

Temporary Labor Migration within the EU as Structural Injustice

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Temporary labor migration (TLM) constitutes a global phenomenon with a lengthy and problematic history. Although quantifying the scale of TLM is difficult, empirical analyses concur in suggesting that TLM is an extremely significant trend in migration flows and one that keeps increasing.¹ The term refers broadly to migration that is undertaken for the purpose of pursuing the benefits of working in a host country for a time before returning to one's country of origin. In doing so, migrants often face myriad challenges, including vulnerability to poverty and exploitation. In seeking to understand and alleviate these challenges, scholars of TLM often take a rights-based approach, which emphasizes the need to make borders more porous, to grant temporary migrants the bundle of rights that citizens and residents enjoy, and at times accord some additional "special rights" that address their unique positions. In this regard, the European Union presents a unique global test case for how TLM plays out in a region that meets most of these criteria: migrants can move relatively easily across borders and enjoy significantly more rights vis-à-vis other types of temporary migrants around the world. As a result of these conditions there has been a recent significant trend of TLM movements within the EU, making the case ripe for examination. And yet it is because of these very freedoms and opportunities that intra-EU TLM has received scant attention by political theorists, who instead tend to focus on more glaringly controversial forms that entail serious rights

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deficits, such as the Bracero program between the United States and Mexico, which terminated in 1964, and the *Gastarbeiters* (“guest workers”) who came to West Germany through recruitment agreements between their home countries and West Germany.² Such programs have become rightly infamous for the abuses and mistreatments that temporary labor migrants experienced and for the restrictions on their rights.

Nevertheless, dismissing the phenomenon of intra-EU TLM as unproblematic is a mistake from both an empirical and normative perspective. Despite the rights afforded to EU migrants, the empirics show that intra-EU TLM—and especially east-to-west migration flows—is linked to serious vulnerabilities for migrants and others within the sending and receiving states. From a normative standpoint, dismissing intra-EU TLM reinforces the idea that justice of temporary migration can be achieved through the prescriptions of a rights-based approach as noted above: porous borders combined with citizen-like rights for migrants, as well as the granting of “special rights” in some cases.³ Although such measures may be a necessary demand of justice, the European case shows that they are insufficient to address the complexity of the injustices characterizing TLM.

In this article I draw on Iris Marion Young’s account of structural injustice to theorize the injustice of intra-EU TLM.⁴ Specifically, I argue that a structural account of injustice is better equipped than a rights-based approach to shed light on the extensive and often hidden processes that place EU temporary migrants (especially from Eastern European countries) in conditions of vulnerability and to reveal the multiple individual and collective agents that participate in such processes. Moreover, a structural injustice approach offers important insights into the agency of migrants by showing how a migrant’s decision to temporarily move for work contributes to the structural processes that put not only (i) individual temporary migrants but also (ii) other temporary migrants from the same sending countries and (iii) other members of the sending and receiving country in vulnerable positions. Such an approach suggests that no analysis of temporary labor migration, be it in the EU or elsewhere, is complete without considering the structural processes in which it is embedded.

The article unfolds as follows. The first section presents some of the main characteristics of TLM within the post-enlargement EU. The next outlines the main features of Young’s conception of structural injustice and shows that such a conception offers a fruitful approach to capturing the dynamics that put EU citizens who are temporarily moving into another EU member state in a condition of

vulnerability and for identifying the *many* agents contributing to these dynamics. I then look at the racial and gendered dimensions of the structural injustice that EU temporary labor migrants suffer and the complexity of their agency, demonstrating that their actions and choices are not only channeled and constrained by structural processes but that they also reinforce such processes. As such, temporary migrants contribute to the structural injustice against other similarly positioned migrants and members of the host and sending societies. Finally, I propose several interventions to address these injustices that go beyond implementing special rights for temporary migrants, while also stressing the difficulties of such interventions.

