Temporary labour migration: Exploitation, tool of development, or both?

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Editorial

Temporary labour migration: Exploitation, tool of development, or both?

Economies around the world have long relied on temporary labour migration programs.\(^1\) For years and years, migrants have crossed borders to access labour markets more promising than those in their countries of origin. Moreover, we have recently witnessed increases in opportunities for temporary labour migrants: for example, between 2003 and 2007, the number of temporary foreign migrants labouring in OECD countries rose by 7% per year.\(^2\) These programs are increasingly celebrated as a solution to domestic economies facing acute labour shortages as well as for their contribution to development assistance. However, the apparent benefits associated with temporary labour migration opportunities are frequently accompanied by harms, which may dampen our enthusiasm for them in some cases. The essays contributed to this issue suggest that we have good reason to worry about the implementation of temporary labour migration programs; yet, the contributors do not suggest abandoning them entirely, as much as they make a case for thinking hard about how to reform them in ways that will mitigate the harms they have been known to cause. Our goal in this introductory article is to offer an analytic framework through which to consider the case studies that follow, and the criticisms of temporary labour migration programs within them, in more depth.

Our lens of analysis is exploitation. Temporary labour programs are regularly described as exploitative, and as our newspapers often report, migrants who participate in these programs are frequently the victims of considerable abuse at the hands of their employers and those who run recruitment programs on their behalf. As a result, many commentators – including some of the authors assembled here – believe that guest worker programs that target low-skilled workers in particular are exploitative. The jobs filled by temporary work programs are frequently at least one of ‘dirty, dangerous, and demanding’, and in some cases all three, as a result of which local workers are often unwilling to carry them out.\(^3\) Migrants are often motivated to take these ‘undesirable’ jobs because the living conditions in their home country make them the best, and sometimes the only, way to provide the means necessary to realize the goals they have set for themselves. As a result, some scholars suggest that these programs are unavoidably exploitative.

As readers shall see, the scholars who have contributed to this issue disagree with respect to the source of morally problematic exploitation connected with temporary labour migration programs. As we see it, there are four possible sources of exploitation, three of which are related to the contracts that guest workers sign: (1) the vulnerability of the

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\(^1\) We use the terms ‘guest work’ and ‘temporary labour migration’ interchangeably.


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migrants themselves; (2) the failure of employers to abide by contractual obligations, along with the state’s inability or unwillingness to protect migrant workers from contract violations; (3) the inclusion of unjust conditions in the contracts themselves; and (4) in particular, the stipulation that bars (most) migrants from transferring their status from ‘temporary’ to ‘permanent.’

In what follows, we will elaborate each of these types of exploitation, and assess how they apply to the case studies that follow. Where they are offered, we will outline the justifications proffered in defence of permitting the exploitation to continue; as we shall see, the rights of guest workers are sometimes sacrificed (in some cases, with the consent of the guest workers themselves) to achieve a range of benefits, including the global redistribution of wealth (in the form of remittances), the protection of domestic economies, and so on. In conclusion, we will offer an assessment of the relative merits of these justifications, and we will delineate in broad strokes the conditions for maximally just temporary work programs. Let us begin, first, by offering an account of guest worker programs.

1. What do guest work programs look like?

In general, temporary labour migration programs invite foreign nationals to work, temporarily, in an industry – either high- or low-skilled – that is experiencing labour shortages. In most countries with guest worker programs, employers must demonstrate that they have attempted to recruit citizens to hold these jobs, but that no citizens were available to do so. The contracts that are then offered to foreign nationals are typically short-term (ranging from several months to a few years), and generally carry with them a range of restrictions: employees must return to their home country when their contract is completed; they are beholden to an employer, and are not permitted to seek employment elsewhere; they are not permitted to have their families accompany them; they cannot access citizenship in the country in which they work, and so on. Exceptions are sometimes made with respect to this latter requirement; in particular, high-skilled workers are sometimes recruited with the promise that they will be able to qualify for citizenship status.

In general, the restrictions imposed on guest workers are intended to prevent them from integrating into the larger society, and so to ensure that they desire to, and will, return to their home countries when their contract is completed. At least historically, of course, temporary migrants have frequently found ways – both legal and illegal – to stay permanently in the host country (and some of our contributors observe that this trend is ongoing). As readers shall see over the course of this issue, however, temporary labour migration programs vary considerably in the conditions they impose on migrants; indeed some programs, like the Japanese program for admitting *nikkejin* (Latin American citizens of Japanese ancestry), are not even formally defined as guest worker programs. The only condition that appears to unite these programs is that they are temporary, i.e., migrants enter host societies on temporary visas, which provide them with only temporary access to the benefits of living in these societies (and some, of course, are only ‘temporarily’ temporary, as we shall see).

