

# IMMIGRATION, CLASS, AND GLOBAL JUSTICE

## Some Moral Considerations/Implications

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### ABSTRACT

*I argue for the importance of class-based analysis for analysing the justice of migration policies. I contend that the abstract, liberal discourse of much writing on justice and immigration distorts our moral judgments. In contrast, I provide a class-based critique of the role of human capital in the paradigm of managed migration, drawing evidence from Canada's Seasonal Agricultural Workers' and Live-In Caregiver programs. This reveals the domination and exploitation inherent in migration policy and allows us to situate immigration in the broader framework of global justice.*

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Philosophers and political theorists writing on migration have paid scant attention to the role of migration policy in shaping and reinforcing class, gender, and racial barriers. Instead, the most influential writing on border controls has occurred in a liberal framework that treats immigration as a matter of rights and distribution. The purpose of this paper is to show how a class-based analysis of migration policy can provide a more adequate normative framework. In the first section, I set out the dominant normative framework for migration through a discussion of David Miller's well known work on the moral grounds for immigration controls. The second section provides a class-based critique of the role of human capital in the paradigm of managed migration. I focus on the Canadian context, arguing that its points-based system and reliance on the Seasonal Agricultural Workers' Program (SAWP) and Live-In Caregiver Program (LCP) creates and reinforces class domination. The third section addresses the view that managed migration, in particular with regard to temporary worker programs, provides the morally best solution in an unjust world. I argue that this response is shortsighted and fails to adequately account for migration's role in broader, unjust economic policies.

## 1. DELUSION AND INDIGNATION

In his introduction to *National Responsibility and Global Justice*, David Miller describes news footage of several hundred migrants attempting to cross into the Spanish autonomous city of Melilla in North Africa. Two six-meter razor fences equipped with spotlights and noise and motion sensors separate Melilla from Morocco to prevent unauthorized immigrants from entering the European Union. Miller describes migrants rushing the fence with makeshift ladders:

A few were shot dead; many more displayed broken limbs and deep gashes on their hands where the wire has cut them. They have been rounded up and are now being sent back to Morocco to be dumped somewhere out in the Sahara (Miller, 2008, p. 2).

In 2005, Spanish border guards using live ammunition shot and killed 13 people<sup>2</sup>. Miller describes his thoughts and emotions watching the story:

2. Amnesty International accuses the Spanish of employing excessive force and violating internal law by failing to grant the opportunity to claim asylum. They also reference the Moroccan government's practice of dropping immigrants in the Sahara without adequate food and water, leading to the death of at least one person, <<http://www.amnesty.org/en/library/asset/EUR41/001/2006/en/54a13968-d3e0-11d4-8743-05bea2b2c7/eur410012006en.html>>, accessed April 4, 2011. For a description of the

I find my sympathy for the young African men who are trying to cross the fence tempered by a kind of indignation. Surely, they must understand that this is not the way to get into Europe. [...] Do they think they have some kind of natural right to enter Spain in defiance of the laws that apply to everyone else who might like to move there? [...] Although I can understand their plight, which must indeed be desperate if they are willing to try, time and again, to risk life and limb to get across the border; I also think they are deluded and are responsible for their delusion (Miller, 2008, p. 4).

Miller's theoretical framework may be responsible for his faint sympathy. Miller does not see the primary issue to be the migrants' desperation or the border guards' excessive use of force. Rather, it is "the more fundamental question [of] whether basic human rights include the right to cross national borders and live in a territory of one's own choosing" (*idem*, p. 201). In Miller's view, the justice of border controls depends on the respective scope and weight of individuals' right to move compared to the rights of states and their citizens. According to Miller, we need to analyse these rights, rather than attend to structures of power and domination, borders that separate opulence from squalor, or law enforcement regimes implicated in thousands of deaths every year.

Miller shares this philosophical perspective on immigration controls with political theorists who dispute his restrictive approach. Joseph Carens writes, "Liberal egalitarianism entails a deep commitment to freedom of movement as both an important liberty in itself and a prerequisite for other freedoms. Thus the presumption is for free migration and anyone who would defend restrictions faces a heavy burden of proof" (Carens, 1992, p. 25). Joseph Boyle frames the problem in a similar way from the perspective of the natural law tradition: "the natural law tradition accepts as part of the *ius gentium* certain rights of people to move across borders. The only reasonable limits on such movement, whether by immigrants, merchants, or other travellers, are those imposed by the common good of the polity in question" (Boyle, 2001, p. 311). Lea Ypi asserts that justice in immigration "indicates when restrictions on incoming freedom of movement are unjustified and provides a principled way of assessing the distribution of benefits and responsibilities between migrants and citizens of host societies" (Ypi, 2008, p. 391).