INTRA-EU TEMPORARY LABOR MIGRATION

A cornerstone of the European Union is the right of citizens to freely move and reside within the territories of the European Economic Area (EEA), which includes the EU states plus Iceland, Liechtenstein, and Norway, for the purposes of employment, study, retirement, and family reunification. Although not unconditional, freedom of movement within the EU is importantly coupled with a commitment to equal treatment and nondiscrimination of citizens of member states with regard to employment, remunerations, and other work-related conditions. Mobility within the EU is seen as beneficial in many respects—cultural exchanges, training of workers, fostering EU membership—but especially as a means to strengthen the efficiency of labor markets across the union, in particular by matching the demand of one country with the supply or oversupply of another.

The two most recent instances of EU enlargement occurred with the admission of the so-called A8 countries (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovak Republic, and Slovenia) in 2004 and the A2 countries (Bulgaria and Romania) in 2007. In 2011 all the remaining employment and welfare restrictions imposed on citizens of A8 countries were lifted, and since January 2014 citizens of A2 countries have been able to work and live in other EU countries without a work permit. Post-enlargement intra-EU mobility has been characterized by east-to-west migration flows, which have largely been driven by labor needs in Western states and the intention of workers to temporarily settle in the host member states.⁵ Eastern European mobile citizens have significantly opted for forms of temporary migration into “old” EU countries by migrating seasonally

and circularly—that is, going back and forth between their country of origin and the host state(s), performing what almost amounts to a long-form commute.

The east-to-west flow results from many factors, including the opportunity differentials among old and new EU member states and the different structural conditions of their labor markets. Consider, for instance, the migration of Polish construction workers to Norway—a state that, although not a member of the EU, as an EEA country still has access to the EU's internal market and, as part of the Schengen Area, guarantees freedom of movement to citizens of other EEA countries. Such a migration flow is driven by the internal features of both the Polish and Norwegian construction markets. The Polish market, for example, is seasonal, offers low wages, has a high-skills requirement, and has pervasive age discrimination against workers over forty-five. Norway's construction sector, on the other hand, offers comparatively more advantageous employment conditions and better health and safety workplace regulations.⁶ The circularity of east-to-west mobility reflects the ability of Eastern European workers to take advantage of the higher levels of income in the Western European countries and the lower living costs (and higher purchasing power) in their countries of origin. Within an EU characterized by considerable economic and social disparities, temporary and circular migration undoubtedly represents an important strategy for Eastern European workers to avoid choosing between two equally unpalatable alternatives: (i) to uproot one's life and permanently settle in a foreign European state in order to pursue opportunities that are unavailable or are less attractive in one's country of origin; or (ii) to remain in one's own country to the detriment of the pursuit of important personal goals, such as economic advancement or education for oneself or one's family members.⁷

Of course, this is not to say that TLM within the EU does not posit serious challenges to migrants engaging in it.⁸ Although temporary migrants are twice as likely as natives to possess a high level of education, they are generally overrepresented in low-skilled jobs.⁹ They tend to work in specific sectors, such as manufacturing, construction, hospitality, agriculture, the food industry, and private households.¹⁰ Since low-skilled work is associated with low pay, temporary labor migrants become vulnerable to poverty and marginalization. Moreover, as mentioned, many such migrants are overqualified for the jobs they perform. Social immobility and brain waste, two interrelated phenomena characterizing intra-EU TLM, are problematic not only from the perspective of individual migrants, whose life plans have very likely been centered on different career

paths, but also for their sending countries. There is the potential for temporary migration to be beneficial to sending countries as migrants tend to invest in their country of origin and send remittances home, and also because it can promote “brain circulation” when migrants who have acquired new skills in the receiving countries return. However, when temporary migration is characterized by social immobility and human capital waste—as is often the case in east-to-west EU mobility—in addition to not profiting from their contribution to the education and training of their nationals, the sending countries miss the opportunity to gain new intellectual capital and knowledge that can be invested after their migrants return.¹¹ Additionally, similar to non-EU temporary migrants, many EU citizens who temporarily migrate into another member state often have a poor relationship with citizens of the host state and experience difficulty accessing housing, healthcare, and other social services, including the welfare benefits to which, as EU citizens, they are entitled. The social and economic marginalization of EU mobile citizens also affects their loved ones who stay behind, and it can worsen the family cohesion, which is already strained by the separation and by their children’s difficulties in adapting to the noncontinuous physical presence of one parent.¹²