2. Introducing exploitation

As we noted in our introduction, the contributors to this issue accuse temporary labour migration programs of being exploitative, along a host of dimensions. The disagreements revealed over the course of the issue mirror those among political and economic theorists concerned with the nature of exploitation. For some scholars, exploitation is defined by the treatment of others merely in an instrumental way. For others, exploitation is defined by exclusive benefit to the exploiter, while again others suggest that exploitative relationships often benefit the exploited party as well. For some scholars, exploitation is defined by coercion, whereas for others it is possible for individuals to consent to their exploitation. Moreover, as many have observed, the mere fact of exploitation is not sufficient to determine whether intervention, either by the state or some other party, is essential; it may be that the harm of intervening in exploitative agreements is greater than the harm caused by the exploitation itself. As Alan

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4 Most temporary foreign worker visas for low-skilled workers are ‘single’ rather than ‘double-intent’, which means that the time one spends as a guest worker does not qualify towards one’s application to citizenship.

Wertheimer comments, ‘the wrongness of exploitation does not dictate the way in which these moral questions should be answered.’

Our aim in this introduction is to outline the ways in which these programs have been accused of being exploitative, and also to invite readers to assess along with us whether (a) these conditions are genuinely exploitative, or perhaps merely unfair, and (b) we should be prepared to accept these forms of exploitation, or unfairness, as a result of the genuine goods they appear to produce. Using exploitation as our analytic lens will enable us to assess whether exploitation can be addressed via changes in the operation of temporary foreign worker programs; whether there is a kind of exploitation that, while not remediable, can be acceptably balanced against the benefits delivered by temporary labour migration; and whether there in fact exists exploitation that can neither be remedied via changes to temporary labour migration programs themselves, nor be balanced by the gains these programs are said to deliver.

(1) *The inherent vulnerability of workers:* According to some, the source of exploitation is located in the vulnerability of those who are invited to labour in temporary schemes. Migrants are exploited because they (supposedly) have few options available to them, and are therefore effectively coerced into accepting the (supposedly bad) option that guest work offers. Guest work is thus exploitative because it assumes that the poverty from which guest workers are trying to escape reduces their bargaining power in such a way that they will effectively be coerced into agreeing to unjust contractual conditions.

(2) *Poor working conditions:* According to some, the exploitation of guest workers stems from the unwillingness or inability of host countries to protect them from violations of the contract they have signed. On this view, guest workers sign contracts which appear to be legitimate, but which are often violated, and easily so, as a result of their lack of information concerning their rights as workers in the host country, as well as their fear of losing their job.

(3) *Exploitative contract conditions:* According to some, the conditions that typically define guest worker contracts, as we described above, are themselves frequently the source of exploitation.

(4) *Exploitative bargain:* A final source of exploitation is connected to a specific contractual requirement, namely, that temporary workers are not permitted to ‘transfer’ their status to permanent migrant; instead, they are required to leave the host country on the completion of their contract. Guest workers are thus said to occupy a second-class status, even after having rendered valuable services to that same society. While guest workers are willing to do the dirty work and to labour under difficult conditions – conditions that are unattractive for local workers – and thereby benefit the host society, these same societies will not hesitate to deport those workers (and their children) whose contracts have come to term.

As we shall see, guest worker programs are defended from the exploitation charge by multiple parties: by development economists who point to the benefits of these opportunities for citizens of developing nations, by host countries pointing to the benefits to their domestic economies, and by immigration policy-makers who believe that guest work programs form part of a comprehensive immigration strategy. Let us now turn to evaluating the charges of exploitation, and the attempts to defend against them.

**3. Inherent vulnerability of workers**

One worry is that the conditions under which most guest work transpires – where citizens from developing nations agree to perform unpleasant, poorly remunerated work – are such that the contract agreed is necessarily exploitative. Guest workers are typically extra-ordinarily poor, and have few good options, as a result of which they are effectively coerced into participating in these programs. One might be inclined to believe, as a result, that only low-skilled temporary workers are vulnerable to exploitation of the kind described in this section, but in fact both high- and low-skilled labourers hail from countries in which living conditions may not permit the realization of individual goals (even if these goals take a different form for high- and low-skilled workers).

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In her contribution, Anna Stilz suggests this argument is unpersuasive, however; she is not convinced by those who describe the contractual relationship that binds guest workers and their employers as exploitative on the grounds that they are choosing from positions of poverty. In order for a situation to be truly exploitative, the exploited party must be desperate, and the exploiter must be in the singular position to provide relief; the exploiter must further take advantage of the desperation by imposing unfair conditions, in particular.7 Since guest workers typically have a range of options available – the most basic of which is to participate in temporary labour migration programs, or not – we must acknowledge them as agents whose choices, although perhaps constrained in ways we may lament, are real ones and should be recognized as such.8 As a result, says Stilz, guest workers are not exploited, if what we mean by exploitation is that the poverty from which guest workers are attempting to escape renders them incapable of agency. Stilz’s position finds some support from evidence that suggests that the nations that are the largest senders of temporary labour migrants are not, in fact, among the least developed, but are rather middle-income countries like Mexico and the Philippines.9 To some extent, then, it may be misleading to characterize guest workers as choosing guest work from positions of desperate poverty, and therefore as exploited; they may instead be negotiating ‘from a position of sufficiency.’ As Robert Mayer suggests, ‘while they [guest workers] have less than the host country and their prospective employers, they have enough, and that circumstance makes them unexploitable.’10 We do not wish to deny that guest work frequently provides increased economic opportunities; acknowledging this fact simply recognizes that the economies of some countries offer far more possibilities than those of others, and that in some cases workers are willing to move abroad to access these opportunities. The fact that global conditions determining this imbalance are such that some embark on guest work is not sufficient to merit describing guest work programs as exploitative.