Miller argues that a human right to move must rest on a generic human need for "access to an adequate range of options to choose between – a reasonable choice of occupation, religion, cultural activities, marriage partners,

razor-wire fence in Melilla, Spanish territory off the Moroccan coast, see Bailey, Dominic, "EU outposts turn into fortresses," BBC, September 29, 2005, <<http://news.bbc.co.uk/2/hi/europe/4294426.stm>>, accessed April 4, 2011.

and so forth" (Miller, 2008, p. 207). Miller notes that liberal states do in fact place significant restrictions on freedom of movement, in particular for the protection of private property, so freedom of movement is not absolute. As long as these restrictions do not prevent access to an adequate range of options, they are morally unproblematic. In reasonably just societies, people have access to an adequate range of options. Miller concludes that a right to move is a *remedial* right based on a person's inability to secure her vital interests in her country of residence. No general right to move exists.

Miller's analysis manages a remarkable juxtaposition of the raw and shocking reality of international migration with ahistorical talk of rights and opportunities that bypasses this reality. Miller's example acknowledges the impact of power and the use of force in regulating migration, but his theory treats them as irrelevant. It is unlikely that the notion of a "natural right" to enter Europe has crossed the young Africans' minds. If they are influenced at all by a rights-based framework, they are more likely to have in mind compensatory and associative duties derived from centuries of European colonialism. This tendency is not unique to Miller. Joseph Carens' influential article "Aliens and citizens: The case for open borders" begins with the observation that "Borders have guards and guards have guns" (Carens, 1987, p. 251), but then goes on to argue at a much more abstract level that utilitarians, libertarians, and Rawlsians should all support open borders. The guards and guns fade into the background, replaced by utility, rights, and autonomy. The debate about admissions policy shifts to the scope of rights and equality: do freedom of movement and equal opportunity apply to compatriots or to human beings in general?

On the surface, Miller and Carens oppose one another, with Miller more or less defending the status quo and Carens advocating a radical departure. Theoretically, they are liberals known for their attention to context. But with regard to migration, their theoretical base and selective focus on its facts distort their normative conclusions. In particular, they include no systematic discussion of how gender, race, and class affect migration patterns and policy. While gendered migration streams and historical racist immigration laws and thinly disguised xenophobic rhetoric are important for a fully adequate moral understanding of migration policy, my aim here is to examine the unapologetic discrimination along class lines. Migration policy plays an explicit role in the reproduction and formation of stratified social classes within and across national borders. In the next section, I explore how the paradigm of managed migration problematically classifies people as having high or low human capital. This reveals how borders facilitate the systematic exploitation of the poor.

## 2. MANAGED MIGRATION, HUMAN CAPITAL, AND CLASS

In *Reflections on the Revolution in Europe*, Christopher Caldwell distinguishes between "good" and "bad" immigrants, citing President Sarkozy's call for an *immigration choisie* over what he termed the present (2006) *immigration subie*. Referring to criticism of Sarkozy's speech, Caldwell writes:

By [the release of Zedès's] song, "*Un Hongrois chez les Gaulois*", France was, just as Sarkozy had claimed, one of the last places in the developed world where getting a better caliber of immigrant had not yet become a national priority (Caldwell, 2007, p. 52).

Though Caldwell and Sarkozy's use of the term *immigration choisie* probably also reflects a degree of racism and islamophobia, their explicit reference is to the Canadian system. Canada pioneered the recruitment of a "better caliber of immigrant" through its points system. The points system takes into account education, work experience, language skills in English and French, age, and "adaptability" (primarily measured by Canadian education and work history). In other words, the points system attempts to measure the human and cultural capital of potential immigrants and admit permanent residents accordingly.

The Canadian system is often cited as an exemplar of "managed migration," a model to follow when "competing for global talent" (ILO, 2006). Managed migration treats immigrants as economic units infused with higher or lower levels of human capital. The goal of migration policy from countries of immigration is economic development accomplished by attracting highly educated and skilled people. According to Manolo Abella:

Countries which fail to attract foreign talents and skills risk not only falling behind in the global competition for new intelligent products and services, but also maintaining the standards of living their populations have been used to. Experience has richly shown that human capital, rather than natural resource endowments, is the key to economic development (Abella, 2006a, p. 12).