While temporary labor migrants within the EU are worrisomely disadvantaged, it is also true that they enjoy many of the same entitlements as national and permanent residents (including an open path toward citizenship), and thus it may be difficult to grasp how their disadvantage can be deemed unjust. After all, by contrast, historically many non-EU “guest worker” programs provided migrants with low-skilled, short-term jobs by contractually restricting their political, social, and economic rights and requiring them to leave the host country after the expiration of the contract. Here the injustices were explicit and are well documented. Examples include the already mentioned Bracero program between the United States and Mexico, which took place from 1942 to 1964 to fill shortages in the U.S. agricultural sector; and the German program, active between 1955 and 1973, that invited Turkish migrants to work temporarily in Germany. Even the Canadian live-in caregiver program, which ended in November 2014 and constituted a clear improvement on its aforementioned predecessors, only granted its participants the entitlement to apply for permanent residency in Canada after having worked legally as a live-in caregiver for two years. Many scholars argue that temporary worker programs are unjust because of the exploitative nature of the trade-off between jobs and rights that they force upon migrant workers.

According to this logic, overcoming this injustice entails removing the barriers to permanent residency (and, eventually, citizenship) that all these programs to various extents impose.¹³ In this respect, by focusing on temporary worker *programs*, the majority of the literature on TLM in political theory is unhelpful for understanding the dynamics in the EU.¹⁴

A framework that identifies the injustice of TLM as having to do only with formal unjustified restrictions on the political, economic, and social rights that temporary migrants should enjoy is ill-equipped to understand what is wrong with forms of TLM that do not involve rights constraints. Indeed, it may even lead to the mistaken belief that once temporary migrants hold the many rights that citizenship grants (and are not prevented from settling down and applying for citizenship), then any vulnerability they suffer should be simply regarded as an undeserved misfortune and certainly not as an injustice.¹⁵ Such a conclusion, however, overlooks injustices that persist even when persons (or citizens) have formal access to rights and opportunities. These types of injustices result from more complex and indirect dynamics, that is, they are “structural injustices.” In the next section, I will apply Young’s conception of the structural injustice approach to intra-EU TLM to show how the disadvantages experienced by migrants are produced and in what sense they are unjust.

THE STRUCTURAL INJUSTICE OF INTRA-EU TEMPORARY LABOR MIGRANTS

What Is Structural Injustice?

Social movements have often revealed that injustices not only result from complex dynamics but also tend to become normalized and not to be perceived as injustices. Consider, for instance, how the feminist movement of the 1960s and 1970s, through the practice of consciousness raising, showed that the difficulties that seemed to affect individual women (such as unwanted sexual advances and requests for sexual favors in the workplace) and that were treated as unquestioned dynamics of the social environment should actually be seen as systematic injustices (sexual harassment) affecting women as a group.¹⁶ Moreover, social movements have pointed out that injustices involve the participation of many actors. Young’s account of structural injustice represents one of the most analytically sophisticated attempts to conceptualize such insights. She develops her account of structural injustice by focusing both on sweatshop labor in developing countries

and homelessness in the United States, showing how traditional understandings of injustice and responsibility are insufficient to theorize the nature of such conditions of vulnerability and to attribute responsibility for their eradication.

According to Young, structural injustices occur when categories of persons are put in a systematic position of vulnerability as a result of “the combination of a large number of public and private individual and institutional actors, with different amounts of control over their circumstances and with varying ranges of options available to them.”¹⁷ Thus, structural injustices such as homelessness are analytically distinct from (i) wrongdoings that can be *only* attributed to states and/or powerful institutions (for example, a state’s imposition of a discriminatory housing policy) and (ii) those wrongs *only* inflicted by blameworthy interactions between persons (such as between a tenant and a cruel landlord). In cases of structural injustices, it is impossible to single out a few perpetrators directly causing the injustice who can be punished for their wrongdoing and who can compensate the offended. Although some laws and policies may contribute to structural injustices, the sources of such injustices “are multiple, large scale, and relatively long term.”¹⁸

When and why are structural processes unjust? According to Young, structural processes lead to injustice not merely by constraining and enabling certain actions but also when, in doing so, they put some individuals in a more vulnerable position than others.¹⁹ Because of their very nature and workings, structural injustices can be dismantled only through collective endeavors that are directed at changing those (often unscrutinized) background conditions in which individual and collective agents act.²⁰ As I will show below, this is the case for the injustices of intra-EU TLM.