Stilz’s suggestion finds additional support from development economists who point to the genuine benefits of guest work opportunities, both for individual guest workers, who are frequently able to amass considerable personal wealth as a result of the work to which they have access, and for the communities to which these migrants belong.11 The remittances sent home by migrant workers often generate considerable benefits to sending societies.12 Such money transfers have been celebrated as an important factor in the development of sending societies, particularly those who enter into bilateral agreements with host societies that go beyond agreements to send labourers (see Fiona Barker’s contribution, for an account of these agreements between New Zealand and the Pacific Islands, and Amarjit Kaur’s contribution, for an account of similar agreements in Southeast Asian countries). Other authors have highlighted incentives implemented by governments of sending societies to expand investment and development in communities that receive remittances. For example, Mexico has established a program that encourages villages and towns receiving remittances to identify projects that will aid the entire community (rather than only individual families who receive the remittances), and to pool their resources in pursuit of this project. Once the project is identified, and adequate contributing resources from the village or town are secured, the federal government will contribute 75% of the funds necessary to complete the project.13

Not all of our contributors are satisfied with the simple cost–benefit analysis that development economists offer to defend temporary work programs. As Nicola Piper observes, this purely instrumental approach, which conceives temporary labour migration solely in terms of the material benefits that accrue to sending and receiving societies, fails to consider the agency of the migrants themselves; not only does the income provided from temporary labour opportunities provide some level of economic agency to individual migrants, it provides them with political agency as well. Piper thus

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7 Mayer, R. (2005). Guestworkers and exploitation. *Review of Politics, 67*(2), 323. Thus, if an employer is in the singular position to offer relief, but imposes fair conditions, the situation may not be exploitative.


recommends shifting the discourse around temporary labour migration, from one that focuses exclusively on its contribution to economic development in sending and receiving societies, to one that focuses additionally on the political and social activism that temporary labour migration opportunities can permit and encourage.

More generally, the economic benefits of guest work must be weighed against the social costs associated with extensive out-migration, which are increasingly being documented. Many of the pieces in this issue point to these costs, which include: long-term separation of family members, which can have detrimental effects on children who are raised by one parent only; shifting of work incentives in developing communities, where young adults come to reject non-migration work opportunities for their being less lucrative (and therefore choose against labouring altogether, if they cannot access migration opportunities); and so on.14 These costs are typically borne by communities in developing nations who provide the labourers for guest work programs that target low-skilled workers. The costs borne by communities who lose high-skilled workers – engineers, information technologists, and so on – are sometimes thought to be even higher. Of late, we have seen particular emphasis on the costs, to developing communities, of losing their nurses and doctors to attractive opportunities in developed nations. Programs designed to recruit these workers are criticized for the ways in which they force developing nations, which bear the cost of educating doctors and nurses, who then migrate in pursuit of better opportunities, to subsidize the provision of health care in developed nations.15

4. Exploitative working conditions

Below, we consider the complicated set of questions that arise from the contractual conditions that typically characterize guest work. For now, let us take for granted that these contractual conditions are fair. Often, however, even these contractual conditions are not adequately met, and we frequently hear harrowing stories of the abuse to which guest workers are subject at the hands of unscrupulous employers. The migrants who participated in the American Bracero program (which ran from 1942 to 1967), which extended Mexican citizens short-term contracts to labour in the American agricultural industry, were the victims of just such extensive abuse. In a discussion of the program, Mayer reports that:

The biggest problem with the Bracero program was that too many employers paid less than the prevailing wage or cheated their guests in other ways. The rules were broken and oversight was lax, and these abuses increased the level of exploitation experienced by many braceros unacceptably.16

A similar story recently came to light in Canada – a member of parliament was very publicly accused of violating the terms of the contract she had signed with care-givers hired through the Canadian Live-in Caregiver Program (see Rachel Brickner and Christine Straehle’s contribution for an account of this program), and these accusations led to even more reports of abusive treatment of guest workers in Canada.17

Although the abuse of guest workers is often contractually prohibited, guest workers are easy targets for this abuse, as a result of multiple factors, including: (1) their geographical isolation, since they often labour in environments far from populated areas, in which they might seek help, which is exacerbated by the requirement that they live on their employers’ premises of their employers and/or their employment; (2) their lack of familiarity with the treatment to which they are entitled and the rights they have; (3) the inability or the unwillingness of state organizations to monitor work environments that hire guest workers, or to sanction employers who violate these conditions; and (4) their fear of losing their job or of not being rehired if they complain about their work conditions.18 That they fear for their job to

