



PRODUCING TEMPORARINESS, (RE)PRODUCING PRECARIOUSNESS: REGULATION, RIGHTS AND NON-CITIZENSHIP STATUS OF TEMPORARY IMMIGRANT WORKERS / *PRODUCIENDO TEMPORALIDAD, (RE)PRODUCIENDO PRECARIEDAD: REGULACIÓN, DERECHOS Y ESTATUTO NO CIUDADANO DE LOS TRABAJADORES INMIGRANTES TEMPORALES*

**PRODUCING TEMPORARINESS,
(RE)PRODUCING
PRECARIOUSNESS: REGULATION,
RIGHTS AND NON-CITIZENSHIP
STATUS OF TEMPORARY
IMMIGRANT WORKERS**

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***PRODUCIENDO TEMPORALIDAD,
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Over the past decade programs to hire seasonal workers have become a focus of countries that receive immigration. Although these programs were originally promoted during the middle of the 20th Century, their use declined in the 1980s and 90s in the majority of Western countries. Today, however, these initiatives are again widely supported by international organizations and governments of countries with a long tradition of receiving immigrants and new immigration countries. The underlying rationale of this kind of migration management is that it is a mechanism that can meet the labor needs of receiving countries, drive development in the countries of origin and improve the lives of migrants. However, this triple-win formula used to legitimize the implementation of these initiatives has been heavily criticized by social organizations and experts who underscore the way in which this model heavily restricts the ability of temporary workers to settle in the receiving country and also their access to rights. These criticisms have generated a broad academic debate that is still taking place.

The objective of this monograph, “Producing temporariness, (re)producing precariousness: regulation, rights and non-citizenship status of temporary immigrant workers”,¹ is to examine the initiatives that regulate this kind of temporary and seasonal labor flow from a multidisciplinary perspective. Although not exhaustive,

the articles of this special issue present an overview of the mechanisms being employed to manage temporary migration as part of the recently developed migration policies in some European, Asian and Middle Eastern countries. The initiatives that have been analyzed focus on low-skill workers in certain economic sectors, such as agriculture, domestic work and construction.

This starting point is completed with a reflection on how temporary status and the rationale behind these initiatives affect the migration projects and expectations of this kind of migrant, as well as the attribution and effective enjoyment of their labor, social and mobility rights. Despite the diversity of cases presented and the variety of approaches used in the national studies included in this special issue, there are a few common elements highlighted in the articles, such as the tension and paradoxes that arise from the intersection between rights and temporariness; or the recurrent use of outsourcing by governments when applying this kind of labor policy, including the growing role of intermediaries in the recruitment and control of temporary migrants. Viewing this type of migration as exclusively linked to temporarily carrying out a job and subject to broad restrictions has curtailed the propensity of the workers to create ties with the receiving country, and also limited the creation of social integration initiatives.

Over the past decade, many studies carried out in different geographic areas have shown that the temporary status of these workers has led to new and increasing forms of civic exclusion and rights deficits, including a pronounced and growing disparity between attributed rights and their practical implementation. Although this exclusion is manifested in extremely diverse ways in different countries, the institutionalization of temporariness and of uncertainty (Anderson, 2010; see also Rajam and Kemp in this monograph) in this era of “expanding temporariness” (Latham, Vosko, Preston and Breton, 2014), increases the vulnerability of these migrants, and makes their non-citizenship status even more discriminatory.

The monograph starts with a brief tour of some European countries. The article written by Kamila Fialkowska and Maria Piechowska examines the labor flows of Polish citizens who immigrated to Germany within the framework of a bilateral labor agreement on seasonal work signed by both countries at the start of the 1990s. The article discusses the long historical tradition of seasonal workers migrating between Poland and Germany and sustains that this mobility, which has created what we can denominate a solid binational circular migration system, explains in large part the success of this program. Their analysis touches briefly on the importance of migration networks, social capital and intermediaries in the recruitment of Polish workers and mentions the weakness of the links between the workers and the receiving country. One of the most notable conclusions of the article is that the Polish workers recruited through this program have little awareness of their labor rights and are highly reticent to demand improved working conditions and housing. Despite the fact that this agreement recently lost its legal status when Poland joined the EU, seasonal migration to the German labor market is still highly popular among Polish citizens. As Fialkowska and Piechowska mention, this is especially true in the rural and provincial areas of Poland where work opportunities are scarce.

Other cases included in this special issue analyze the restrictions on the rights of migrants imposed by their temporary status. The article presented by Mika Helander, Peter Holley and Heidi Uttana studies the experiences of temporary migrant workers with the social security system in Finland and how temporariness influences the motivation of migrant workers to find out about their rights in the welfare system. In their detailed analysis, the authors include a complex definition of temporariness, which includes subjec-

tive aspects (experiences and opinions expressed by the migrants) and objective dimensions (formal regulation). The article shows how the motivations of the migrants to find out about the welfare system are linked to the length of stay, sector of work, gender and country of origin. Motivations are also highly influenced by objective possibilities of accessing the welfare benefits of the Finnish system. In their opinion the “temporary migrant habitus”, a label used by the authors in reference to the concept coined by Bourdieu, adjusts subjective expectations to objective conditions and decreases the motivation of immigrants to find out about their social security benefits while in the country. This conclusion is particularly true of seasonal workers whose migration project is strongly linked to work and short-term temporary expectations. However, Helander, Holley and Uttana believe that sometimes this adjustment is a reaction to frustration, as benefits are out of the migrant’s reach, despite having to contribute to the system financially by paying taxes.

