

# TEMPORARY MIGRATION PROGRAMS: DO THEY PROMOTE SOCIAL INJUSTICE?

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## ABSTRACT

Temporary work programs have long been an essential part of social policies in developed countries aiming to get reliable source of labour, promote domestic economy and discourage illegal migration; however, in practice these programs seem to be designed just to ensure cheap labour as the lack of monitoring due to the blurry guidelines established fosters abuse by employers, encouraging violations of human and labour rights of temporary workers that result in large-scale social injustices.

## INTRODUCTION

Mexico has traditionally been a country of asylum for migrants from Central and South America; however, over the past five decades Mexico has become an expelling and a recipient country at the same time. On one hand, expelling nationals constantly to the United States of America (U.S.) and on the other hand, receiving large flows of irregular immigration, in transit to the U.S. and Canada. Because of this, the single largest origin group of Latin American immigrants has been from Mexico. The number of Mexican immigrants living in the U.S. rose rapidly from 1960 to 2000 -nearly tripling during the 70's and doubling during both the 80's and 90's (Stoney & Batalova 2013).

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In this context, there are many reports exploring the migration phenomenon between Mexico and the U.S. from economical, political, cultural and social perspectives, as the historical relationship between these countries has always been strong due to the shared border. In this sense, different types of temporary migration programs have been developed and implemented by the U.S. over the years, but one in particular stands out by its historical relevance: the “*Bracero* program”.

This program is used in this essay as a case study to explore the advantages and disadvantages of temporary migration programs according to David Miller's concept of Social Justice, in order to answer the question posed: do temporary migration programs promote social injustice?

This essay will begin with a literature review that explores different concepts related to social justice, social policy and a broad overview of the causes and consequences of migration. The literature review will also consider the different aspects of Mexican migration to the U.S. including the conditions that generate the demand for low-skilled migrants. The findings from the literature review argue that this demand for migrants is linked with migration programs, which leave migrants vulnerable to abuse.

After noting why a case study method is being employed here, the essay then briefly outlines in general terms the “*Bracero* Program” in order to take an insight from a specific temporary mi-

gration program and the related consequences. The last section consists of an analysis of the case study, providing insight into the arguments outlined in the literature review. This analysis will contextualise and provide arguments and reflections about the advantages and disadvantages of this kind of migration programs, analysed from the perspective of social justice.

## 1. LITERATURE REVIEW

In his book, *Principles of Social Justice*, David Miller (1999) argues that social justice deals with the distribution of good (advantages) and bad (disadvantages) in society, specifically with how resources are allocated to people by social institutions. In this sense, on one hand some of the advantages for social justice include money, property, jobs, education, medical care – including child and elderly care-, personal security, housing, transportation, and opportunities for leisure. On the other hand, some of the disadvantages include military service, dangerous work, and other hardships. Hence, whether something is just or unjust depends on the way those advantages and disadvantages are distributed in society.

Miller's argues that for a theory of social justice to have any relevance to real public policy making, it must take account of popular beliefs. His pluralistic theory

takes part of a larger debate regarding the contrast between justice in small-group contexts and justice across whole societies, as well as contrast between beliefs about justice and people's behavior when asked to allocate some valuable resource. He suggests that our notion of just distribution varies from "modes of relationships": Solidaristic community, instrumental association and citizenship (Miller 1999:25). In this sense, the focus of this paper will be Miller's third mode of association: Citizenship related to equality as its primary distributive principle which will be explained linked to the case study in the analysis section.

Keeping this in mind, another concept that must be explained is migration, which is as old as human history. Whether we consider ourselves the descendants of different cultures that developed parallel to one another or, as the most recent research indicates, we come from a small group of Africans who first left Africa some 100,000 years ago, migration has characterized the behavior of humans for centuries (Toro-Morn & Alicea 2004:15). Migrants always seek to better their lives, and even if the right to emigrate is enshrined as a basic principle in the United Nations, not everyone has the chance to get a visa, buy a flight or bus ticket and work in a different country easily. In this regard, Helen Huges (2002:7) explains that migration is characterized by 'Push' and 'Pull' factors. 'Push' factors include people escaping from economic hardship and religious, ethnic and political prosecution. 'Pull' factors beckon economic migrants to start a life anew, particularly for their children, in countries with economic, social and political opportunities.