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17 These instances of abuse have motivated the work carried out by the recent report, Temporary Foreign Workers and Non-Status Workers, produced by the Standing Committee on Citizenship and Immigration, in May 2009.
such an extent that they tolerate this abuse suggests that they are not making choices as freely as Stilz hopes they are; that said, the abuse to which guest workers are so frequently subject is not inherent to guest work itself, but is rather a consequence of unscrupulous employers who are happy to take advantage of the circumstances that prompt guest workers to take up work. Increasingly, however, we see guest workers mobilizing, often with the aid of migrant advocacy organizations, to counter these kinds of abuses (as illustrated in Piper’s piece, as well as in Brickner and Straehle’s); in particular, we are increasingly seeing migrant organizations using the courts to fight for protection of guest worker rights.

5. Exploitative contractual conditions

Let us now turn to an evaluation of the contractual conditions that typically frame temporary work. The structure of the contracts differs significantly by state, as we noted above. Although one might be tempted to think that guest workers would be entitled to a full range of economic rights – since guest workers are primarily admitted to participate in the host countries’ economy – many of the standard economic rights are nevertheless denied to guest workers. They are often denied the right to change employers (and job loss frequently results in near immediate deportation), the right to join unions and the right to strike, for example.

Additionally, as we noted earlier, contracts can require that workers live on the premises of their employers, as Brickner and Straehle outline is the case for the women who enter Canada as domestic care-givers. Others deny the right of guest workers to interact (in significant ways) with the larger society; as Piper explains, low-skilled workers are frequently contractually barred from marrying locals in Malaysia and Singapore (no such provision applies to high-skilled workers; we shall further discuss the distinction between the treatment of high and low-skilled workers below). In some cases, certain categories of workers are excluded from the protection offered by national labour legislation – as Kaur observes, Singapore explicitly excludes domestic foreign workers from the protections extended by its main piece of labour legislation. Other standard contractual terms include the stipulation that guest workers cannot travel with their families, and, in particular, that they cannot access a host of ‘social’ rights to which citizens of the host country are entitled. These rights – which range from access to more than emergency health care services, to educational facilities, to pension plans, to unemployment insurance – are often denied to temporary workers, on the grounds that they are, after all, only temporary. When migrant workers are required to contribute to these programs, through income and payroll taxes, and when they are then denied access to these services, it seems clear enough that temporary workers are the victims of injustice. Of late, we have seen calls to exempt temporary workers from the requirement that they contribute to these programs, so that they can retain the income they have earned (rather than be forced to subsidize the social welfare programs to which they are denied access).

Whether migrants should be denied social rights in general is a subject of extensive debate. Those who offer justifications for these restrictions point to what has been termed the ‘rights-numbers trade-off,’ according to which we should expect to see an inverse correlation between the number of guest workers admitted to labour in a nation and the rights to which they are entitled. There are two constituencies who lobby for increased numbers of guest workers, and who therefore support the rights restrictions to which they are subject: development economists, who believe that the net redistribution of wealth as a result of temporary work is significant, and local employers, who wish to hire foreign workers who are willing to work for low salaries. Development economists believe, in restricting the rights provided to guest workers, the numbers admitted will be higher, and therefore the net redistribution of wealth will be greater. Equally, local employers worry that the granting of extensive rights to guest workers will make it more expensive to hire them. The restricting of guest worker rights more generally finds support with domestic populations who are anxious about the (putatively) negative consequences of high levels of permanent migration. Thus, the restrictions are justified to assure the ‘temporariness’ of guest workers, even in the face of evidence that access to guest workers is essential to securing a range of economic benefits in the domestic society. The rights restrictions, it is

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19 See, for example, CBC, Canada line foreign workers treated unfairly, tribunal rules, http://www.cbc.ca/canada/british-columbia/story/2008/12/03/bc-canada-line-workers.html.

20 For an argument that guest workers should first and foremost be granted the full range of economic rights, see Attas. The case of guest-workers: Exploitation, citizenship and economic rights, 86–91.


claimed, serve to ensure that temporary migrants do not integrate into the larger society (given the suggestion that one tool of integration of newcomers is their incorporation into the welfare state regime). By contractually limiting the possibilities for integration, we make it more likely that temporary labour migrants will choose to leave, rather than stay on illegally, or attempt to transfer their status to permanent resident.

The trade-off is not, however, one that we see with respect to all temporary labour migrants; rather, it is one that we tend to see with respect to low-skilled migrants rather than high-skilled migrants. Not only do high-skilled workers have more labour options available to them in their countries of origin, as we discuss below, they also often have privileged access to membership in the host society, and the social rights that come along with progress towards membership. It seems plausible to say that, as a result of the relatively fewer restrictions to which they are subject, they are not exploited in the same way as are low-skilled workers. We may therefore think that the moral dilemmas raised by high-skilled migration are in a different category, and less urgent, than are those raised by low-skilled migration.