Intra-EU TLM Through the Lens of Structural Injustice

As noted above, unlike many temporary migration programs in which the vulnerable position of migrants is often the result of the very entry and short-term permanence agreement (as when migrants are contractually bound to an employer or a field), there is no top-down directive or restriction that is the main cause of the vulnerability experienced by many intra-EU temporary migrants. Neither can such vulnerability be reduced to harms inflicted by unscrupulous employers who aim to exploit temporary migrants and lock them into low-skilled and low-paying jobs—although obviously *some* migrants may well encounter such employers. Instead, we need to consider the entanglement and accumulation of *multiple processes* that underlay temporary migrants’ condition of vulnerability.²¹

These processes can be either formal or informal. As an example of the former, consider the case of “posted workers.” Within the EU, posted workers move abroad by means of the regulation pertaining to the free movement not of labor but of services, and according to the EU Posting of Workers Directive (96/71/EC). They are labor migrants “sent by the employers to work temporarily in another EU member State . . . and employed via transnational subcontracts or temporary agency work contracts.”²² Within the EU the majority of posted workers come from A8 and A2 countries and work in old EEA member states in specific (low-paying) fields, such as the construction and shipbuilding industries in Finland or the construction and meat industries in Germany.²³ Although according to the Directive posted workers should be paid at least the minimum wage plus the legally extended collective agreement rates that apply in the receiving country, their social payments are made according to their home country, and trade unions in the receiving country cannot collectively bargain on their behalf.

Regulations and directives, however, are not the only processes that contribute to placing posted workers or other intra-EU temporary migrants in a position of vulnerability and social and economic precarity. For instance, language barriers aggravate the difficulties temporary migrants have in navigating a foreign labor market by making it even more difficult to know where to search for employment opportunities and how to interact with potential employers.²⁴ This increases migrants’ reliance on social networks made up of acquaintances and co-nationals (so-called “weak ties”), which are rarely conducive to middle- or high-paying jobs. While such networks and ties are an important source of informational, practical, and emotional support, they significantly contribute to the social stratification of the labor market and the creation of “ethnic niches”²⁵ in specific sectors of low-skilled and low-paying work.²⁶ Moreover, due to the temporal or circular nature of their migration, these migrants tend to turn to temporary recruitment agencies, which usually provide part-time and/or precarious employment that leads to economic instability and vulnerability.²⁷

By avoiding focusing merely on a specific set of institutions, a structural injustice approach also reveals how *multiple individual and collective actors* should be seen as implicated in those social processes that place intra-EU temporary migrants into a vulnerable position. In addition to the social networks in which migrants are embedded, subcontractor firms and recruitment agencies are other important actors within the structures of intra-EU TLM, and these are likely to

be overlooked by state-centered or employer-centered approaches. Indeed, many temporary or circular migrants are employed by subcontracting firms, often based in the sending countries to which companies in the receiving countries outsource work at a cheaper price, as in the case of posted workers. Besides and in combination with subcontractor firms, recruitment agencies both in the receiving and sending countries constitute “labour market intermediaries sourcing low waged and hyperflexible work that [many] locals are unwilling to perform [thereby] mediating A8 [and A2] migration flows and their spatial articulation.”²⁸ In trying to select employees for specific jobs, such agencies operate under certain assumptions about the physical and behavioral characteristics that the “ideal” worker in a specific field should display, which are often grounded on ethnic and national stereotypes. Many recruitment agencies and subcontracting firms permanently hire supervisors and agency staff that come from the same country of origin as the employed temporary workers so as to provide them with induction and instructions.²⁹ These recruitment and employment practices effectively contribute to the (re)production of an ethnically segmented labor market in which, as illustrated in the next section, not only EU temporary migrants but also other non-EU migrants occupy a vulnerable position.