Developed countries typically have a number of different immigration streams, targeted toward types of workers according to their perceived value and bargaining power. Philip Martin vividly describes these streams as follows:

most high income countries have multiple programmes to admit foreign workers, front doors for immigrants, side doors for temporary workers and back doors for the unauthorized. The rationale for these programmes is straightforward: welcome skilled workers and allow them to settle, but rotate low-skilled migrants in and out of the country (Martin, 2008, p. 91).

Canada follows a general pattern in which developed states either select immigrants according to their personal characteristics (e.g., professional qualifications, education, age) or require a job offer to grant a visa. People who are in high demand can gain front door admission, whereas those who stand most to benefit from migrating can only enter as refugee claimants or temporarily in a program aimed at "unskilled" workers. In other words, migrants are classified as desirable or undesirable according to their human capital. "Good" immigrants are those who have a high level of education that commands hefty salaries and contributes to growth. "Bad" immigrants are those who compete with the lowest income bracket for dirty, difficult, and dangerous jobs. Developed economies rely on these "bad" immigrants who are paradoxically needed but not welcome.

The labels of "good" and "bad" reveal a great deal about attitudes toward the world's most desperate immigrants and the tendency to value some people more than others has disturbing implications for moral equality. Nonetheless, the ideas behind managed migration have some moral plausibility. Its proponents argue that it provides the best feasible means of reaping the benefits of migration and avoiding its harms, particularly in a context of global inequality and popular opposition to the influx of large numbers of new residents. Managed migration boosts global welfare by moving people to higher-wage regions, increasing global productivity. Ideally structured programs will also channel resources back to sending countries, encouraging development through remittances and circular migration. For example, the International Migration Organization's *International Agenda for Migration Management* reflects extensive intergovernmental consultation through the Berne Initiative. It provides a "non-binding" policy framework that gathers "common understandings" on "major aspects of migration including human rights of migrants, labour migration, integration, irregular migration, human trafficking and migrant smuggling, trade and health issues, return as well as migration and development" (IMO, 2005, p. 7). Most of its recommendations appear attractive, at least as a practical compromise between competing interests. According to the *International Agenda for Migration Management*:

Migration, if properly managed, has great positive potential for countries of origin and destination, as well as for migrants and their families. The challenge for States is to maximize the positive effects while minimizing the negative implications of migration for States, societies and the migrants themselves (IMO, 2005, p. 5).

Similarly, the Global Commission on International Migration provides a set of principles designed to guide policies. People should not have to migrate out of economic necessity, but rather out of choice. Migration should serve as part of a strategy for economic growth in the developing and developed worlds. States should address irregular migration and protect migrants'

human rights and integrate new residents in ways that respect diversity. States should also consult with other governments and international agencies in forming their policies (GCIM, 2005, p. 4).

The problem with these principles and much of the official writing on migration is that they attempt to incorporate all competing interests and as a result are opaque when not vacuous. It is difficult to object to policies that maximize the positive effects and minimize the negative effects of migration. Unfortunately, it is not clear what these policies are. There are in fact two "managed migrations": an abstract, imagined paradigm that exists in policy papers and the real form dictated by power politics within states. It is necessary to look more closely at the actual practice of managed migration to expose the shortcomings of the technocratic vision. Canada provides a useful case study as a liberal, democratic state with a long history of actively shaping migration. It has permanent and temporary streams for people admitted to Canada for economic reasons. People can apply for permanent residence under the skilled worker category if they have an offer of employment or possess work experience in one of twenty-nine occupations listed as experiencing shortages in the Canadian job market.<sup>3</sup> They must also demonstrate knowledge of English and/or French. Applications that meet these qualifications are then assessed according to the points system.<sup>4</sup>

Most of the world's population cannot meet the criteria required by the points system. The Live-In Caregiver Program (LCP) and Seasonal Agricultural Workers Program (SAWP) provide two legal alternatives for entry into Canada.<sup>5</sup> Canada's Live-In Caregiver Program recruits overseas workers to care for children, the elderly, and people with disabilities. Workers must have completed high school, demonstrate work experience, and be able to speak, read, and understand English or French. Of the people participating in the program, 84% are women (Oxman-Martinez *et al.*, 2006). If they have

3. This follows the rules put in place on June 26, 2010. The requirement that applicants' work experience fit under prescribed categories did not previously exist.
4. Investors form a separate class under the Immigrant Investor Program. Applicants must demonstrate a high net worth and commit to a substantial investment in the Canadian economy. There is also an "entrepreneur" category for people who can demonstrate experience managing a qualifying business and a "self-employed" category in part designed to admit athletes and artists who would not be admissible under other conditions.
5. There is also the Temporary Foreign Worker Program created in 2003 that provides employers with greater flexibility. Unfortunately, there are of yet very few studies that examine it in any detail. See Preibisch, 2007, p. 442-4.