6. Exploitative bargain

The contractual conditions offered to high- and low-skilled workers typically differ significantly. These are largely determined by two factors: first, the supply of each of these types of workers is not equivalent; whereas there appears to be a near endless pool of low-skilled citizens in developing countries who are interested to migrate as part of temporary labour migration schemes, there are fewer high-skilled workers available to migrate. Additionally, whereas high-skilled workers are needed to fill chronically unmet needs in those same countries, the demand for low-skilled workers appear to depend on economic cycles. The need to compete for high-skilled workers, by offering them favourable contract conditions, serves to explain the differences between the contracts offered to high- and low-skilled workers. Whereas low-skilled workers are often tied to a specific employer, many high-skilled workers are not bound in this way; for example, as Dina Kiwan observes, high-skilled workers in the UK can apply for work visas without having to show proof of having found a job. As Kaur observes, moreover, high-skilled workers in South Asia are often permitted to travel with their families, whereas low-skilled workers are generally not permitted to do so.

The second and most significant distinction between the contractual conditions offered to high-skilled and low-skilled migrants is that only the former are typically offered the opportunity to transfer their status from temporary to permanent. As Kiwan and Kaur describe in their respective contributions, temporary worker programs that target high-skilled workers in the United Kingdom, and Thailand and Singapore, aim to fulfill labour needs while buttressing their appeal to foreign workers with the prospect of future access to membership rights. Thus, a purely instrumental approach to temporary work programs does not preclude the possibility that membership rights will be made available to guest workers, so long as these workers are in demand; yet, the case studies that follow this introduction make clear how infrequently membership rights are offered by developed nations, in exchange for having their labour needs filled by ‘temporary’ workers.

Canada and New Zealand both offer the promise of permanent residence and future citizenship to at least some categories of low-skilled guest workers, as well. As Barker explains, New Zealand has adopted temporary worker programs as an explicit element of its broader immigration policy, through which many high- and low-skilled workers can gain access to permanent residency. Canada offers only one national temporary work program for low-skilled workers that automatically qualifies its participants to apply for permanent residence, namely the Live-in Caregiver Program. However, the Parliamentary Standing Committee on Temporary Workers and Non-Status Workers in Canada has recently recommended that temporary workers more generally be enabled to apply for citizenship:

The Committee believes that all temporary foreign workers in the current programs should have the opportunity to apply for permanent residency after meeting certain criteria, an opportunity not currently universally available to them. The Committee’s vision is the vision of immigration that Canada has long cherished: mutual commitment on the part of immigrants and this country to work hard and invest in improving the future. We want

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24 However, other Canadian programs that target low-skill workers do offer the possibility of transitioning to permanent status, in time.
immigrants to feel that Canada is welcoming and that there are no barriers to social and economic participation. We also want them to feel that it is worthwhile to commit their time, talents and their children’s futures here. These commitments follow naturally from permanent immigration, serving all parties—employers, workers, and communities—well.

The Committee recognizes that many workers and employers desire their employment arrangement to be permanent and we feel that permanent migration is in Canada’s best interests.25

Assessing the effect of such proposals on our analysis of the exploitation as guest workers is difficult, however. If guest work programs are indeed found to be exploitative, would the promise of a ‘reward’ at the end of what some believe to be an ordeal serve to mitigate this exploitation? As we shall argue further in the final section of the article, the fact of not being barred in principle from permanent residency and citizenship is likely to have positive impact for both temporary workers and employers. Employers may be less likely to exploit future citizens and temporary workers may be more confident in claiming the rights to which they are entitled qua temporary workers. While the prospect of membership may at first glance seem too far off to balance the apparently high costs of guest work, it may be that it positively shifts the conditions under which guest work is carried out (in ways that directly reduce the costs of this work).26 Moreover, access to citizenship may give temporary workers motivation to participate in the political system (before and after they naturalize), with a view to improving the conditions of temporary work over the long-term, as is illustrated by the kind of advocacy work in which low-skilled workers in Canada have been engaged.

The fact that high-skilled workers are less likely to be subject to subject to restrictive rules, including restrictions on whom they can marry (as is the case for low-skilled workers in Malaysia and Singapore), and on whether they can travel with their families (which, as Piper points out, is not permitted for low-skilled migrants in many Southeast Asian countries), highlights how frequently the human rights to which temporary workers are entitled are subordinated to domestic political priorities. However, the willingness to permit the differential treatment of high- and low-skilled workers, in response to the demand for these workers in a given domestic environment, illustrates an important structural and systemic parallel between high- and low-skilled workers, i.e., their vulnerability to domestic policy in which they do not have a say (even if, as is the case for some high-skilled workers, they are promised the opportunity to have a say in the future).27 In the first place, like low-skilled workers, high-skilled workers will only be allowed access to the host society’s economy if they are needed. In other words, the central question at issue with respect to admitting high- and low-skilled workers is the same: will admitting these workers serve the interests of the receiving community? Although the conditions of access to labour markets are less regulated for high-skilled guest workers, and even though the conditions imposed on them are easier to meet, the opportunity to migrate nevertheless depends on whether or not their skills are in demand. Heeding Piper’s call to think of labour migrants as independent agents, and the ways in which these conditions limit their agency, suggests that, at least from the perspective of admission, the agency of high- and low-skilled migrant workers is comparable: in both cases, their admission is largely dependent on market forces in receiving countries.28