By way of definition, temporary workers are people who are imported to meet labour market needs in the U.S. or in any other country for limited periods of time. Their admission is not considered a basis for permanent residence or permanent stays in the country. Such programs have covered workers at all skill levels. There are many temporary worker schemes that meet high and medium-skill labour market needs (Meissner 2004); however, temporary migrant workers in general have something in common: they are all frequently regarded as a precarious group<sup>1</sup> (Boese et al n.d.). This paper uses a case study regarding the unskilled temporary

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<sup>1</sup> See Boese et al n.d. 'Temporary migrant nurses in Australia: Sites and sources of precariousness' at 318-319 explaining the concept of precariousness.

category, which lies in seasonal agricultural and tourist workers from lower income countries.

There are many arguments both in favour and against temporary work programs and the main challenge is to find a middle ground. In this sense, Hiroshi Motomura (2013) discusses the contrast between supporters and sceptics in order to find the best way to design a program of these features, and analyses the temporary worker programs from four different perspectives: (I) domestic economy; (II) immigration outside the law; (III) international economic development, and (IV) citizenship and integration. These perspectives are remarkable as they deal with a problem of condensing many problems and different variables into four simple perspectives, which roughly shows that the current design of temporary work programs bring many unintended consequences.

Taking into account Motomura's assessment and following the concept of social justice mentioned before, is important to consider the concept of social policy to get the whole picture of the problem and answer the research question. Alison McClelland (2010:12) defined social policy as a discipline that derives from the belief that we can change society in a planned and purposeful manner and improve people's welfare through the use of knowledge and research. In this sense, based on the case study that will be analysed below, it will be possible to observe the multiple

variables that can arise during the implementation of a program, and understand the factors involved that lead to abuses and inequities within these kind of programs, such as the social context, geographical location and political situation, among others.

In this sense, according to Aviva Chomsky (2007:14), sociologists have used the concept of the dual labour market to explain the system that has worked throughout the history of the U.S. On one hand the primary labour market refers to jobs that are regulated. Under this market, workers are protected by laws that establish living wages, health, safety standards and benefits. Their jobs are long term and secure and they have the right to organise unions, which are protected by law. On the other hand, the secondary labour market consists of jobs that are generally not regulated. Wages are low, and working conditions are dangerous and often harmful to workers' health. Not only are the jobs unpleasant and poorly compensated, they are also a dead-end: there is little or no room for advancement. Unfortunately, temporary worker programs are usually allocated within the secondary labour market, which is an open door to worker abuse, and therefore, strongly raise the question of whether or not social justice exists in such programs.

Notwithstanding the above, there are arguments that support these kinds of programs. For instance, Cristina Rodriguez

(2008:1115) argues that compared to permanent immigration, temporary or circular migration is more responsive to employers' workforce needs—especially for jobs requiring little training or formal education—. Temporary workers benefit the economy without the social, fiscal, or political impact of the same number of long-term immigrants.

Nevertheless, there are many critics of such programs. Mary Bauer (2007:25) refers that this kind of temporary programs often emphasizes exploitation, observing that these workers are vulnerable to harsh and dangerous working conditions and other workplace injustices. Aviva Chomsky (2007:11) also argues that rising inequality, concentration of wealth and cheap products, all go together. She refers that products can be produced cheaply when business expenses—things like wages, benefits, taxes, infrastructure costs, and the cost of complying with health, safety, and environmental regulations—are low. Chomsky explains further that businesses have always wanted to keep their costs down and that is why they tend to oppose regulations, which add to their expenses. In this sense, inequality helps them keep costs down in several ways. For instance, when workers are poor and lack legal protections, they are more willing to work long hours for low wages. So businesses benefit when there exists a pool of workers with-

out economic or legal recourse. As she explains, this is one of the reasons why early industries relied on immigrant workers; why agriculture in the U.S. has used slavery, guest workers, and immigrants; and why businesses tend to oppose restrictions on immigration today. It also helps to explain why deregulation of the economy, and even why increasing repression and criminalisation of immigrants, actually creates a greater demand for immigrant workers.

Following this idea, Jeffrey Cohen & Ibrahim Sirkeci (2011:79) refers that while it may be true that wages for unskilled work are marginally impacted by migration, migrants are not to blame. It is really employers who are suppressing wages and migrants are filling the jobs that are available. Hence, low wages, exploitation, harsh conditions and an unintended illegal migration are unfortunately just part of the list of abuses and consequences, but they are conditions that even presidents had recognised. President George Bush once said: "If somebody is willing to offer a job others in America are not willing to do, we ought to welcome that person to the country" (Jacoby 2002:43). Immigrants are willing to accept conditions abroad that they would never accept at home, they do jobs that American citizens would not do—in Mexican former president Vicente Fox notorious and shameful words, "jobs that not even blacks want to do"—because they are not trying to live a decent life in the U.S. (Chomsky 2007:16).