families, they must leave them at home.<sup>6</sup> Due to difficulties finding people willing to live with their employers, the program entitles caregivers to Canadian permanent residence after 24 months or 3,900 hours of full-time work within four years. A remarkably frank Canadian immigration official commenting on the LCP explains: "The reason that we have to bring in from abroad is that the occupation is so poorly paid and no one wants to do it [...] The program is set up for the Canadian employer, to allow them to get on with their lives and get out to work" (Pratt, 1999, p. 220).

Unlike the Live-In Caregiver Program, the Seasonal Agricultural Workers' Program does not provide a path to permanent residence. It allows employers to request workers from Mexico and the Caribbean. Employers must first demonstrate to Human Resources and Skills Development Canada (HRSDC) that they have first sought to hire Canadians. HRSDC requires that employers pay workers the prevailing rate of wages for the type of agricultural work or the same wage that Canadian workers receive, whichever is greater. When they arrive, workers are tied to a single employer and dismissal typically results in deportation. Like the LCP, SAWP does not permit workers to bring their families. In fact, Mexican recruiters target men with families on the grounds that they are more likely to return to their homes once their contracts end (Preibisch, 2007, p. 435). About 97 to 98% of the workers are male (Basok, 2007). The LCP and SAWP exist because they benefit workers, employers, home countries, and host countries. Despite documented abuses in both programs (Khan, 2009; Basok, 2002), Canadian temporary worker programs are generally considered models for managed migration. For example, Manolo Abella notes that "Canada is credited with a seasonal agricultural worker program that is widely considered a model for balancing the flow of temporary foreign workers with the needs of Canadian employers" (Abella, 2006b, p. 45). Especially when compared to programs in the Middle East and Far East where migrants have fewer rights and suffer worse treatment, it is hard to morally object to Canada's practice when faced with the alternatives.

Nonetheless, Canada's migration system is deeply flawed. A class-based analysis of Canada's immigration policy reveals some of its morally problematic aspects. The key to a class-based analysis is the role human capital plays in admissions policy. Two of the key objectives of the *Canadian Immigration*

6. The Canadian Citizenship and Immigration website reads: "As you are required to live in the home of the person you are caring for, it is unlikely that your employer would agree to also provide accommodation for your family. Also, since you are coming to Canada to provide care for other persons, it is often not practical for live-in caregivers to bring their family members with them upon their arrival." <<http://www.cic.gc.ca/english/information/faq/work/caregiver-faq22.asp>>, accessed April 4, 2011.

and *Refugee Protection Act* are "to permit Canada to pursue the maximum social, cultural and economic benefits of immigration" and "to support the development of a strong and prosperous Canadian economy, in which the benefits of immigration are shared across all regions of Canada" (*Canadian Immigration and Refugee Protection Act*, 2001, 3.1a and 3.1c).

As we have seen, the LCP and SAWP attest to a demand for domestic workers and manual laborers. But when Canadian officials talk about a "strong and prosperous" economy, they have in mind admitting immigrants in professional and technical fields that contribute to the knowledge-based economy (Kofman, 2007). The use of human capital as a central concept in managed migration distracts from the central role of class in migration flows. As Samuel Bowles and Herbert Gintis point out, "human capital theory formally excludes the relevance of class and class conflict to the explication of labor market phenomena" (Bowles and Gintis, 1975, p. 75). The use of the concept of human capital as the determining factor for immigration admission reduces people to commodities and leads to the inclusion or exclusion of human beings based on how much money they are expected to make during their lifetime. As Harold Bauder puts it:

Prevalent discourses of migration depict international migrants not as struggling individuals in search of a better life for themselves and their families but as value-producing labor that should make a viable economic contribution but that often has a negative impact on the labor market equilibrium (Bauder, 2006, p. 31).

The obliteration of the individual in migration discourse is disturbing. Managed migration treats people as mere means, economic units that serve to produce cheap labour until they are no longer needed. It allows us to forget that they are human beings who contribute to our community, support families, have hopes and dreams, and are vulnerable to the disrespect and humiliation they often receive. Immigration is not a job application, but rather admission into a political community. Few now defend wealth as a requirement for the right to vote, but no such qualms appear when applied to immigration. Even if we think that economic production is a relevant factor in an immigration system, it is unjust to treat people differently because of their "low" human capital, especially since these people are no less essential to the economy. Investment bankers and surgeons rely on agricultural workers, labourers, and childcare workers to pursue their professions.

