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BILL 51, A PROJECT THAT INCREASES THE PRECARIOUSNESS OF MIGRANT WORKERS WITHOUT SAYING SO OPENLY

ANALYSIS ARTICLE DEVELOPED BY THE OBSERVATORY FOR MIGRANT JUSTICE (OMJ)
IN COLLABORATION WITH THE IMMIGRANT WORKERS CENTER (IWC-CTI)

Authors

Amel Zaazaa, Rabih Jamil and Lucio Castracani

Contributions

Laurence Hamel-Roy and Manuel Salamanca Cardona

Proofreading: Fella Kada

Linguistic correction: Liza Hammar

Layout: Yarijey Techer

Translation into English: Nelly Bassily

The Observatory for Migrant Justice

The Observatory for Migrant Justice is an independent, non-profit organization founded by several actors belonging to the research and civil society communities in Québec. Its mission is centered around research, advocacy, mobilization and dissemination of knowledge in order to support a fairer vision of society for migrants and better access to their rights..

Immigrant Workers Center (IWC-CTI)

The IWC-CTI defends the rights of immigrant and migrant workers in Québec. Founded in 2000 and based in Montreal with branches that progressively developed in the Bas Saint-Laurent regions, around Quebec City, in Saguenay Lac-Saint-Jean and in Gatineau. The IWC-CTI offers legal clinics on labor rights and immigration law and supports workers in other procedures related to their social integration.

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LIST OF ACRONYMS AND ABBREVIATIONS

ADS+: Gender-differentiated analysis. (the + allows different discriminations to be taken into account)

ATF: Action Travail des Femmes

CAQ: Coalition Avenir Québec

CCQ: Quebec Construction Commission

CDPDJ: Commission on Human and Youth Rights of Quebec

CNESST: Commission for Standards, Equity, Health and Safety at Work

CPE: Early childhood center

DVS: Diploma of Vocational Studies

FTQ: Quebec Federation of Workers

FTQ-C: Quebec Federation of Workers – Construction

IWC-CTI: The Immigrant Workers Center (IWC-CTI)

LMIA: Labor Market Impact Assessment

MIFI: Ministère de l'Immigration, de la Francisation et de l'Intégration

PRDSQ: People representative of Quebec society

RAC: Recognition of acquired knowledge and skills

SAWP: Seasonal Agricultural Worker Program

TFWP: Temporary Foreign Worker Program

TFW: Temporary foreign worker

UN: United Nations Organization

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PREAMBULE

On February 1, 2024, as part of a ten-year plan (2023-2033) for the creation of new infrastructure, Minister Jean Boulet presented Bill 51 (p.2) which aims “to modernize the construction industry”. This bill aims to, among other things, ensure greater mobility of workers between the regions of Québec and increase their versatility by allowing task-sharing between certain professions; motives which, at first glance, seem centered on increasing productivity. There is also the stated intent to promote the inclusion in the industry of people said to represent the diversity of Québec society namely “an Indigenous person, a person belonging to a visible or ethnic minority, an immigrant or a person with a disability.”

This bill mainly amends Acti R-20¹ which, since 1968, has governed labour relations, vocational training and workforce management in the construction industry in Québec. This act guarantees a certain protection of jobs and professional recognition of the workforce, with 25 regulated professions and 6 specialized occupations.

Even if the stated intentions seem laudable, the measures proposed to achieve this leave us skeptical, to say the least. This article therefore aims to dissect the amendments made by Bill 51 and its repercussions on Act R-20, to explain the contradictory effects that these measures could have in relation to the stated intentions and to highlight the risks of increasing the precariousness of migrant workers.

¹ Act R-20 governs labor relations in the construction industry according to a well-defined [field of application](#), particularly in terms of work relating to the construction of buildings and civil engineering carried out on the same site (erection, construction, maintenance, renovation, repair, modification and demolition). Also, the act regulates land development work and under certain conditions “installation, assembly, repair and maintenance of building machinery”, work of building or production machinery. Thus, the act regulates [four sectors](#): industrial, institutional and commercial, civil engineering and roads, heavy residential (for the construction of new buildings of more than four floors or the maintenance and repair of existing buildings of more than six floors) and light residential (for buildings which do not fall under heavy residential construction). However, there are a number of [exclusions](#) that fall under construction work related to agricultural operations and the construction of greenhouses, repairs, water pipes, sewers, paving and sidewalks, logging, among others.