Additionally, both high- and low-skilled workers are subject to a set of conditions, which they must meet in order to continue residing in the host country. As Kiwan illustrates for the case of the Tier 1 program in the UK, high-skilled workers receive a work permit for one year which can then be renewed for three years, after which they are permitted to apply for permanent residence and, in time, citizenship. Kiwan describes the ‘moral’ conception of citizenship that the

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26 A skeptical reviewer pressed us to consider whether this policy shift will be of use to those who do not desire to apply for citizenship; if we are right that the conditions of temporary work will shift in response to this policy change, the benefits will accrue to labourers regardless of their intent to apply for citizenship.
27 And this is objectionable because, as Michael Walzer describes in his account of guest workers, so long as they are subject to rules they do not have the opportunity to shape, they are victims of political injustice. See Walzer, M. (1983). Spheres of justice: A defense of pluralism and equality. New York: Basic Books. Chapter 3.
28 This observation raises additional concerns with respect to the justification for immigration policies that are based on the need of national markets rather than on other concerns, such as global redistribution, say. This is a debate that is carried out in the literature on open borders, and does not concern us here. See for example Carens, J. (1987). Aliens and citizens: The case for open borders. Review of Politics, 49, 2; Kukathas, C. (2005). The case for open migration. In Cohen, A., & Wellman, C. H. (Eds.), Contemporary debates in applied ethics. Oxford: Blackwell.
UK has adopted in order to illustrate its openness to immigration, according to which prospective citizens are encouraged to demonstrate social and moral responsibility, while also offering proof of economic achievement and independence. If they are good citizens and fit in, in other words, the community will include them. Thus, the community maintains the right to exclude them – a reality many low-skilled workers live daily, as illustrated in the cases of Japan and Israel (as we elaborate below).

In spite of these similarities, it remains the case that high-skilled workers typically have easier access to citizenship than do low-skilled workers. Indeed, the case studies that follow illustrate that low-skilled workers perceive the disrespect to which they are subject (often reflected in their inability to access membership) as profoundly unfair. As the interviewees who form the basis of the articles contributed by Michael Sharpe, and by Robin Harper and Hani Zubida, report, there is a strong perceived unfairness on the part of migrants to Japan and Israel, who feel that they have lived up to the conditions of their original contracts and work visas, and that they have served the host society well, but who are nevertheless denied recognition for the contributions they have made to the host societies. Instead, guest workers are subject to campaigns to be removed, or are required to fulfill unreasonably demanding conditions in order to be admitted to permanent residence. For example, in the Japanese case, the nikkejin are formally permitted to apply for permanent residency and citizenship. Yet, to do so, they are required to abandon the citizenship of their country of origin, and to demonstrate very high levels of linguistic and cultural competence; as a result, not many are able to obtain Japanese citizenship, as Sharpe outlines.

In general, then, the guest workers interviewed believe that there is a moral discrepancy between the ‘demands’ that host societies put on their guest workers – they are segregated from their families, and often from the host society as well, and they are labouring in demanding jobs, which are essential to the domestic economy – and the recognition they receive as contributing members of society. This absence of recognition, they suggest, is illustrated by a general unwillingness to recognize their human rights, and to acknowledge that in time they become, morally (if not legally), entitled to citizenship status.29 In many cases, interviewees complain that their employers or other members of the host society simply view them as dispensable service providers, but not as human beings or as budding members of the community. In contrast, many interviewees (and those quoting them) seem to suggest that hard work, i.e., fulfilling the demands of the employers, and residency over time should lead to or enable full membership in the host society. For them, only then will the initial unfair set-up of temporary work be adequately mitigated.

As Barker notes in the introduction to her contribution, immigration regimes are influenced by multiple factors. Economic factors alone do not determine the decisions nations make with respect to admitting temporary labour migrants; there are considerable political considerations that come into play as well. For example, the unwillingness of Israel, Japan, Germany and Malaysia, to offer easy access to permanent residency, and citizenship, illustrates clearly how important a role is played by ‘national identity’ in determining immigration regulations. As Jeffrey Jurgens explains in his contribution, for example, the Federal Republic of Germany happily naturalized so-called ‘ethnic’ Germans who were descendants of those emigrants who had lived in Russia since the times of Catherine the Great, but who were eager to move westward. Yet, the children of first generation Turkish guest workers, born and bred in Germany, have only had (relatively) easy access to citizenship following the passage of a new citizenship law in 2000.30 Jurgens’ contribution outlines the failure of Germany’s attempt to recruit high-skilled workers, a failure he attributes in significant part to Germany’s reluctance to offer these workers access to German citizenship. Similarly, as Harper and Zubida explain in the Israeli case, debates concerning the conditions of temporary labour migration are accompanied by discussions of citizenship law and the nature of society more broadly. Israel defines itself as the homeland of all Jews and thus allows easy immigration to Jews of different citizenships, while preventing temporary workers from putting down roots in Israeli society with measures that may seem draconian to some (including nighttime deportations, as Harper and Zubida illustrate). Indeed, as Harper and Zubida explain, a limited access to permanent residency for those having entered Israel as temporary workers is through their children: in some limited cases, the government offered access to citizenship to certain Israeli-born and socialized foreign worker children who