Furthermore, the reduction of human beings with diverse characteristics to human capital obscures the fact that groups of people are treated differently. I follow here Erik Olin Wright's integrated understanding of class (Wright, 2009). Immigration policy exhibits "opportunity hoarding" which systematically restricts access of positions to members of a privileged class. It also involves mechanisms of domination and exploitation. Not only are

migrants excluded from opportunities, but they are forced into "forms of structured inequality which require the continual active cooperation between exploiters and exploited, dominators and dominated" (*idem*, p. 108).

Domination and exploitation play a major role, as I will discuss below. However, opportunity-hoarding functions at the level of admissions policy to Canada and in the Canadian workforce. With regard to immigration admissions policy, Wright points out that "Citizenship rights are a special, and potent, form of 'licence' to sell one's labour in a particular labour market" (*idem*, p. 105). They protect the class privileges by restricting access to the job market. A policy of open borders would greatly increase the supply of workers, lowering their wages. Miller's border guards at Melilla are the violent arm of a system that serves to preserve EU citizens' monopoly of opportunity, helping to create divisions of "haves" and "have-nots" across national borders.

Within the Canadian workforce, immigrants suffer higher unemployment rates and receive lower wages. They also find it more difficult to find work in their fields at a level that reflects their education and work experience. Many skilled workers encounter barriers from professional societies, provincial governments, and employers. This has led to a new stratum of highly educated immigrants unable to practice their professions: engineers who work as technicians, nurses with medical degrees, former university professors who drive taxis (Pico, 2008; Reitza; Reitz, 2007a, 2007b). Human capital models ignore how the Canadian labour market reflects growing inequalities between people defined by their immigration status or the colour of their skin.

Despite these inequalities, high demand for skilled and highly skilled migrant workers leads countries to compete for their services. They have considerable choice over where to migrate and usually have a secure enough livelihood that they can opt to remain at home. If they do migrate, rights and freedoms such as freedom of occupation enable them to avoid the worst abuses. When we turn to "unskilled workers," we find not only opportunity hoarding, but legally sanctioned relationships of domination. A huge pool of "low-skilled" migrant workers are willing to accept jobs for significantly less than the prevailing wage and/or under conditions prohibited in high-income countries. Though SAWP requires that workers receive the prevailing wage, this wage is set under conditions distorted by seasonal migrant workers composing a necessary part of the workforce.

Kerry Preibisch localizes SAWP in the global agrifood market, which has grown increasingly dependent on foreign undocumented or temporary workers. Migrants provide a large, flexible workforce that increases productivity. Migrants tend to come from regions with few economic opportunities, making them more likely to accept poor working conditions. Separated from their families, they are more likely to work long days with no overtime. Once

their contract ends, they return until the season begins the following year, unlike native workers who must either collect unemployment insurance or seek work elsewhere. Finally, labour supply countries rely on migrants' remittances. Instead of representing their workers' interests, they discipline and exclude those who demand better working and living conditions or pay (Preibisch, 2007). In her study of greenhouse workers in Ontario, Tanya Basok argues that SAWP depends on unfree labour for its very existence. According to her analysis, migrant labour is "structurally necessary only in those economic sectors whose viability hinges on the employment of workers who are *unfree*" (Basok, 2002, p. 4). She follows Robert Miles in defining unfree labour "as workers whose ability to circulate in the labour market is restrained through political and legal compulsion" (Basok, 2002, p. 4; Miles, 1987, pp. 32–3). The daily oppression of SAWP and the LCP has been sanitized and in the best employer-employee relationships perhaps remains repressed. It is nonetheless present.

So far I have argued that Canadian migration policy reflects class divisions and hoards opportunities and dominates temporary workers by denying them basic rights that would allow them to escape their systematic vulnerability. Canadians enjoy benefits over people in the developing world through limited admissions policies enforced with violence. Native-born white Canadians marginalize legal immigrants who may or may not have naturalized. Native-born Canadians and legal immigrants with permanent residence exploit people in programs such as SAWP and the LCP. Finally, different migration streams fragment the workforce, preventing solidarity among immigrants, and immigration itself divides local workers from newcomers. Instead of Canada demonstrating the virtues of a well-managed migration policy that mutually benefits all parties, it intentionally and systematically gives members of its developed state an unfair advantage.