1- POLITICAL CONTEXT

Since its accession to power, the CAQ has prided itself on playing the role of catalyst for the modernization of Quebec's legislative system, an assertion which has proven contradictory with its practices over its two successive mandates. In 2022, on the eve of the elections which consolidated François Legault's power as Prime Minister elected with a parliamentary majority, the Laval University polymeter highlighted that, on the issues of immigration and visible minorities, the CAQ government has intensified its focus on temporary immigration.

Although the use of temporary foreign labor dates back to the 1960s with the establishment of the Seasonal Agricultural Worker Program (SAWP) ([Kachulis & Perez-leclerc, 2020](#)), recruitment through the Temporary Foreign Worker Program (TFWP), already in place since 1973, only intensified from the 2000s, with a multiplication of hiring aspects and privatized management which no longer provides for an agreement between states ([CUPE, 2013](#)).

In March 2024, the [Institut de la Statistique du Québec \(ISQ, 2024\)](#) highlighted growth in temporary immigration (+174,200), more than three times higher than that of permanent immigration (+52 800). Overall, the ISQ data reveals that non-permanent residents in Québec amount to 560,000 people, of whom 40% (234,000) are temporary foreign workers, while the number of asylum seekers is at 177,000 and that of international students at 124,000.

The TFWP is the emblem of the shift towards precarious migration in Québec. And the situation continues to evolve rapidly. In just two years², the number of permits has more than doubled to reach 59,820 in December 2023 ([IDQ, 2024](#)). This exponential increase is probably linked, among other things, to the diversification of employment sectors, such as the manufacturing or services sectors.

Furthermore, in Quebec, the recruitment of temporary workers was mainly done for work not subject to Act R-20, although a trend towards recruitment for regulated work seems to be emerging³. It is in this context that the *Commission de la construction du Québec (CCQ)*, in collaboration with the *Ministère de l'Immigration, de la Francisation et de l'Intégration (MIFI)*

2 As mentioned by the IWC-CTI in its brief: [In search of an Inclusive Quebec, Brief submitted to the Commission des relations avec les citoyens as part of the General Consultation on immigration planning in Quebec for the period 2024-2027](#), there is a significant growth in the number of closed work permits between 2015 and 2022 in Quebec which is 2.7 times greater than that of Canada as a whole. This gap can be largely explained by the political efforts of the Quebec government, the CAQ, since 2018 to consolidate a temporary migration model. The closed work permit considerably increases the vulnerability and dependence of TFWs since it only authorizes the person to work for a single employer in Canada, clearly defined before departure and recorded on the work permit.

3 Often, these are companies that can employ TFWs in work not regulated by law, while waiting to obtain a certificate of competence to be able to work in the regulated work.

is organizing [missions](#) to Tunisia, Morocco, Colombia and France for recruitment of carpenters. Other international recruitment initiatives for construction are planned in other countries in the coming months⁴. Moreover, in an [interview](#) with the *Journal de Québec*, Minister Jean Boulet states the following: “We have already done a pilot project to recruit abroad. We have recruitment missions that we are planning – the *Commission de la construction du Québec* and the Ministry of Immigration – in certain countries, to recruit carpenters in Tunisia, painters in Colombia and trades in which we have really significant deficits.”

In light of this statement by Minister Boulet and the growing tendency of the CAQ to adopt policies that organize more precarious immigration with the objective of filling the labor shortage in different sectors, it is obvious that Bill 51 does not really aim to include people said to be representative of the diversity of Quebec society (PRDSQ). The architect of the amendments, Jean Boulet, explicitly states his intention to compensate for the labour shortage in the sector through massive recruitment abroad. These missions were in motion even before the bill was adopted, making us fear a reform which risks favoring the conditions for the creation of a subclass of immigrant workers with precarious status who will not benefit from the same protections nor from the same rights as their counterparts in industry who hold citizenship or permanent residence.

⁴ By consulting the complete [programming of Quebec Days for employers](#) we can already see that several recruitment missions are planned this year.