## 2. RESEARCH METHOD

This essay employs a case study method to investigate the research question and test the established literature. The advantages of case studies lie in their ability to provide a deep analysis of wide issues by reducing the number of objects of research.

The approach is usually directed toward a single phenomenon, the parameters of study being imposed by nature of the phenomenon and the range of participants. Hence, the historical relevance of the case study used in this paper brings the advantage of description and exposition of a large number of variables that are generally derived from similar programs. The political and social context as well as the geographical position of the countries involved in the case study, created a peculiar situation that unleashed a series of situations that answer the question posed.

## 3. CASE STUDY

The 1940's mark a sharp turning point in the history of both Mexico and the U.S. as the entry into World War II offered a great opportunity for Mexican migrants to enter to the U.S. labour market (Toro-Morn & Alicea 2004:133). The Mexicans who had been reviled and expelled during the lean years were suddenly in high demand due to the shortage of labour for U.S. agriculture.

The "Bracero program" seemed promising as it contained many significant written legal protections; providing workers "the most comprehensive farm labour contract in the history of American agriculture" (Hahamovitch in Bauer 2006:4). Individual contracts, under government supervision, included housing with minimum standards, paid either minimum wage or prevailing wage whichever was higher, transportation and the guarantee of a minimum number of working days were part of the rules.

In the context of the development of the *Bracero* program, Mexicans were accustomed to work for low wages and in miserable conditions, they were ethnically and linguistically distinct from the majority population, and their homeland was close enough that they were unlikely to put down roots and try to blend in (Henderson 2011:65). The *Bracero* program created a new, legal way for Mexican workers to be used as a secondary labour market and involved around 4.5 million people. They were brought into the U.S. on temporary visas that defined them as "arms" rather than people (*bracero* comes from the Spanish word *brazo*, or arm) and treated essentially as indentured servants of the business that hired them (Chomsky 2007:19). The program imported agricultural workers on a seasonal basis, although in later years it also involved workers for railroad companies. At its root, however, it was an agricultural program.

There were elaborate contracts that covered wide-ranging contingencies regarding housing, wages, and labour conditions. The contracts included the withholding of ten percent of workers' wages, which went to the government of Mexico<sup>2</sup>, to be given back to workers when they returned to Mexico. Workers under contract were not free to seek other employment, negotiate for better pay and conditions, or quit their jobs (Henderson 2011:66). It was not slavery, but the two certainly look alike, taking into account that the conditions and economic needs of the migrant workers push them to accept such harsh conditions.

The *Bracero* program had three main objectives: (1) To ensure growers and railroad interests of a reliable source of labour for the duration of wartime emergency (most of the *braceros* were destined for the fields, but many of them worked in track maintenance for the railroads during war years); (2) To protect the rights of Mexican "guest workers"; and (3) to eliminate the need for, and thus curtail, illegal immigration (Henderson 2011:68). Unfortunately, these objectives faded quickly. The immediate and immense popularity of the program among poor Mexicans practically ensured that abuses would occur.

The "prevailing wage" (around 30 cents an hour) was never respected. Instead, it was settled by the American growers associations prior the harvest, and it had to be low enough to ensure that it would not attract domestic workers. Systematic racial discrimination appeared, especially in the state of Texas, restriction of movement and poor housing conditions, contract violations, and the flux of undocumented workers increased.

To this point and with the evidence presented we can conclude that among the positive aspects that the program reached during its existence is that it was achieved through a bilateral agreement during difficult times and kept the interest of both countries; it also achieved the goal for which it was created, as male workforce was employed in agriculture on a temporary basis, and finally, efforts were made to ensure minimum standards of legality, hiring, safety, labor, transportation, housing and salary -in a very questionable way but reached after all-. However, some of the negative aspects and the ones with long-term consequences

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2 Many labourers said they never received the pay, and many never even knew that 10 percent of their salaries was deducted. In 2001, lawyers filed a class action lawsuit in California and in 2010 they did it again in Mexico. The U.S. government has kept to the sidelines on the issue of fraud, claiming that the money for the workers was sent to the Mexican government. To this day, the Mexican government continues to find ways to evade its responsibility (Belluck 2008; Méndez 2010; Zarate 2014).

that can be mentioned are the parallel flow of undocumented workers increased, the lack of incentives to return to their country of origin, the lack of a plan of Mexican rural development, and finally, the high operating costs of the program, corruption and influence peddling.

The “*Bracero Era*” came to an end in 1964 after two decades in which migrants acquired important knowledge about how to cross the border and where to find jobs, developing social networks of help to plan and carry out the journey. Through this, they were able to migrate without the support of any program or any documentation (Toro-Morn & Alicea 2004:134). As a result, a new category for filling the demand of workers emerged: workers who were deemed “illegal”.