### 3. MORAL IMPLICATIONS

I have suggested that ethical inquiry into immigration policy must devote more attention to its role in the social reproduction of inequality and disadvantage. But if we acknowledge and deplore how migration policy follows and reaffirms class-based discrimination, what should be done? As a long-term ideal, we might advocate replacing human capital models of managed migration with more policies that do not reduce applicants to economic units. No doubt these might still follow the contours of global and domestic inequality, but at least they would not actively engrain them. We can also imagine reforms to temporary worker programs that give workers more bargaining power and control (Chang, 2008).

Most supporters of guest worker programs acknowledge their abuses, but dismiss moral arguments for their abolition or radical reform as naïve or utopian. It is in the interest of much of the world's population to accept exploitative work. Participants in SAWP return year after year because low wages under poor working conditions are better than the alternative of remaining underemployed for even lower wages at home. Similarly, live-in caretakers relinquish their privacy and autonomy for a couple of years in exchange for Canadian permanent residence. If SAWP workers could switch employers at will or if live-in caretakers had access to other lines of work, employers would no longer turn to foreign workers. The alternative to unequal rights for legal guest workers is not equal rights for everyone. Rather, some people will be even worse off at home and others will migrate irregularly with far less oversight and opportunity for abuse. Martin Ruhs and Philip Martin have demonstrated a disturbing trade-off between the number of migrants admitted and rights: an increase in rights leads to fewer migrants performing low-skilled jobs, so that "the demand for low-skilled migrant workers is likely to be downward sloping with regard to migrants' rights" (Ruhs and Martin, 2008, p. 254). Ruhs and Martin note that Singapore and the Persian Gulf states have high numbers of migrants – in Kuwait they compose 95% of the private sector workforce – but give workers limited rights. At the other end of the spectrum, Sweden's full employment rights for migrant workers stifle any incentive employers have to hire migrant workers. The disturbing consequence is that "if migrants have the 'full rights' laid out in the ILO and UN conventions, including the right to equal wages and all work-related benefits, their cost will be higher and fewer will be employed" (*ibid.*).

What should be done? Ruhs and Martin dismiss "rights-based approaches to migration" on the grounds that they "rarely discuss the agency of migrant workers, *i.e.*, their capacity to make rational and independent decisions when faced with limited options" (*idem*, p. 259). Daniel A. Bell and Nicola Piper also argue in favor of continuing to limit the rights of foreign domestic migrant workers in Hong Kong and Singapore. When migrant workers believe they benefit from arrangements founded on differential rights and these arrangements improve their lives, these programs are morally justifiable, provided there are no feasible alternatives (Bell and Piper, 2005).

Similarly, Robert Mayer argues for "acceptable exploitation." He advocates a "sufficiency" standard of exploitation that maintains that exploitation can only occur when people's lack of basic resources leaves them vulnerable and prone to accepting unfair offers. Mayer seeks to explain why he believes "privileged guests" (Mayer, 2005, p. 316; Walzer, 1983, p. 60) are not exploited. No exploitation occurs when an American engineer quits his job in the US to accept a lucrative salary under restrictive conditions in Saudi Arabia. Mayer recognizes that most people who choose to work in programs

such as the LCP and SAWP do not plausibly enjoy conditions of sufficiency. In these cases, he argues that we should sometimes accept modest exploitation. When "clean-hands" policy options are politically unfeasible, exploitative guest worker programs are justified. Mayer is willing to accept exploitation on the grounds that "this dirty-hands option will reduce deprivation for those who are more disadvantaged than the clean-hands policy of exclusion" (Mayer, 2005, p. 330).

In Joseph Carens' more nuanced view, justice requires that temporary workers should receive the same rights as citizens with respect to working conditions and social programs based on their work contributions. He draws attention to the power asymmetry caused by restricting workers to a particular employer or economic sector and argues that "significant departures" from "the norm of equal treatment for temporary workers [...] are morally problematic" (Carens, 2008, p. 435). He argues that we must not reduce questions of justice to political strategy, but concurs that we should probably tolerate the unequal rights of temporary workers under current circumstances.

Though bad temporary migration programs may be better than no programs at all, the discussion of rights and acceptable exploitation is incomplete and misleading. It preempts more radical discussion by leaving larger power structures intact. The focus on a binary question of migrant workers with limited rights versus no migrant workers at all obscures how migration policy is one dimension of a complex and unjust system that we participate in as citizens and consumers.