2-AN INTENTION TO INCLUDE THAT SOUNDS MORE LIKE TOKENIZATION AND RUNS THE RISK TO CREATE NEW DISCRIMINATION FACTORS

The provisions provided for in Bill 51 have not been the subject of a differentiated analysis according to gender, from an intersectional perspective (ADS+). However, in the context of the adoption of public policies, ADS+ proves to be an effective tool for analyzing, identifying and eliminating systemic discrimination factors. It is precisely within the framework of this recognition that the government of Québec has made the commitment to apply ADS+ to several pilot projects contained in its [government strategy for equality between women and men 2022-2027](#).

Without this analysis, it seems misleading to us to suggest that the measures announced will promote access to equality for a group as heterogeneous as “women, Indigenous persons, members of visible or ethnic minorities, immigrants and persons with disabilities,” especially if the measures planned for these different groups are identical and therefore do not take into account the complex and varied lived-realities of those who are marginalized. It is only through an intersectional analysis of systems of discrimination and marginalization that we can put in place “affirmative measures”⁵ or inclusion measures that will correct gaps and guarantee access to the same rights and opportunities for all. For example, the same measures cannot be applied to a white woman Québécois worker with a disability, to a temporary migrant woman worker from Mexico and to an Indigenous woman English-speaking worker without disabilities, and hope that these measures have the same impact and the same effects on everyone.

Furthermore, in a context where [efforts for better inclusion and retention of women in the construction sector seem to be insufficient and ineffective](#), it seems perilous to us to expand this group to make a jumble of diversities.

As the Commission on Human and Youth Rights of Quebec (CDPDJ) points out in [its brief](#), this bill “focuses narrowly on entry into the industry and the availability of workers rather than proposing measures that are first guided by the objective of achieving real equality in employment, which requires taking into account the historical, systemic

5 [Positive discrimination or affirmative action or corrective measures for inequalities](#) is a coherent set of measures taken to eliminate the discrimination suffered by a group of people and remedy de facto inequalities by temporarily granting them certain preferential advantages, particularly in terms of recruitment. The main groups targeted by affirmative action are women, visible minorities and people with disabilities. In the Public Service of Canada, a positive action program was launched in 1983. The latter was revised and replaced by the Employment Equity Act, which is primarily intended as a preventive measure.

and intersectional nature of the discrimination experienced by each of the targeted groups. Access to equal employment for historically underrepresented groups requires the adoption of correctivemeasurespromotingtheirintegration,maintenanceandprogression”(CDPDJ,2024,p.1).

However, Bill 51 does not address job retention nor does it provide concrete measures that eliminate the factors of marginalization and discrimination that certain people experience at the crossroads of oppressions. We also deplore the lack of reflection on the type of jobs or the evolution of PRDSQ in the industry. Without a longer-term vision, there is the risk that the problem of labor shortages in construction will become a chronic problem and that the people whose access is being promoted today will be the first to leave in a few years, as is already the case for Québec women in the sector.

Indeed, according to the [Council for the Status of Women \(2024\)](#), their abandonment rate on construction sites is twice as high as that of men after five years. The Council considers that we must therefore act quickly to keep women workers employed since, at this rate, the departure rate of women risks canceling out the progress made in terms of their entry into the industry.

In their research reports on the [typologies of sexist and sexual violence in the construction industry](#) (Hamel-Roy et al., 2019) and on [the impact of economic recovery on the retention of women workers](#) (Hamel-Roy et al., 2023), the organization *Action travail des femmes* highlights that the main factors contributing to the exclusion of women from the construction industry are discrimination and harassment and a working climate rife with gender-based and sexual violence on construction sites dominated by men, in addition to difficulties in balancing work and family life. And, when it comes to immigrant and/or racialized women, as highlighted in the reports, the discrimination factors intersect and multiply and these women then risk experiencing both sexist and racist violence. With plans to expand the admission of more temporary workers, we can imagine that such abuses will cause or aggravate the precariousness of their status which will give employers disproportionate power. In this regard, a survey conducted by the CCQ (Campeau and Ferland, 2021, p. 25) identified that 35 % of women workers have experienced “situations of discrimination related to their gender or ethnicity” and that 22 % have been victims of bullying or sexual or psychological harassment.

Thus, if the government does not provide adequate responses to discrimination factors and exclusion based on gender and already decried by several organizations, we find it difficult to see how it could effectively broaden access to the construction sector to other marginalized groups - groups whose presence in the industry and difficulties have not even been the subject of prior diagnosis and study. We fear that these unsuitable measures will have the opposite effect by further excluding the targeted groups, or worse, contribute to creating a breeding ground favorable to abuses and violations of the fundamental rights of the persons concerned.