## 4. ANALYSIS

The *bracero* program was initially an excellent idea, full of great intentions and with good results during its early years. However, the first problems soon arose, creating deplorable situations for most temporary workers. Nowadays, the U.S. has the highest stock of illegal immigrants, reflecting past open attitudes to immigration of low paid workers from Mexico and other Latin American countries, and the relative ease of crossing the border from Mexico. An overwhelming majority of United States voters are opposed to immigration, especially if it is illegal (Jim Leher News

Report, SBS, 26 March 2002), but strong special interests, mainly agribusiness, want migrants to continue to keep down rural wages.

As is well known, during the last 15 years a debate has been taking place between the government of Mexico and the U.S. in order to find the best solution to the immigration problem; the idea of a temporary worker program is a sensitive issue, as the conditions have changed radically to what it was during the years of the *bracero* program. Moreover, it is evident that any temporary migration program with intentions of implementation will have detractors and promoters. In order to develop a comprehensive program there are different factors that cannot be avoided and must be listed: the labour market in which temporary workers are inserted, the impact on the countries of origin and destination, the specific characteristics of the temporary workers, their legal condition, and the condition of the labour contract -private or official-.

In this sense, following Miller's concept of social justice and how this concept must deal with whether something is just or unjust depending on the way the advantages and disadvantages are distributed in society, we must understand that the context does not mean in any way arbitrary justice. In order to succeed in developing and establishing a model of justice in a regional context which, in this case, involves two countries, a temporary work program and thousands of workers and employers, we must

understand that is a complex task because of the diversity of interests involved and that produces a loss of the idea of justice as consensus, which is exactly what happened during the implementation of the *bracero* program.

Notwithstanding with the above, even with the design of a comprehensive and complete temporary worker program, something that has not been well understood is that a program, including such features listed above, is not adequate to regulate migration flows. Neither is it sufficient to meet the demand of the U.S. labour market instrument, nor the supply of Mexican labour in order to cover the expectations of the Mexican government.

This is because temporary migration programs definitely are part of a dysfunctional system created by business interests and far from being socially oriented or truly international cooperation programs. Some authors like Hiroshi Motomura understood the problematic situation and propose solutions aimed to end the growing inconsistencies and inequities generated in these programs; yet, his proposals have not been implemented, so their outcomes are still unknown.

Moreover, high levels of migration are a symptom of a global economic system that privileges the few at the expense of the many. Aviva Chomsky (2007:188) explains this in a plain and simple way: “[*the economic system*] could be called *capitalism, neo-liberalism, globalisation or neo-colonialism, but as long as it keeps*

*resources unequally distributed in the world, you are going to have people escaping the regions that are deliberately kept poor and violent and seeking freedom in the places where the world's resources have been concentrated...*”; thus, while goods and merchandise can be moved legally from one place to another, the millions of migrants that every year risk or lose their lives seeking a better life, are not subject to the same globalising glorification. It cannot be argued that migration flows are the great exclusion from globalisation.

Unfortunately, exploitation of workers is a universal problem with temporary worker programs because of the inherently unequal relationship between an employer and a worker, under which the worker's ability to stay in the country is dependent on a visa tying him or her to specific employers. The most common problem arises from the wage and hour abuses, as they continually get the lowest possible wage in the market and are forced to work more hours without receiving the legal extra payment. Further issues commonly occurring involve contract violations, the lack of access to appropriate medical care or benefits, poor housing conditions and systematic discrimination.

Some of the authors cited in the literature review offer solutions to the problems that arise from the temporary migration programs; yet, the primary question of focus for this essay is not how to solve those problems, rather, if tempo-

rary migration programs actually promote social injustice. The analysed evidence suggests that these programs are highly harmful for temporary migrants as they carry a high physical and mental cost to the workers. There is a vast disparity in power between workers and their employers that should be monitored if the intention is to continue having these programs.

In this regard, the case of study demonstrates a significant increase of social injustice due to the precarious situations and unintended consequences occurring as a direct result of temporary migration programs, hence providing an argument against such programs. Three of the main flaws that the *bracero* program, and temporary worker programs have in general, that may provoke exploitation are: (1) migrants are typically bound to one employer for the duration of their contract, (2) they are not permitted to travel with their families, and (3) they are generally not permitted to apply for citizenship status.