As Carens stresses, much of the discussion about temporary migration assumes that current social and economic institutions are "inevitable." Migration policy is not a matter of "natural necessity" but of social choice (*idem*, p. 439). Unfortunately, Carens' analysis relies on what he takes to be widely accepted liberal democratic principles and remains largely within a nationalist framework that assumes states' unilateral right to control admissions.<sup>7</sup> He hints at, but does not develop, a broader perspective. Daniel Bell also points us in the right direction: the trade in migrant workers is founded on global injustice – the global economy is thoroughly unjust, it is unfairly skewed toward the interests of rich countries, and it perpetuates poverty in the Third World (Bell, 2006, p. 304). What Bell omits is that *migration policy* is part of the injustice of the global economy, furthering skewing it in the interest of rich countries through market distortions, including the reliance on unfree labour. The managed migration paradigm shapes ethical inquiry into immigration policy so that it pays scant attention to its role in the social reproduction of inequality and disadvantage.

7. Carens is well known for his arguments for open borders (Carens, 1987, 1992). Carens still considers open borders a worthy ideal, but not a feasible policy option.

The conclusion that temporary migration is the best option in a bad world suffers from its focus on individual choices with a rights-based and distributive-based focus. People decide to forgo certain rights in exchange for higher wages. As Saskia Sassen contends, "there is a strong tendency in immigration policy in developed countries to reduce the process [of immigration] to the acts of individuals: the individual is the site for accountability and for enforcement" (Sassen, 1989, p. 8). This overlooks how economic globalization, geopolitics, and colonial ties affect migration patterns in ways not reducible to individual choices.

Just as political models pit state sovereignty against the regulation or deterrence of individual migration, neo-classical economic models treat individuals as self-interested utility maximizers responding to incentives. These neo-classical migration models attempt to explain the movement of people in terms of supply and demand. Rational actors base their decision to migrate on cost-benefit calculations. Those from capital-poor, labour-abundant regions will gravitate to capital-rich regions until the wage disparity reduces to the point at which there is no longer an incentive to migrate.<sup>8</sup> From this perspective, subjecting one's self to exploitative work is a rational choice given the options.

This overlooks how economic globalization has transformed societies, leading to rural/urban migration and creating economic and cultural connections that contribute to decisions to migrate beyond the state. Receiving countries are not merely bystanders. Institutional and historical factors affect migration, some created voluntarily, others arising spontaneously. Developed states aggressively promote their economic interests through bodies like the World Trade Organization, the International Monetary Fund, and the World Bank. For example, the deregulation of markets transforms agrarian societies and forces rural workers to relocate to cities and abroad (UNPF, 2007). The investment of multinational corporations in foreign markets creates economic, social and ideological links between states. This creates travel routes, communication networks and job opportunities abroad, at first from active efforts to recruit migrants. Once the infrastructure has been established, migrants come on their own initiative (Sassen, 1989).

For example, Raúl Delgado Wise and James Cypher argue that the North American Free Trade Agreement (NAFTA) "was not a trade accord; it was an investment/production and restructuring agreement enabling U.S. firms to shift production to Mexico and benefit from cheap migrant – mainly undocumented – labor" (Delgado Wise and Cypher, 2007, p. 138). NAFTA did not aim at comparative advantage and spill-over effects that would create

8. Massey *et al.*, 1993, provides an overview and analysis of theories of international migration.

jobs and development in the Mexican economy, but is rather what David Harvey calls a "class project" (Fernández-Kelly and Massey, 2007, p. 115; Harvey, 2007). The reduction of trade barriers and increased opportunity for capital investment were not accompanied by more migration opportunities. Rather, enforcement on the border increased, leading to more unauthorized Mexican migrants residing in the US due to the cost of crossing the border. Instead of a convergence of wages and development, inequality in terms of GDP per capita and manufacturing wages has grown (Fernández-Kelly and Massey, 2007). The deregulation of agriculture and the elimination of subsidies eliminated the livelihood of many Mexican peasants. Many found work as wage labourers in the Mexican agro-industry or moved to the cities, but some also migrated to the United States or Canada either through legal channels or by circumventing them.

Sassen sets out the importance of locating the causal factors for immigration in assigning moral responsibility:

immigration happens in a context of inequality between countries, but inequality by itself is not enough. This inequality needs to be activated as a migration push factor – through organized recruitment, neo-colonial bonds, etc. The economic, political, and social conditions in the receiving country set the parameters for immigration flows (Sassen, 1999, pp. 136–7; Sassen, 2000).