3-AMENDMENTS THAT BENEFIT EMPLOYERS AT THE EXPENSE OF WORKERS

These amendments favor employers and therefore do not benefit workers. In fact, there is a missed opportunity to strengthen the power of unions in defending the rights and interests of workers, in addition to integrating legislative measures which risk exacerbating the competition between workers and increase their vulnerability to abuse ([FTQ, 2024](#)). In addition, the amendments bring several changes which go against a real integration of people representative of the diversity of Québec society, since the measures put in place to facilitate their access paradoxically add additional constraints to their professional progression.

3.1 Flexibility in the eligibility criteria for obtaining the apprentice competency certificate

According to articles 3 and 4.2 of the [Regulation respecting the issuance of competency certificates](#) (r.5), the CCQ can issue apprentice or occupation certificates to people who have not completed a Diploma of Vocational Studies (DVS) associated with construction when, according to CCQ data, in a specific region and profession, the number of available people with a skills certificate is less than 5%. These are then “pool openings”, and people who have 150 hours guaranteed from an employer can obtain a competency certificate to work in the industry.

Since 2016, women have been able to obtain an apprentice competency certificate as soon as an employer offers them a promise of employment of 150 hours and the labor pool for a given trade in their region of residence is rated at 30% or less. This measure facilitated access

for unqualified workers to the industry, which has exploded⁶ in recent years, although leaving several gaps in understanding. Bill 51 proposes to extend this provision to PRDSQ, but there is, in our opinion, a high probability of reproducing the same errors.

Indeed, this access policy to the industry gives rise to important debates. Just like non-qualified men who enter the industry via pool openings, women workers who do not have a DVS are more likely to leave the industry, which places them perpetually in the status of temporary worker. There is no reason to think that said people representing the diversity of Quebec society will be affected differently.

Also, entering the industry without a DVS raises important issues since educational training is not only the moment when workers gain the skills necessary to practice their profession, but also the moment when they learn safety at work. Therefore, encouraging the entry of PRDSQ as non-graduates amounts to directly harming their ability to protect themselves against the risks of work accidents and occupational illnesses that await them.

The current system, which still partially gives priority to people with a DVS and protects the quality of work but also the workers, will be completely dismantled, with a few regional exceptions or during certain seasons. To illustrate our point, in May 2024, in the Montreal region, according to [CCQ data](#), all labour pools, with the exception of the boilermaker profession, are at 30% or less: PRDSQ could therefore be hired, without training, for almost any trade. For example, we can observe very similar results in Trois-Rivières, the region where the Minister of Labor is housed, and in the Québec region where all the catchments are at 30% or less, except for the profession of boilermaker and elevator mechanic.

Thus, like other Canadian provinces, after the adoption of Bill 51, there will no longer be the slightest obstacle to hiring temporary foreign workers, a population made particularly vulnerable by closed work permits and considerable obstacles to accessing permanent residence. Furthermore, according to a study carried out in Alberta, workers hired in the construction industry entered into competition, especially with other underrepresented groups (Foster and Barnettson 2017), such as immigrant people already present in the territory.

⁶ Hamel-Roy et al. (2023, p.42) emphasize that “The relaxation of entry rules for women must be understood in light of this dynamic. Thus, a total of 4449 new women joined the construction industry between 2019 and 2021, representing 71% of the total of active women workers in the sector (6220 active women in 2021).”

3.2 Mobility

The modification made to section 38 of the [Regulation respecting the hiring and mobility of employees in the construction industry](#)(r. 6.1) lowers the minimum threshold of hours worked to 400 hours for women and PRDSQ (versus to 750 hours for the rest of the workforce) before the employer can assign people to other sites across Québec. This modification goes against the intention of promoting the inclusion of PRDSQs, since in fact, this differentiated treatment above all gives more power to employers. Indeed, this allows them in particular to force the most marginalized workers to work in regions other than their place of residence - with, among other things, all the work-family life balance problems that this can generate. Certainly, the closed permit of temporary workers is likely to deprive them of the possibility of refusing such an assignment

Furthermore, if we take into account the [fact that it is women who continue to assume the majority of family tasks](#) (Daoust-Boisvert, 2019), we can argue that the latter will probably have less ease in mobility from one region to another. This decreased mobility rule is especially likely to affect, for example, temporary migrant workers present in the territory without their family and therefore with fewer possibilities for conciliation between obligations.