The first flaw clearly leads to a series of abuses by employers against workers as it was mentioned before. The second flaw can be seen as a psychological, coercive element as it affects workers psyche, forcing them to think about the need to return home instead of thinking about staying in the country permanently. Finally, the third flaw is one of the most controversial and largely discussed in academic journals, books and media.

Following the discussion of the third flaw about opening the possi-

bility of granting immigrants citizenship, is relevant to mention that one of the unintended consequences of the case study presented was the parallel increase in the flow of illegal workers to the U.S. This is relevant because of the reasons that provoked this increase: for instance; the needs of the labour force of the U.S. economy were always greater than the number of visas granted within the *bracero* program (Durand n.d.:46). In this sense, with a growing number of legal and illegal immigrants in the U.S. the debate on the possibility of granting citizenship has been in the political agenda of both countries for years. On several occasions, Mexico's government has tried to ensure that the rights of Mexican migrants in the U.S. are respected and the issue of citizenship has always been on the table; however, at the same time politicians in the southern states of the U.S. have tried to impose laws to prevent the constant flow of Mexicans to their country. Governors from California and Texas have been lobbied on many occasions to approve enforcement laws to criminalize immigrants. This is because immigrants are often blamed for economic recessions in the states with greater Mexican presence.

Under these circumstances, we must understand that social justice as fairness applies under the right economic and social conditions, and it cannot be applied anywhere and in any context; it is reasonable, but it is not the solution to all problems. Some of the

claims of temporary workers now and during the bracero program is precisely to be able to access to citizenship as a reward for their hard work and good behaviour, but, whoever wants to be considered as equal citizen, must be subject to both rights and obligations, but if the subject does not want to take into account the latest, he will only receive alms, and we must remember that alms depend on what you want to give, and not on what would be reasonable to give. According to Miller, "the status of citizen is an equal status: each person enjoys the same set of liberties and rights, rights to personal protection, political participation, and the various services that the political community provide for its members" (Miller 1999:30).

Hence, in order to get a more realistic view is necessary an impartial dialogue here and now, which should be applied to the primary social goods that must guarantee a minimum of basic equality to citizens. This is where the commitments are reflected in numbers; they can be counted as public discussion spaces, access to jobs, schools, health, housing, minimum income so that any citizen may remain without a level of basically decent living.

*The bracero program made it clear that Mexico and the U.S. need each other, as they both need for a population of workers to work in agricultural areas. Their economies depend largely on their work and their remittances. For this reason, the idea of "strengthen-*

*ing" or "close" the border should not be a real option. Unfortunately, part of the legacy of the program is precisely the existence of an undocumented population, creating a situation in which many suffer abuse and live hidden without the right to ask for basic social services.*

*Given the situation, it has become possible to re-create a program similar to bracero, which from a certain point of view, could be a positive policy. Guest workers may have more rights and protection, as the situation now is very different. However, there is a possibility of creating a second class of people who are not entitled to be a citizen and never will. Critics also note that such a program would not change the immigration status if farmers still have the option of hiring undocumented people for less money, and moreover, the current political situation in the U.S. remains very much against migrants, which hinders any chance to build a just program.*

*Therefore, the migration problem positioned between Mexico and the United States of America is still far from finding a solution. Whether for political, social or cultural issues, much of the problem was caused by the implementation of a temporary worker program that unleashed a series of social injustice problems that have not been solved. Hence, the case study shows that temporary work programs have caused more problems than solutions. The constant growth of the flow of illegal immigrants, the rise of cases of racial*

discrimination and separation of families are just a few of the negative consequences. It is clear that justice as a concept is quite broad and covers many different visions, but only through this impartial dialogue in a harmonious way and with a shared interest sense, there will be an opportunity to build a genuine social justice applied to temporary work programs. While it is true that not all temporary work programs have promoted social injustice, the evidence shows that unscrupulous employers and opportunistic politicians have provoked great inequalities where migrant workers are the most affected.

## 5. CONCLUSION

The preceding analysis has summarized part of the existent debate about temporary worker programs, using one case of study that involves two countries. In general terms the case study has shown that this kind of program indeed promotes social injustice, as it is difficult to control the economic nature in which the employers have greater power over employees and further take advantage of the ignorance of workers.

In different societies with different prevailing conceptions of the common good, worldview, or the most appropriate development policies, it is clear that temporary worker programs are far away from reaching the ideal of justice, and they need to find at least a middle ground with ethical and equitable

principles.

Therefore, it is important to understand that social policies and temporary worker programs by themselves do not take people out of poverty and their need to migrate, and in order to find a solution attached to social justice, they must be committed to economic growth. No one can make a serious, sustainable social policy or a temporary worker program if there is no growth and employment.

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