29 The unhappiness expressed by these guest workers supports Ruth Sample’s claim that the badness of exploitation stems from the “degradation” connected to certain forms of contracts or agreements. Contracts are exploitative, in other words, when they treat “someone as having less value than that person or thing actually has.” See Ruth Sample. (2003). Exploitation: What it is and why it’s wrong (p. 4). Lanham, MD: Rowman & Littlefield Publishers. This complaint is precisely the one being expressed by the guest workers interviewed by Harper and Zubida.

served in the Israeli army, and permanent residency to their parents afterwards. Very few individuals have participated so far and the constitutionality of this contentious program remains under discussion.

While both Israel and German have historically been eager to admit migrants who share an ethnic ancestry with the receiving population, Japan has not displayed the same enthusiasm; thus, although all three countries may be described as committed to ethnic citizenship regimes, shared ethnicity is sufficient to ease access to citizenship in only Germany and Israel. Similarly, whereas the nikkejin were, initially, invited to labour in Japan as defacto guest workers, they are now being encouraged to return to Latin America because they are perceived to be unable to demonstrate the key elements of Japanese citizenship, i.e., the mastery of the Japanese language and culture. For these countries, temporary workers thus had largely to remain temporary, and outsiders, in order to protect the historically dominant conception of citizenship: German ancestry in the case of Germany, the Jewish culture in the case of Israel, and until recently Japanese ethnicity, language and behaviour, in the case of Japan.

Compare this to the programs in Canada, New Zealand and the United Kingdom, all of which have programs that extend permanent residency to temporary migrants of at least some types. As noted earlier, temporary workers who enter Canada under the Live-in Caregiver Program can apply for permanent residency after two years of work in Canada. New Zealand has relied on temporary work programs as an essential part of its larger immigration policy. As we have already described, the same is true of the UK’s recent attempt to attract high-skilled workers with the promise of easy access to British citizenship. In Canada, New Zealand and the UK, then, temporary workers and their status is equally a function of the dominant account of citizenship, but this account has traditionally included support for extensive migration (and migrant integration). As Kiwan outlines, rather than focusing on ‘ethnic characteristics,’ as do the programs in Israel, Japan and Germany, the new UK citizenship conception is instead a ‘moral’ one that promotes ideas of the ‘good’ citizen, where ‘good’ denotes ‘good’ economic standing. Canada and New Zealand, moreover, traditionally conceive themselves as nations of immigrants.31 In these cases, this national conception enables the admission of temporary migrants to citizenship, irrespective of ethnic or racial characteristics.

7. Concluding thoughts

We opened the piece by offering the concept of ‘exploitation’ as an analytic lens through which to evaluate guest worker programs; the concept is helpful, we believe, in articulating the various dimensions along which guest workers are treated poorly by host countries. But, as we conclude, it may be worth expressing some caution in deploying the concept of exploitation to describe the injustices with which our authors are broadly concerned. The fact of the matter is that we need to think seriously about the levels of unfairness or exploitation, i.e., the ‘intensity of the wrongness’ involved in guest worker programs as they presently operate (or could operate).32 For example, there are dangers in ascribing the term ‘exploitation’ to the contracts that poor guest workers sign, simply in virtue of the poverty from which they are attempting to escape; moreover, since the contracts are often mutually beneficial, we may have reason to support them even if, at the end of the day, they remain unfair or exploitative.33 The choices that poor migrants make, to join host communities temporarily in pursuit of personal wealth, are genuine ones, and must be respected as such. They are, as Piper reminds us, agents in their own right. As members of host communities, we are morally implicated in protecting not only the human rights of guest workers who reside within our borders, engaging in socially useful labour, but also in protecting the more robust rights to which they are entitled as significant contributors to our society. To the extent that we do not extend this protection, we are remiss. As Piper explains, and as Brickner and Straehle elaborate, we are increasingly witnessing activism by migrants who are vocally pressing us to, at least, carry out our end of the bargain insofar as this entails protecting the rights of guest workers while they live on our territory.