The tensions arising from the interaction between rights and temporariness are also highlighted in the article on the Spanish case. The analysis of how seasonal workers are recruited for the agriculture sector in Spain reveals that these schemes have a significant impact on the expectations and mobility rights of these workers due to the imposition of serious restrictions that prevent them from obtaining permanent status. In contrast to what was observed in the other cases examined in this monograph, there is no general national program to hire seasonal immigrant workers in Spain, but rather a network of highly supervised, decentralized hiring initiatives or “experiences” for the agriculture sector that have been designed and implemented at a local scale, but supported by a complex and flexible legislative and institutional framework at the national level. This regulation promotes a mobility regime that is unique among Spanish labor migration policies for three reasons. First of all, it establishes joint management systems based on a demand for workers agreed upon by a broad network of public and private actors. Secondly, this system preferentially recruits workers from countries that have signed bilateral immigration agreements with Spain. Therefore, this regulation not only incorporates interests tied to the Spanish economy and labor market, but also to its foreign policy (see the article by Asín-Cabrera in this monograph). Thirdly, a “temporary migration regime” has been designed through these initiatives that promotes what has been defined as compulsory

forms of induced circular migration, in reference to a type of circular migration encouraged and controlled from above. Despite the fact that the extensive supervision of the programs developed by Spain contained explicit forms of labor exploitation and abuse, at the end of the past decade various international reports presented them as models of good practice (Newland, Agunias and Terrazas, 2008). In practice, the migrant workers are completely dependent on their employers to remain within these initiatives, creating a precarious labor force subject to extreme control procedures. And the vulnerability of these workers has become more acute with the outbreak of the economic crisis, which has caused a general deterioration of working conditions in this sector.

Asunción Asín-Cabrera's article, which provides further nuances of the Spanish case, analyzes these kinds of programs as regulation systems in which foreign policy interests are injected into the migration policies of receiving countries. Her work centers on the international cooperation between Spain and non-EU countries to regulate and manage these migration flows, from a legal perspective. The second part of her article transcends and builds upon the Spanish case through the examination of Mobility Partnerships.

The links between the implementation of this kind of program and the creation of a precarious foreign labor force is the focus of the article by Rebeca Rajijman and Adriana Kemp on the process of institutionalization of labor migration in Israel. They argue that in Israel systemic features of official labor migration schemes based on neoliberal philosophy and institutionalized power relations have become powerful catalysts in the creation of a restricted labor force within the country's legal labor migration. Using Anderson's theoretical proposal (Anderson 2010) as an analytical framework, the authors provide a detailed account of the immigrant labor market in Israel. Their article describes, among other things: how this kind of regulation functions to provide employers with a continuous turnover of cheap foreign labor that is always restricted to temporary employment and has few protections; the privatization of worker recruitment, which has created a large for-profit industry of broker agencies; and the practice of deportation or the threat of "deportability" as one of the most important tools for controlling and surveilling migration. Finally, they also discuss the rise of an extensive "grey" industry in Israel that provides a market for human trafficking, in which some laborers are subjected to debt bondage and have their movements restricted.

The final part of the monograph broadens its geographic scope to include Korea and Taiwan. In Korea this kind of migration regulation was implemented and has evolved over the past two decades as a mechanism to cover the needs of certain production sectors and to ensure formal, legal means to recruit low-skilled temporary workers. Park's article explains the main aspects of Korea's guest worker program, known as the "Employment Permit Scheme" (EPS), and analyzes its outcomes and limits. Just as in the other national cases included in this special issue, these programs arose in Korea as migration policy instruments subject to tight state supervision, with the objective of guaranteeing the labor rights of the temporary migrants, while also preventing these low-skilled foreign workers from settling permanently. By implementing EPS, the government also aimed to prevent corruption that might occur in the admission process and fight against undocumented stays and "illegal" employment. The mandatory return imposed by these programs not only responds to economic criteria, but also to the deep-rooted ethnicity of the nation.

The article by Ji-Ping Lin, based on segmented market theory, examines the process of labor marginalization of both national and foreign temporary workers in the Taiwanese labor market over the past two decades. As the article points out, the processes of de-industrialization, externalization of the economy and new forms of commercial monopoly have substantially remodeled Taiwan's labor market since the 1980s, leading to an unprecedented increase in temporary workers. Low-skilled foreign workers, mostly from ASEAN countries, have become a major part of this increase, working in the industrial sector or services industry as caregivers and domestic workers. Foreign contract workers appear to be trapped in the secondary labor market and face more barriers than Taiwanese temporary workers in terms of moving up to the primary labor market. The article concludes that the temporariness and marginalization experienced by this kind of worker reveals the polarization of the Taiwanese labor market and enhances the effect of segmentation.

Despite the limited geographic scope of this special issue, and the absence of some highly relevant international cases, such as Canada or New Zealand, this overview of diverse programs and experiences has revealed some elements that should be explored in future research. Although an exhaustive review of these elements cannot be provided in this introduction, we can at least mention two particularly inter-

esting aspects. First of all, how applying this kind of migration regulation has created a new “legal, but precarious” subcategory of immigrant worker, which transcends the traditional legal/illegal dichotomy, densifying some formulations regarding the hierarchization of migrants around citizenship and belonging. In the case of these workers, their temporary status is the origin of new forms of exclusion that transcends and amplifies those observed in the case of other legal migrants. This has led many specialists to call for changes in regulation that provide ways in which they can obtain more permanent statuses. However,

this academic consensus has not led to changes in labor policies. In the majority of immigration receiving countries, temporariness is perceived as an intrinsic necessity of these kinds of programs.

Second, despite the fact that most of these programs impose serious restrictions on settling, analyses reveal the elusive nature of the distinction between temporary and permanent migration and the need to rethink this dichotomy. The national studies reveal much more complex migration trajectories, that include, forms of permanent or semi-permanent temporariness.

NOTES

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