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Temporary Migration: An Overview

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RIIM

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Temporary Migration: An Overview

by

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Most immigrant-receiving countries provide an alternative entry gate to permanent admission. For example, permanent admission to Israel is difficult for non-Jews, and Japan, Germany and Spain have no formal permanent immigration entry gates for non-nationals. However, all these countries occasionally experience short-term skill shortages and thus import unskilled or highly skilled workers under temporary admission visas. These temporary visas can be very restrictive in duration, employment flexibility, access to benefits, and sponsorship rights. Furthermore, most legal temporary immigrants face rigorous employment authorization tests. Between the 1950s and early 1990s, most temporary workers to the European Union, United States and Canada were often unskilled service or agricultural workers. More modern examples of temporary immigrants include students, intracompany transferees and designated highly skilled workers entering the United States, European Union, Australia and Canada.¹ The latest variant of temporary movers has developed as an outgrowth of trade agreements (GATS, European Union and NAFTA) with their attendant mobility provisions. This recent growth in temporary visas, with often-extended conversion rights, has led to an increasing share of temporary movers as a portion of total movers.

In the admitting country, the universal issues surrounding temporary visas are conversion rights to a permanent immigration status and the assessment of possible short-run depressing effects on employment, training and wages of resident workers. Receiving countries address these problems with a variety of policies from near draconian deportations to flexible conversion rights or amnesties, which allow permanent residence. For example, Malaysia charges a fee and bonds employers to mitigate public health costs and to insure employer co-operation when temporary immigrants must leave. Other countries either leave temporary workers in quasi-legal permanent residence (Spain, Germany) or allow unlimited temporary renewals (NAFTA TN visas) which can lead to an eventual permanent legal status.

Given this background, in December 1998, the Third International Metropolis Conference convened a two-day seminar to document the history and emerging issues of contemporary temporary immigrant movement to Europe, Israel, Asia and North America. This book is the result of that conference. Below, I give a brief overview of several countries' temporary immigrant experiences as reported by the conference's authors. This cursory review indicates that, to date, each major immigrant-receiving country has experienced a different pattern of temporary movement with respect to skill level, conversion rights and workers rights. This differential experience is an outgrowth of the individual country's goals for its temporary program. These goals often include limits on visa duration, ultimate conversion rights to a permanent status as well as the existence of various degrees of more or less flexible employment authorizations. The several papers commissioned by the conference organizers had the goal of seeking a set of common elements that would constitute an optimal temporary

¹ Examples of modern skill shortages abound and range from stonemasons in Israel to IT workers for the Silicon Valley in the late 1990s.

immigration policy. Failing this ambitious goal, it was hoped that the comparative analysis contained in this volume would allow policy makers to avoid egregious past errors.

Temporary immigration arose in the modern era in North America and Europe as a by-product of the Second World War. The United States, due to war-induced labour shortages initiated a legislated temporary migrant program for Mexican agricultural workers in the 1940s. Later, this seasonal agricultural worker program led to an expanded northern movement of Mexican legal and undocumented workers under various legislative frameworks. In the United States, strong political forces were pitted against one another to assess the economic impact of this transnational movement. California growers cited a shortage of domestic labour while labour interests interpreted this trans-border movement as a source of union busting. Others argued that Mexican seasonal workers were not covered by the extant labour protection codes, and this exemption represented a two-tiered labour code with worker exploitation. As Lowell notes in this volume, much of the historical debate surrounding the unskilled temporary Mexican worker debate has reappeared in the modern highly skilled temporary worker debate. Questions of wage depression, substitution of temporary workers for domestic workers and temporary worker exploitation have all appeared under the United States ambitious H1-B temporary visa program, which is aimed at highly skilled workers.