By way of too brief a conclusion, we would like to propose that we take seriously the sense of injustice expressed by the temporary migrants in Israel, and in Japan, who believe they are being treated unfairly by their political

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33 As Wertheimer notes, exploitation can often be mutually beneficial; that both parties benefit is not sufficient to deny referring to certain agreements as exploitative, however. In his view, they are exploitative when we believe that one party ‘pays too high a price for what he or she gains.’ See Ibid., p. 22.
exclusion from the countries that host them, and therefore to suggest that just temporary labour migration programs enable transition from temporary to permanent status over time. Although, as we previewed above, it may not be the case that extending membership to guest workers erases the harms imposed by otherwise unjust contractual conditions, and of course not all forms of exploitation will be remedied by making membership rights available, this show of good faith can in many ways mitigate them. It offers, in our view, a morally defensible balance between the goods said to emerge from guest work opportunities – redistribution of wealth in the form of remittances and support to domestic industries facing acute labour shortages – and the harms perpetrated on guest workers during their stay. Our proposal thus suggests that we re-describe the ‘temporary’ element of temporary labour migration programs; the length of stay is not ‘temporary’, on our view; rather, it is the labour restrictions imposed on migrants who enter on the relevant visas that ought to be ‘temporary’. The benefits of deploying this strategy are many. First, workers are admitted to a host country in response to acute labour shortages, and are required to labour in these industries for a considerable period of time (a specific policy proposal would of course have to engage in a discussion of the length of time these migrants can be restricted to an employer or an industry). Second, and in particular since the workers who would be admitted are low-skilled, and hail from developing countries, we will see considerable wealth redistribution as a result of this policy.

One might reasonably object that such a proposal pays insufficient attention to the gains that can be ongoingly reaped as a result of restricted temporary labour migration programs that do not provide opportunities to transition to permanent status. According to this objection, we should more seriously consider the place of temporary migration as a solution to global wealth inequalities, even if it is only a second-best solution. We ought to accept the rights restrictions imposed on temporary labour migrants, in exchange for the redistributive benefits that these restrictions will enable. Yet, we do not believe that this objection – though very important – is compelling, for three reasons. First, at least for now, the empirical evidence that suggests that we are forced to make a choice between global redistributive benefits and rights restrictions is not decisive. We will require more evidence to illustrate that we are forced into this trade-off, as well as the putative redistributive benefits of accepting the rights restrictions in favour of redistributive benefits, before this objection will need to be met. That we do not witness the trade-off with respect to high-skilled migrants suggests that it is not an inevitable feature of admitting guest workers, moreover.

Second, we are skeptical of claims that a reduction in officially designated temporary labour migrants will have a negative impact on another element of redistribution, i.e., in the form of remittances returned by migrants to their home countries. Some evidence suggests that the extent of remittances returned to home countries declines as migrants shift their allegiances, over time, to the host country from the sending country; this evidence could be taken to suggest that, from a redistributive perspective, we ought to ensure that our migrants remain temporary, so that their allegiances remain with their home country. However, since temporary migrants are admitted in the first place in response to labour shortages, and not from any concern with global wealth inequalities, receiving countries will admit migrants to carry out these jobs so long as they continue to exist (and only so long as they continue to exist). In our view, these migrants can legitimately be limited to an industry or an employer as a condition of their initial admission; if it is true that remittances are sent only for an initial period of time after arrival, we should be able to secure this remittance stream (and the consequent redistribution of wealth across borders), by ensuring a constant stream of new migrants to fill job openings. The developed nations that rely on temporary labour migration schemes to fill labour shortages are, as is well-documented, experiencing aging populations and declining birth rates. We have no reason to believe therefore that the economic incentives host countries have to admit migrants from developing countries, who are willing to labour in ‘difficult, dangerous, and dirty’ jobs, are likely to cease.

34 We defend this view in greater length elsewhere, in ‘Temporary Labour Migration, Democratic Justice and Global Redistribution’, under review.
35 This is a difficult and technical discussion, which we unfortunately have insufficient room to discuss here. For more on this debate, see Carens. Aliens and citizens: The case for open borders; Bader, V. (1995). Citizenship and exclusion. Political Theory, 23, 2; Kukathas. The case for open migration.
Third, ultimately we are skeptical of evidence suggesting that large numbers of migrants, who have access to the full range of integration services (which temporary labour migrants do not), will damage the host society’s democratic and welfare institutions in ways that are morally problematic. The evidence suggesting the negative effect of immigrants on these institutions, in particular in self-conceived immigrant-receiving states (including among others Canada, the United States, New Zealand, the United Kingdom), is minimal. Overwhelmingly, the evidence suggests that the admission of immigrants is net positive.

In summary, although we do not have the space to defend adequately our proposal – for providing access to permanent residency, and then citizenship, to migrants who are first admitted to labour temporarily in a field experiencing labour shortages – we believe the case studies that follow illustrate the plausibility of this solution nevertheless.

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38 This is not to say that host societies can accept unlimited numbers of new migrants, temporary or otherwise, without facing difficulties in sustaining a commitment to, and the resources for, social justice programs. We simply want to recognize that wealthy nations can afford to admit many more migrants than do they without suffering the adverse effects that worry anti-immigrant lobbyists.