Importantly, the various actions performed by those multiple actors contributing to the structural injustice of TLM should not be seen as necessarily aimed at dominating and exploiting temporary migrants, for at least two reasons. First, as Young points out, unjust structural positions are often the “consequence of many individuals and institutions acting to pursue their particular goals and interests, for the most part within the limits of accepted rules and norms.”³⁰ The main goal of recruitment agencies, for instance, is to supply their clients with the workers they perceive as most fitting to the job. Though this is normatively unproblematic by itself, within a segmented and mobile transnational labor market, their subsequent actions channel certain temporary and circular migrants into low-paying and low-skilled jobs. Second, the range of options open to these agents is itself constrained by the structural processes in which they both act and contribute to reproducing, such as the hyperflexibility of the transnational labor market and the reliance of local markets on precarious employment and outsourcing of unskilled work. Indeed, some of these actors, such as temporary recruitment agents, would probably not even exist under different structural conditions.

Although the vulnerability to which intra-EU temporary migrants are exposed may be the unintended outcome of many agents acting according to accepted

rules, this does not mean that it should not be seen as unjust. Rather, the condition of such migrants should be regarded as an injustice by following a three-part argument. To start, such a condition refers to a *position* within social and transnational structural processes that puts those who occupy it under a systematic condition of vulnerability. By being positioned as such, temporary migrants have restricted opportunities to, for instance, find better-paying employment and access to services and benefits to which they are entitled—opportunities that are formally available to them as EU-mobile citizens and that would reduce their vulnerability. Second, such a position of disadvantage is *produced by social and transnational structural processes*. Although it is not possible to pin down a process that per se directly causes the disadvantage, this disadvantage is not morally arbitrary because it stems from macro- and micro-level structures in which many agents act (such as the workings of local and transnational labor markets and the EU regulatory framework, intra-EU inequalities, networks and weak ties, and stereotypes), and from the concatenation of these structures. Third and finally, the same processes that place (certain) intra-EU temporary migrants into a vulnerable position also enable others (such as middle- or high-skilled native workers and migrants coming from other member states that are perceived to have a more international or prestigious level of education and professional experience) to access a wider range of opportunities and take full advantage of European mobility. In other words, they establish *relations of disadvantage and privilege* between differently situated categories of persons.

So far I have suggested that the vulnerability suffered by certain temporary migrants within the EU should be conceived as a structural injustice. However, as I will show in the next section, a structural injustice approach also sheds light on the complexity of the agency of intra-EU temporary migrants—a complexity that has not been fully explored within the literature on TLM in political theory.

INTRA-EU TEMPORARY MIGRATION PROJECTS, AGENCY, AND STRUCTURAL INJUSTICE

Migrants (temporary or not) should always be respected as moral *agents*. Doing so entails seeing their lives as their own, rather than merely something they are thrown into.³¹ As Valeria Ottonelli and Tiziana Torresi observe, in the context of TLM this entails considering migrants' temporary or circular movement as

“a worthwhile, albeit sometimes painful, part of their life-plans.”³² That is, it is a “project,” often entailing heavy sacrifices, that migrants *choose* to undertake so as to achieve important long-term goals. According to Ottonelli and Torresi, accommodating the temporary nature of the migration projects that these migrants choose to pursue—and, thus, to respect their agency—requires the implementation of a set of “special rights” facilitating their life plans, including returning to their home country.³³

A structural injustice approach to TLM does not deny the importance of regarding temporary migrants as agents and authors of their life plans. However, it complicates the picture of what being an agent means. It points out that persons do not exercise their agency in a vacuum, but within social structures that both constrain and enable their actions.³⁴ And agents’ actions contribute to reproducing the social structures in turn.³⁵ In the case of TLM, a structural injustice approach highlights that temporary migration projects are planned and evolve within a set of preexisting structural processes while they also reinforce such processes. The interplay between the agency of temporary migrants and structural processes leads to at least three distinct yet interconnected types of structural injustice: (i) the injustice that temporary migrants themselves as individuals suffer; (ii) the injustice suffered by other temporary migrants similarly positioned within structural processes; and (iii) the injustice toward other categories of persons within the receiving and sending countries. To illustrate these points, I will focus on the unjust racial and ethnic structures as well as the unjust gender structures in the EU in which temporary migrants’ projects are embedded and to which they contribute.