The latter will then become a more attractive workforce for employers who have construction sites in the regions and thus risk experiencing hostile conditions and situations of harassment or intimidation which are the bulk of workers coming from outside the region.

Research commissioned by the CCQ [on intimidation and harassment in the construction sector](#) documents this issue. The study highlights, among other things, the fact that workers from other regions or migrants are perceived as “job thieves” by local workers, particularly when job offers are becoming rarer.

3.3 Versatility

Versatility and flexibility could be measures to encourage access and retention as long as they are a response to worker demand and are accompanied by adequate training and supervision. However, as part of these amendments, the notion of versatility is used to broaden the tasks that a journeyman can do, without specifying the spectrum.

Ultimately, it is above all at the employer's discretion and not the choice of the employee. This dynamic risks creating a "jack-of-all-trades" worker profile, particularly among the most precarious people.

The FTQ-Construction warns that the versatility proposed by the bill constitutes "[a dangerous flaw](#)" which risks crumbling the construction trades (FTQ, 2024).

3.4 Decreasing supervision

[According to the FTQ-Construction](#), 57 of the 216 workers who lost their lives in 2022 worked in the construction industry. Among these 57 victims, 13 had a work accident and 44 died following an illness. "Construction ranks first among all sectors for illnesses and accidents." In addition, the CNESST (2020), in [its multi-year prevention and inspection plan 2020-2023](#), affirms the need to pay particular attention to clientele - including immigrant workers - presenting a combination of risk factors and vulnerability, which significantly increase the probability of a workplace accident. These factors may be linked to tasks, the work environment or the individual and social characteristics of workers which reduce their ability to assert their rights in terms of occupational health and safety. To this end, the CNESST considers that training and supervision are important guarantees of occupational health and safety prevention. [Sarah Champagne \(2023\)](#), based on CNESST figures, underlined that, in Québec, temporary foreign workers "are nearly five times more likely to be injured at work and to contract illnesses linked to their employment than six years ago."

In light of this data, it appears to us that the increase in apprentice/[journeyman](#) ratios for PRDSQs, like women, risks harming the close supervision necessary for the adoption of safe working conditions, in addition to compromising the quality of their trade training. This measure, combined with measures facilitating access for people without qualifications, could endanger the health and safety of the most precarious workers and, ultimately, strengthen the mechanisms of their exploitation

3.5 Recognition of diplomas outside Quebec: an express route for temporary foreign workers?

Currently, the CCQ takes into consideration training and work experience through the analysis of paper documentation (pay slips in particular, and diplomas obtained in Québec or in other Canadian provinces) to quantify the number of hours that can be recognized in learning. A positive analysis of the file allows direct access to the examination to obtain the status of journeyman, for very experienced people or, since 2021, to the apprentice competency certificate if the person proves⁷ to have accumulated a number of hours equivalent to 35% of the duration of the training in the targeted profession (except for the profession of crane operator).

The recognition of acquired skills and competencies (RAC) is a separate procedure which is the responsibility of the Ministry of Education. This is an assessment, partly in the workplace, of professional skills and which sometimes allows, by completing training modules, to obtain a Québec diploma. However, Bill 51 brings a major amendment which will strengthen professional recognition on the basis of simple documentation, probably to the detriment of the RAC, and will give the role of assess this to the CCQ, an authority responsible for the application of the law on professional relationships.

As highlighted in the brief produced by the [FTQ-construction](#) (2024, p.24), the CCQ has neither the skills nor the resources to know the professional education programs in other countries. This same [analysis is made by the organization Action travail des femmes](#) (ATF, 2024, p.17) which warns that broadening the mandate of the CCQ risks creating more confusion, complicating the process for migrants' integration and, ultimately, harm their access to fair employment opportunities.

The introduction of this regulatory power to the CCQ aims, like the 30% pool openings, to reduce the current delays in the issuance of skills certificates, a major obstacle to international hiring. However, if we take the case of migrants already in Québec, is it really advantageous to do without recognition in a workplace and a Québec diploma? Thus, it seems to us that it is rather within the Vocational Training Centers and CEGEPs that the RAC system should be strengthened. As things currently stand, the CCQ has neither the expertise nor the means to make this process more effective and efficient.

