literature by investigating the affects that unions have on migrant workers. Choudry and Thomas (2013) have indicated that there are some migrant workers in Quebec and Manitoba that are unionized and are currently under formal collective agreements. Future research can compare the experiences of migrant workers in unionized and non-unionized workplaces. Future research should also address other industries that are not covered under formal labour relations legislation that are staffed by migrant workers, such as domestic and caregiving work. Ultimately, policy makers and researchers in the field of labour relations need to recognize and fully address the vulnerabilities of the workers that labour relations legislations are intended to protect.

APPENDIX A:

Distribution of Seats in the Assembly:

Although this study is not quantitative, these tables provide a visual demonstration of the number of representatives from each party and the number of seats that were assigned to them. Figure 1 demonstrates the break down of seats in the Assembly by each political party, followed with the numbers of those in favour, or, opposition to Bill 187. Figure 2 presents the percentage of seats in the Assembly each political party had in relation to the number of seats in total. Figure 3 presents the percentage of seats in favour of the legislation, and in opposition to the legislation in relation to the total number of seats in the debate.

Figure 1:

Political Party	Number of Seats	In favour of Legislation	In opposition to the Legislation
Progressive Conservatives	47	47	0
Liberals	29	29	0
New Democratic Party	8	0	8
Independent	1	1	0
Total	85	77	8

**A breakdown of the representatives of each political debate can be found in Appendix C*

Figure 2:

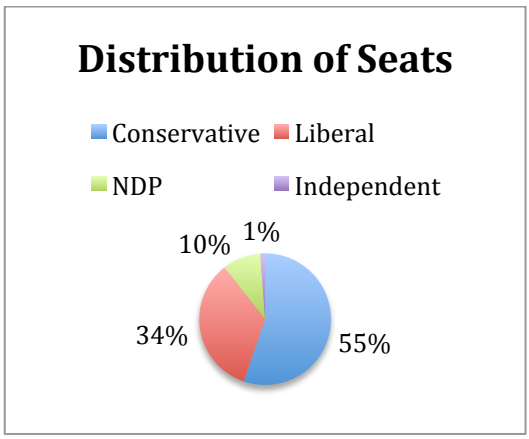

Figure 3:

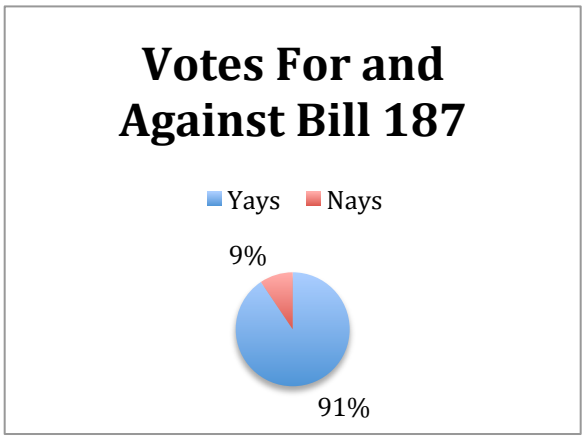

Figure 1 and 2 indicate that the Progressive Conservatives had the most seats in house, followed by the Liberals and lastly the New Democratic Party. Figure 3 indicates that 91% of the seats in the house voted in favour of the legislation. The votes in favour for all the seats in the house came form the Progressive Conservative Party and the Liberal Party, and, all the votes against the piece of legislation came from the New Democratic Party. It can be noted from the above figures that most of the votes in favour of the legislation came from the Progressive Conservative Party and the Liberal Party of Ontario. With any debate, all political parties had equal time to speak in the Assembly. The above figures also indicate that the NDP had very few seats in the house and all representatives voted in opposition to the legislation. With any debate, time is allocated to each political party to present their reasons for and against the legislation in debate.

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