Obviously, these are by no means the only unjust structural processes that are normatively relevant in the context of TLM. For instance, there are structural economic processes at the root of the exploitative conditions that temporary migrants experience,³⁶ the potential “social dumping” to which native low-skilled workers can be subjected as a result of the employment of migrants’ labor (especially that of posted workers),³⁷ and the growing inequalities in purchasing power and status between temporary migrants and other families in the sending country.³⁸ However, racial and ethnic structures and gender structures are particularly helpful in showing how temporary migration projects are channeled by structural processes and how these projects simultaneously contribute to sustaining and reproducing such structures. Moreover, these structural dynamics highlight the

complexity of structural injustices, which are mediated by cultural and contextual factors and affect different categories of persons in different ways.

Racial and Ethnic Structures

Intra-EU temporary migrants coming from A8 and A2 countries suffer from overt forms of discrimination based on their ethnicity, as in the case of Romanian migrants working in Italy and the United Kingdom being labeled “criminals” and “thieves” by some Italian leaders and media and by several British tabloids.³⁹ Moreover, as already mentioned, ethnically based social networks channel these migrants into specific low-paying and low-skilled segments of the labor market in the host country. The use of stereotypes and assumptions based on ethnicity and nationality as a proxy for suitability for certain jobs and tasks not only contributes to their level of employment but also helps rationalize different treatment (such as longer or less desirable shifts) between them and local coworkers.⁴⁰

At the same time, these very same structures simultaneously operate to exclude other non-EU migrants from the labor market, such as those from Africa and the Middle East. While temporary migrants coming from A8 and A2 countries are perceived as having the ideal “work ethic” for low-skilled jobs, which may entail being obedient, hardworking, and reliable, migrants whose race is seen as “more visible” are in contrast depicted as lazy, unfit, and potential troublemakers.⁴¹ EU migrants themselves play a role in reinforcing and reproducing such processes by, for instance, embodying those attributes that employers and recruitment agencies stereotypically attach to them to try to secure their precarious and marginalized position in a segmented labor market.⁴² To be sure, intra-EU temporary migrants are often coached to fit the stereotypes, and may do so unreflexively while acting within serious constraints, such as the prospect of unemployment. They should not be seen as the primary agents responsible for reproducing certain controlling images about Eastern European temporary migrants, let alone be blamed for them. The point is simply that such an embodiment (often unconscious and constrained) contributes to (i) the unfair treatment that these migrants experience as individuals; (ii) the reproduction of the stereotypes that affect all temporary migrants with the same ethnic background; and (iii) the even more extreme vulnerability that some non-EU migrants experience, such as more violent forms of racist abuse and discrimination, and the prospect of unregulated or undeclared work. In other words, intra-EU temporary migration projects contribute to the establishment and reproduction of a differentiation between “whiter” and “less

white” workers and of a hierarchy among (white) European ethnicities and nationalities, both of which significantly structure the labor market in receiving countries.