⁷ In the construction industry, a diploma in a construction trade and a job guarantee are sufficient to have an apprentice competency certificate

It must be emphasized that beyond allowing access to a Québec diploma and adapting skills to Québec realities, the RAC process is also an opportunity for migrants to familiarize themselves with the functioning of the industry and start building a network through contacts with teaching staff from the field. This aspect would be lost with an evaluation that would simply be bureaucratic.

Furthermore, in a [research report which was funded by the CCQ in collaboration with several ministries](#) (Blain and Castracani, 2023), several recommendations emerged in order to concretely strengthen the RAC process under the aegis of the Ministry of Education. Among these recommendations are concrete measures such as the implementation of intensive, group RAC with financial support. We can also find the recommendation to promote access to the RAC for people with temporary status already in the territory, for example by offering them the modules to complete at the same cost as people with residency - or more broadly by improving financial support during the process. These recommendations express the intersectoral point of view of several industry players.

4-IMPACTS OF AMENDMENTS ON THE PRECARIOUSNESS OF MIGRANT WORKERS

First of all, let us note that this bill introduces a new category into the great jumble of people representative of Quebec diversity, which is that of “immigrants”. It is presented as being made up of permanent residents and foreign nationals. While the first designation designates a clear status, defined by immigration law, the second only indicates the fact of not being a citizen or permanent resident of Canada. We can therefore infer from this formulation that it describes foreign workers who do not have permanent status, but only a temporary work permit.

On the one hand, if we take into consideration the history of how the CAQ government has managed immigration, characterized by policies favoring temporary immigration in several sectors since it took power, and, on the other hand, the international recruitment missions of the CCQ and the MIFI, it is legitimate to worry that these amendments are only a pretext to adjust the current conditions which allow access to the industry. This adjustment would aim to bring in a large number of foreign workers who would be forced to accept poorer working conditions, precisely because of their precarious status. In this regard, we should remember that the proposed regulatory changes will allow PRDSQs (which includes temporary foreign

workers), such as women, to integrate the industry as soon as the labor pool for a given occupation is 30% or less, removing one of the most important regulatory constraints which until now slowed the use of temporary immigration programs in Québec, compared to the rest of Canada.

However, in recent years, it has become clear that migration status is a significant discrimination factor in the workplace, particularly for the most precarious workers who often hold closed temporary work permits. The UN [Special Rapporteur](#) Tomoya Obakata (OHCHR, 2023) highlighted that the increase in “vulnerability of migrant workers to exploitation in Canada is the closed nature of the program that ties workers to specific employers.” Mr. Obokata also explained that closed permits create a relationship of dependence between employers and workers, and that often, «creates a dependency relationship between employers and employees, making the latter vulnerable to exploitation and abuse.” It is therefore surprising that the amendments to the act are presented as a lever to facilitate the access of these workers to the construction industry, while the very nature of their status creates a breeding ground favorable to what Special Rapporteur Obokata qualifies as “contemporary forms of slavery”.

The measures resulting from the introduction of this new category in the bill risk encouraging the massive arrival of workers who will be used as additional labor, more easily exploitable and therefore less costly, which ultimately, will only benefit employers. In addition to endangering the working conditions of temporary foreign workers as well as their fundamental rights, this dynamic risks, in the long term, fueling negative feelings towards them, particularly on the part of workers with permanent residency and Canadian citizenship. Indeed, this risks increasing competitive logic and exacerbating a climate of xenophobia and racism towards them.

Furthermore, both in the current version of Bill 51 and in the various declarations of Minister Boulet, there is no mention of the status that will be granted to people who are designated as “foreign nationals”. To date, there does not seem to be any prospects of retaining and perpetuating the jobs of foreign workers or of pathways that would allow them to benefit from a permanent status. There is also no mention of accessibility to French courses for non-French-speaking workers, which obviously poses serious fears with regards to their safety on construction sites.

It then seems important to us, to be consistent with the intention of facilitating access for PRDSQs, to offer a pathway to permanent residency for all workers who wish to settle in Québec and Canada as well as offering an open work permit to those who do not wish to immigrate permanently. It is also necessary to provide access to French courses for non-French speakers. Only in this way can we ensure that we eliminate one of the greatest barriers faced by professionals.