Attention to the forces shaping migration has important moral implications. Normative writing on immigration has mostly addressed one of two questions. First, what justifies the state's use of force to admit or exclude migrants? This is the question of open borders that Miller and Carens address. Second, is it just to treat some people within the country differently, providing only temporary residence or access to a limited set of rights? Answers to these questions vary, but regardless of how we respond, they engage with only a subset of the issues migration raises.

For instance, inequalities and class domination would persist even under open borders. As I noted above, authorized migrants in Canada who enjoy rights similar to those of citizens suffer from systematic disadvantage, forming something that resembles a racialized underclass (Galabuzi, 2005). Hispanics in the US are also stigmatized (Massey, 2009), as are North Africans in much of Europe (Samers, 1998). We should expect this to persist as long as the world is defined by great inequalities across regions.

The focus on these two questions allows us to overlook our responsibility for helping to create this world by upholding unjust institutions. Too much discourse on immigration pretends that developed states are isolated territories besieged by huddled masses looking to take advantage of their citizens' hard work and generosity. Developed states play a role in creating the conditions



for migration through asymmetrical if not neo-imperial economic expansion. They have directly recruited workers to fill society's least desired jobs. Their actions create moral obligations. The primary moral question is not whether states can exclude migrants or admit them under unequal terms but what is owed to people who suffer from living on the wrong side of the North/South divide.

Migration needs to be addressed in the context of broader economic, political, and social considerations. In the short-term under present conditions, it is probably true that programs such as SAWP benefit their workers and employers and consumers. But this overlooks how agriculture flourishes in the developed world because it is able to employ migrant workers at wages that locals do not accept. These workers form a reserve army of labour that owes its status in part to unjust global institutions. Worse, instead of the developing world enjoying its comparative advantage in agriculture, the benefits of these temporary worker programs spill over to the rich economies, generating tax revenue and creating jobs (Preibisch, 2007).

Let us return to the migrants at Melilla, gathered at the frontier of one of Spain's last colonial outposts in Africa. Miller's analysis is disingenuous, pretending that Europe and the rest of the developed world have no role in or responsibility for the desperation of those trying to enter Fortress Europe. Instead of asking whether migrants have a "natural right" to migrate, we should instead investigate migration as a global system constrained by the powerful states and their interest groups bent on preserving their privileges.

In fact, the economic injustice of the global economy is partly a result of immigration policy. Borders do not merely divide the world into regions and states. Rather, they are part of the world, barriers that shape social and economic reality. Border restrictions distort markets, providing legal constraints on migrants that narrow their job opportunities and set wages below what market rates would determine under conditions of fair competition. They are part of a global basic structure that provides the background conditions that determine how well people's lives go. I have argued that they preserve or promote class hierarchies and inequalities, so we need to carefully reflect on alternative institutions that would lead to a more equitable world.

What does this imply for Miller's migrants who risked their lives to enter Melilla? Miller writes that the migrants' decision results from a delusion, perhaps based on a mistaken view of natural rights. I contend instead that Miller is deluding himself, turning a blind eye to misery members of the developed states have helped create. The migrants who die on the barricades had their choices shaped by policies that deemed them unfit to escape their territories and attempt to make a better life abroad.

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## LA SÉCURISATION DES CONTRÔLES MIGRATOIRES ET LE DROIT D'ASILE EN EUROPE ET AU CANADA

Idil Atak

### RÉSUMÉ

La préservation de l'intégrité et de l'efficacité du système d'immigration est une préoccupation majeure des pays du Nord Global. De part et d'autre de l'océan Atlantique, ces pays font face à des défis communs comme l'augmentation du nombre de migrants irréguliers et des demandeurs d'asile. Des mesures répressives sont déployées pour contrôler les mouvements migratoires indésirables. Les législations nationales relatives à l'entrée et au séjour des étrangers sont renforcées. Les États coopèrent de plus en plus pour augmenter l'effectivité des contrôles. L'immigration est transformée en un problème de sécurité. Ce processus s'appuie sur une politique de maîtrise des flux migratoires, d'insertion contrôlée des étrangers et un discours plaçant pour des solutions d'exception. Une approche équilibrée entre l'ouverture et la fermeture des frontières fait défaut. Cet article adopte une perspective comparative pour exposer la tendance de sécurisation de la migration tant en Europe qu'en Amérique du Nord. Il analyse comment les objectifs de contrôle migratoire et la coopération accrue entre les États transforment les normes et les politiques nationales et engendrent des atteintes aux droits fondamentaux des étrangers.

SOUS LA DIRECTION DE  
MICHELLE LABELLE  
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# La communauté politique en question

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