Canadian experience in the 1990s with its temporary domestic worker or nanny program, illustrates the modern face of a presumed carefully framed program that attempted to avoid the typical pitfalls of a temporary unskilled labor program by attaching unique features to Canada's policy. First, domestic workers or nannies from the Philippines were given the legal entitlement to convert to a permanent status after a probationary period. However, the initial labour mobility restrictions placed on these temporary workers led to charges of exploitation of the largely female domestic workers. As a consequence, temporary domestic workers were brought under provincial labour legislation. Nonetheless, continued instances of exploitation have led to questions about the need for a temporary worker program when a permanent entry status could alleviate these problems.

In short, these two separate North American experiences lead to several more universal questions including:

- a. Who benefits and who loses from temporary movement in the receiving country?
- b. How do we mitigate the enforcement and social costs of temporary unskilled movement in the receiving country?
- c. Is temporary movement superior to permanent movement?
- d. On balance, does the receiving country benefit from temporary unskilled movement?

The Third International Metropolis conference led by Human Resource Development Canada and Vancouver's Center of Excellence on Immigration and Integration commissioned papers on Germany, Malaysia, Switzerland, the United States, Canada and Israel to provide historical context in order to address these questions.

Each country chosen for this volume represents a potentially interesting experimental framework by which to assess the answers to the above outlined questions under different policy regimes. These countries, in short, represent the extremes in immigration policy. For example, Germany has no mandated immigration legislation program, but has allowed large-scale temporary immigration followed by permanent family re-unification programs. Israel, in contrast, has its immigration legislation embedded in its constitution with its law of return based on religious criteria. Regardless of these extremes in legislative frameworks, a common set of problems arises when temporary immigration is introduced. For example, Bauer and Zimmerman note that Germany's temporary worker programme which lasted until the early 1970s, acted as a buffer to reduce the hiring and firing costs of labour for German firms. Regardless of the economic merits of this guest worker program, its suspension left a series of social and legal problems, which, until 2000, were left unresolved. Straubhaar extends this analysis of post-war temporary worker programs to all of Europe with an emphasis on Switzerland's experience. He concludes that Switzerland, like Germany, never considered itself an immigration country and only viewed immigration as temporary. As a result, the legal status of foreigners in Switzerland remained tenuous, and only after 12 years in residence was citizenship possible. Straubhaar further argues that there are hard lessons to learn from Europe's temporary worker program. He notes that temporary worker programs, which were originally demand-driven inevitably, became supply-driven as network and family migration occurred in the long run. In addition, in the long run, the limited labour and political rights originally given to these temporary workers led to integration problems. Thus, Straubhaar concludes that the only feasible temporary worker program for European host countries today would involve the movement of the very highly skilled who would have limited incentives to create family chain migration networks.

These often ad hoc North American and European temporary immigration programs are in sharp contrast to the draconian measures implicit in Asian temporary migrant regimes. For example, Malaysia has a temporary worker programme explicitly tied to the business cycle. Across a wide spectrum-agriculture, construction, domestic and service workers-temporary worker visas were expanded during Malaysia's 1990s cyclical expansion, and later contracted with dramatic expulsions during the Asian implosion. DeVoretz analyzes the sectoral costs and benefits of Malaysia's temporary migrant program given the inevitable difficulties of compelling return migration in the downturn. He concludes that only under a well known set of short-run economic criteria should domestic caregivers, construction and service workers be supplemented with temporary workers in the Asian context. However, the agricultural sector proves the exception to this rule. Ultimately, DeVoretz argues that even the short-run gains, when contrasted to the long-run retardation of technological change owing to temporary labour imports, do not provide a rationale for Malaysia's large temporary migrant program.

Israel's legal and illegal temporary worker experience is documented by three separate papers in this volume. The political origins of Israel's temporary worker program are outlined as the military - controlled daily movement of Palestine workers ebbed and flowed in the 1990s. This has led to a

substantial legal and illegal temporary worker population. The emergence of lobby groups to protect these underground workers is the subject of Zeev Rosenhek paper. In short, he points to the futility of an official non-recognition policy for temporary workers in an open society. The paradox posed is as follows: since temporary workers do not legally exist in Israel, no protection and benefits can be conferred on them by the state. Thus, when confronted with poverty and exploitation, how does the state respond if these migrants do not legally exist? Moreover, if the temporary workers do not exist, who can represent their interests?