4.1 Increased risks for TFWs of accepting poorer working conditions

Considering the disproportionate power an employer has over a temporary foreign worker, and the fact that precarious status prevents workers from having recourse to institutions that allow them to preserve and protect their rights, we believe that this bill will open a gap that will expose this group to the worst conditions in the industry.

However, this disparity will not only undermine the rights of temporary foreign workers because by creating an additional lever of power that advantages employers, these amendments risk putting local workers in competition with foreign workers and, in the long term, will clearly undermine the rights of all workers in Québec.

Furthermore, in an industry where hiring and layoffs are done almost at the whim of employers and foremen and site managers, the pressure weighing on workers, particularly the most marginalized, is already heavy enough. As it is a small environment where peers know each other, workers are often afraid to file a complaint, even in the event of abuse, for fear of reprisals. The slightest objection could exclude them from other projects if they are labeled as “troublemakers”.

4.2 Obstacles to unionization and defense of their rights

Any person employed in the construction industry for tasks subject to Act R-20 must join one of the five recognized trade unions. This would lead us to think that all workers also benefit from a body to defend their rights and interests. However, in reality, precarious status represents a significant limitation and can lead TFWs to only ask for help in very serious situations. On the other hand, union activity can be complex for people who are not familiar with the system or who do not have mastery of the language used. It is also necessary to take into account the several weeks of delay between the moment one starts a position with an employer, and the moment when the CCQ transmits the members' information to the trade union. This delay can represent a significant obstacle, particularly for workers who could be recruited for seasonal work and who only stay a few months in the territory. It is also common for the IWC-CTI to receive TFWs who work in the construction sector and who are unaware of their union affiliation, even if their contributions are automatically deducted.

The same applies to complaints to the CNESST. Once again, there is a lack of understanding of the authorities that are supposed to protect their rights as well as the inner workings of the complaint system. These elements, on top of administrative burdens, represent significant obstacles, especially for workers who find themselves in remote regions, where services are few and far between and without a support network.

4.3 Seasonality of the construction sector

According to figures recently published by the CCQ, workers struggle to work a sufficient number of hours per year and the situation is even more difficult for workers located in remote regions ([Lajoie, 2024](#)). As an illustration, the average hours worked is 1026 hours, or the equivalent of 26.5 weeks, between 810 hours in Baie-James and 974 hours for workers on the North Shore for example (*ibid*). This reality is explained on the one hand by frictional unemployment between two contracts and on the other hand, by the seasonal nature of certain jobs which depend on weather conditions and are therefore on pause during the winter period, before resuming at full capacity as soon as spring arrives. This seasonality generates significant labor force gaps which can reach a variation of more than 52,000 workers between peak and off-peak periods ([Dubuc, 2019](#)).

Everything leads us to believe that these amendments risk copying the same hasty solutions that were put in place for the agricultural sector, namely importing temporary foreign workers who will only temporarily plug the holes for seasonal activities

(Cliche, 2022) and who will be trapped in restricted temporary work even in more stable activities, through one-year work permits that are permanently renewable (as is already the case for greenhouse work).

Furthermore, in certain professions, such as that of roofer, the intermittency of work is visible even during the most productive seasons, because a major rainstorm or even a heatwave can cancel days of work. What will workers with a closed work permit do if the canceled work days extend? Who will support them financially if they have not yet accumulated the hours necessary for employment insurance? Without any form of support or the possibility of working elsewhere if their permits are closed, these foreign workers risk finding themselves in a situation of great vulnerability.

4.4 Employment and living conditions in Québec

Thus far, all the experiences in terms of massive recruitment of temporary foreign workers (TFWs) show us that establishing empowering employment and living conditions remains a major challenge in Québec and more generally in Canada.

For example, in the agricultural sector where TFWs represent nearly half of all foreign workers in Québec, the living conditions of the latter remain well below the living conditions of the average worker in Québec, and we doubt that TFWs in construction will be exempt from this reality. Also, the experience of socio-economic integration for registered nurses who obtained their diplomas outside Canada remains marked today by major economic challenges, among other things related to their access to housing (Charland, 2023) and access to CPEs for their children (Radio-Canada, 2024). On several occasions, scientific literature and journalistic investigations have documented difficult conditions in housing: unsanitary conditions, overcrowded spaces, lack of privacy and bunk beds even though this is prohibited for Québec seasonal workers (Gallié & Bourbeau, 2014). Further, this reality is not about to change, if we consider the inflation rate which is the highest in Canada (Bordeleau, 2024) and the great shortage of affordable housing which affects Québec and several Canadian provinces.