Gender Structures

Although obviously intersecting with racial and ethnic structures, gender dynamics reveal further structural injustices that channel intra-EU temporary migration projects and are (at least partly) enabled by such projects. Consider the case of female temporary (and more often circular) migrants from A8 and A2 countries who work as care workers in older EU states. Since the 2004 and 2007 enlargements, the number of female citizens circularly moving to other member states and being employed as care workers in private households has significantly increased. Gender inequalities within the countries of origin constitute an important factor that drives the decision to embark in circular migration projects. Although full gender justice has not yet been achieved anywhere in Europe, women’s disempowerment in many A8 and A2 countries is particularly striking. In addition to experiencing gender-based violence and serious forms of gender discrimination in the labor market, the majority of such states offer poor support and advisory services to women.⁴³ Moreover, in those societies where the Catholic church has a strong influence in shaping political decisions, such as Poland, women are denied important rights of self-determination (notably the right to abortion). For many women, thus, temporary or circular migration becomes a way to gain more economic independence and to conduct less traditional types of living arrangements, which tend to be censured at home, without having to cut their family ties.⁴⁴ In other cases, Eastern European women are channeled toward TLM by gendered ideals of femininity and motherhood that expect women to sacrifice their own individual goals to take care of their families.⁴⁵ Such ideals are compounded by (and often conflict with) the poor public support for childcare and elder care that their home countries offer. Consequently, many Eastern European women who embark on temporary labor projects to financially support their families are at the same time shamed by the media and conservative politicians for not being physically present in their children’s daily lives.⁴⁶ Gender obviously also shapes the type of employment that many of these female migrants find, notably as caregivers and domestic workers. Such work is particularly physically and emotionally demanding due to its very intimate nature, is usually

low-paid because of its gendered character, and exposes workers to a high risk of vulnerability—especially with live-in arrangements.⁴⁷

In older member states, with aging populations and more and more women entering the labor force, relying on migrants has become a crucial means whereby governments have reacted to the increasing demand for care. Rather than offering and/or strengthening a public provision of services for child and elder care that could help all households reconcile work and family life, governments have encouraged the hiring of migrant care workers by offering a range of cash allowances for home-based care provision.⁴⁸ From the governments' perspective, migrants' care work vis-à-vis the public provision of care services for children and the elderly represents a particularly congenial strategy for at least three reasons. First, it requires a much lower investment of public funding.⁴⁹ Second, it fits with a cultural model of care arrangements, according to which care should be provided physically at the family's home and, thus, is not a state responsibility.⁵⁰ Third and relatedly, the employment of female migrants in private households avoids challenging the gendered division of care by substituting low-paid female migrant labor for the unpaid labor traditionally considered the responsibility of native women. Eastern European migrants' massive employment as care workers is enabled by a family-based, long-term model of care in their sending countries while it also allows the reproduction of such a gendered system in the host countries.⁵¹

Temporary migration projects contribute to the endurance of gendered structures not only in the host state but also in the sending country. Indeed, the unpaid domestic labor that such migrants (qua women) were socially expected to perform in their own homes is not taken up by the sending state or by male partners and family members, but is shouldered by other women in the migrants' families and networks—often by grandmothers and other female family members and sometimes by other female migrants through rotation schemes.⁵² As Helma Lutz observes, “Far from making gender identities more fluid, either in the countries of origin or in the destination countries, the waged work of [migrant] women [as caregivers] tends to perpetuate them.”⁵³ In turn, the gendered character of care is intrinsically connected to the enduring social and remunerative devaluation of such an essential labor.⁵⁴

A structural injustice approach to intra-EU TLM shows the complexity of the injustices connected to temporary migration projects. However, can it inform practical solutions to the challenges of intra-EU TLM? A fully fledged account

of how the unjust structural processes in which intra-EU TLM is embedded should be tackled is beyond the scope of this article and arguably falls outside the expertise of a political theorist. That said, in the next section I will point at some ways in which a structural injustice approach can orient our practical thinking about intra-EU TLM, and indeed TLM more broadly, by focusing on what many view as the promising proposal of granting temporary migrants special rights to facilitate their temporary migration projects. I will argue that a structural injustice approach shows that granting temporary migrants special rights is helpful but insufficient to tackle the full scope of this issue.