Finally, DeVoretz completes this comparative review on an optimistic note when he concludes that Canada's temporary worker program may be welfare improving for all. Invoking well-known social welfare criteria he arrives at one overriding conclusion for Canada's current temporary immigrant program. A system of employment authorizations exists for most temporary workers across a wide range of occupations that presumably insures little harm to domestic labour. However, the public finance considerations for Canada of the temporary movement are more ambiguous. The public finance implications of the large brain drain under temporary NAFTA (TN) visas indicates that this portion of temporary movement is welfare-reducing for Canadian taxpayers and may not be offset by tax contributions by incoming temporary movers.

These insights contained in these comparative pieces do meet the initial objectives of this conference. Some of the questions initially posed now have partial answers, and past egregious policy mistakes are highlighted. The historical European guest worker experience, the draconian measures of Malaysia, and the denial of status to illegal temporary workers by Israel and the United States are policies that turn short-run economic advantages from temporary movement into long-run social and political problems. Temporary high-skilled worker migration, although in its infancy may offer a program that benefits the recipient economy both in the short-run and long run while leading to a substantial voluntary return migration to the home country upon the expiration of the temporary status. In particular, imbedding temporary worker mobility provisions in international trade agreements may level the playing field and begin to devise a more universal policy on the recruitment and protection of temporary workers' rights. The Fourth International Metropolis Conference in November 1999 addressed this issue. We conclude by noting that the conference deliberations expanded well beyond the confines of these background papers and were addressed with various degrees of intensity. I attach the suggested discussion bullets to advise the reader of the breadth of the undertaking.

Format: *The sessions are divided into two central types; paper presentations with discussants and panel discussions.*

Paper presentations: The OECD format is to be used in the paper presentations-discussant formats. All papers to be presented are available in advance to all on the Metropolis Website www.riim.metropolis.globalx.net under events. Thus, no author will present his/her paper. The discussant has 15 minutes to summarize and critique the paper and the author has 15 to respond. An open discussion of 30 minutes will end each session. In addition, the final session will consist of an open discussion led by four country representatives to assess the sessions and set new directions on policy related research efforts. All papers will be published by RIIM and available in print and CD-ROM after the conference.

Bullet Points: In order that you focus but not limit your thoughts the organizers have placed some ideas on the table, which were central to the development of this workshop. These thoughts are to guide the discussion.

- ◆ When is temporary immigration in the national interest?
- ◆ Do trade agreements foster or inhibit temporary immigration?
- ◆ Is temporary immigration superior to a permanent immigration policy under a skilled shortage regime?
- ◆ What is the optimal time period for any one temporary immigrant?
- ◆ What is the trade-off between training domestic workers and introducing temporary workers?
- ◆ What are the evaluation criteria for highly skilled temporary immigration?
- ◆ What are the evaluation criteria for unskilled or semi-skilled temporary immigration?
- ◆ Do there exist economic incentives (penalties) to insure employer/employee compliance with temporary immigrant conditions?
- ◆ Who pays for social programs under temporary worker programs; employers, employees?
- ◆ How is the above enforced ?
- ◆ How do we treat spouses/dependants for high or low skilled temporary workers?
- ◆ How do we treat conversion from temporary to permanent status?
- ◆ What set of labour laws apply to temporary workers- domestic with exclusions, ILO ?
- ◆ What are employer-training obligations under a temporary worker program ?
- ◆ What is the best practice technique by which to assess temporary workers?

Working paper series
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These papers were prepared for the workshop **Comparative Experience with Temporary Workers: Challenges and Policies**. The workshop was part of *The Third International Metropolis Conference* which was held in Zichron Yaacov (Israel) from November 30 to December 3, 1998.

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