Finally, it should be noted that TFWs who are hired through the low-wage component are deprived of the possibility of bringing their families to the territory, unlike people hired in the high-wage component. Thus, workers who are hired as first-level apprentices, for example, will probably arrive through the low-wage component and will therefore not have the possibility of being accompanied by their families.

CONCLUSION

In order to clearly understand the scope of the amendments brought by Bill 51, we have attempted, through this article, to situate it within the framework of a broader analysis which concerns the political orientation that the current Québec government has taken throughout its two mandates. These amendments seem to us to be part of a continuum where the general direction has been, on the one hand, to give even more power to employers and ministries in several sectors of activity, to the detriment of workers, and on the other hand, to intensify the shift in precarious migration with a historic increase which reached more than 560,000 non-permanent migrants in Québec in 2023 (ISQ, 2024).

When we integrate into our analysis grid, firstly, the Québec-Ottawa agreement concluded in August 2021, which exempts employers from obtaining a labor market impact assessment (LMIA) for the majority of construction trades, and, secondly, the joint missions currently underway that the CCQ, in collaboration with the MIFI, is organizing in several countries such as Tunisia, Morocco, Colombia and France for the international recruitment of construction workers;

it seems quite clear to us that the primary objective of these amendments is to widen the gap which will allow employers to fill the shortage of labor in the construction sector, especially during peaks in seasonal activity, by massive recruitment of temporary foreign workers. This orientation is incompatible with the prospect of putting in place structural and inclusive measures for the sector, measures which would improve the recruitment and retention of the most precarious workers in the industry as well as the sustainability of their jobs. The amendments, in their current version, thus appear to us as a way of filling the missing workforce by providing a pool of more precarious workers who will serve as a supplementary workforce.

It is also important to emphasize that Bill 51 gives employers more power to have, at their convenience, a more precarious workforce to whom they can offer poorer working conditions in the construction sector, which was until then relatively well-regulated and protected. Whether through reducing entry requirements into the industry, modifying the minimum threshold of hours required to allow regional mobility of workers, in terms of the expansion of their tasks and their spectrum of versatility, or even through reducing apprentice/journey-person ratios, Bill 51 creates several possibilities for differentiated treatment which risks forcing the most precarious workers to accept less favorable conditions, thus increasing the risks to their health and safety, in an industry which is already considered to be one of the most dangerous.

Thus, the analysis of the amendments brought by Bill 51 confirms that the intention of inclusion is only an illusion. This bill instead aims to weaken the mechanisms that had made it possible to protect employment in construction by modifying several regulations to advantage employers. In doing so, it will be the most vulnerable workers, particularly those who only have temporary status, who will suffer both the most dangerous working conditions and the most unsustainable living conditions - mirroring what TFWs experience in the agricultural sector in Québec, or in the construction industry in other Canadian provinces.

RECOMMENDATIONS

For all the reasons outlined in this article, we believe that if the intention is really to bring more diversity into construction, **we should first start by carrying out a differentiated analysis from an intersectional perspective, commonly called ADS+.** We should focus on all the obstacles encountered by workers identified as belonging to communities “representative of the diversity of Quebec society”. And, from this point, it would be a question of working to put in place affirmative measures specific to the different realities of marginalized workers. It is only through this rigorous analysis that we can ensure this segment of workers will have access to the same rights and opportunities for advancement and sustainable jobs as everyone else.

As for the specific recruitment of TFWs, we are convinced that the only defense against the loss of the skills for all workers in construction is to avoid creating a subclass of workers whose vulnerability will be used by employers as a means of downgrading working conditions throughout the sector. **In that respect, it seems essential to us to eliminate TFWs main factor of vulnerability by offering them a pathway to permanent residence when they wish to settle in Québec and Canada as well as to offer an open work permit to those who do not wish to immigrate permanently. It is also important to guarantee access to French courses for non-French speakers.**

Finally, we hope that the government of Québec will draw inspiration from initiatives like this [pilot-project launched in Ontario since 2019](#), **and will seize the opportunity to include people without status present in the territory, already working in the construction sector or wishing to integrate it, in order to offer them pathways to regularization and access to dignified and safe working and living conditions.**

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