SPECIAL RIGHTS AND UNJUST STRUCTURAL PROCESSES

As already mentioned, Ottonelli and Torresi argue that, due to the specific nature of temporary migration projects, temporary migrants should be granted a set of special rights that aim to reduce the vulnerability they experience, facilitate their legitimate goals, and help them as they return to their country of origin. Such special entitlements include permitting migrants to divert a part of their income taxes to some form of private health insurance, creating special funds to promote their investments and businesses at home, and providing extra leave to allow them to spend more time with their families back home. Special rights are argued for as a necessary addition to (rather than a substitute for) more extensive and traditional rights enabling settlement and citizenship in the host country.⁵⁵

In the case of intra-EU TLM, where barriers to permanent residency and the path to citizenship have been lifted, addressing any injustice may seem to require nothing more than the provision of such a set of special rights. However, a structural injustice approach shows that, while certain special rights may help, none will suffice. Although such rights are among the necessary measures that receiving and sending states should implement to facilitate the legitimate goals of *individual* temporary migrants, they cannot account for the multitude of formal and informal processes brought about by multiple agents, including the migrants themselves, and would do little to change the background conditions against which intra-EU TLM takes place. The types of special rights enumerated above cannot help to counteract, for example, entrenched stereotypes about suitability for low-paid work. Moreover, special rights for intra-EU migrants will neither do much to help other migrants in the receiving states nor to overturn ingrained injustices that

these projects help reinscribe in the sending states. Addressing the injustice of TLM within the EU should inevitably require the transformation of those often taken-for-granted structural processes that enable and are reproduced by TLM.

Still, such an approach should inform the provision of special rights to temporary migrants in at least one respect. That is, special rights should not worsen and further entrench the racial and ethnic structures that, for example, put other categories of persons (such as non-EU and nonwhite migrants) in a particularly vulnerable position and create racial and ethnic hierarchies in the labor market of old European countries.

Beyond informing the provision of special rights, the above analysis offers further insight on how to remedy the injustices that intra-EU migrants face. Starting with informal processes, the practice of hiring A8 and A2 permanently contracted workers as supervisors should be discouraged. This practice further extends the control of recruitment agencies over temporary migrants, disincentivizes them from learning the native language of the host country, and contributes to the segmentation and stratification of the labor market.⁵⁶ Additionally, governments should launch campaigns to directly debunk myths concerning migration based on ethnic stereotypes that influence employers and society at large, such as that conducted by the U.K. public service union.⁵⁷ Moreover, there is need for a change in the discourse about Eastern European temporary migrants versus other migrants whose race is perceived as “more visible.” The media and press in the host country play a crucial role in (re)producing and disseminating images about migrants and, thus, influencing explicit and implicit attitudes toward them.⁵⁸ Policy proposals to encourage change include implementing codes of conduct that condemn racist stereotyping, recruiting broadcasters and journalists from diverse ethnic backgrounds, and training media personnel about the nature of ethnic and racial stereotyping.⁵⁹

Transforming the background conditions in which intra-EU TLM is embedded also entails changes in formal rules regulating migrant employment. Consider the current and heated discussion about revising the EU Posting of Workers Directive.⁶⁰ Such a debate has been driven by the awareness that merely a stronger enforcement of existing regulations on posted workers, which was already attempted in 2014, has been insufficient to improve their condition and to avoid social dumping, and that instead the very framework of posting needs to be modified. Among other changes, the proposal of the revision, which the European Council agreed upon in October 2017, prescribes that (i) posted workers

should not only be paid at least the minimum wage set by the host country but also be remunerated (in terms of bonuses and allowances) according to the host state's law and practices; (ii) long-term posting should generally be no more than twelve months (with the opportunity to extend for another six months) rather than for an indefinite period of time; (iii) universally pertinent collective agreements should be applied to posted workers across all sectors; and (iv) temporary agency workers and local workers should receive equal treatment.⁶¹ The revision is instructive in at least two respects. First, it shows that although changes in formal rules are important, they also tend to be the result of precarious and often suboptimal compromises between different and competing interests. As some commentators have pointed out, rather than completely modifying the framework of posting by, for instance, guaranteeing equal pay for posted workers rather than just minimum wage,⁶² the proposal tries to strike a balance between the interests of Eastern European countries, which fear that the competitiveness of their mobile citizens will be lowered, and those of leaders of old European countries who are politically pressured to "protect" their native labor force—a balance that may prove difficult to sustain.⁶³ Second (and relatedly), none of these policy changes tackles, for example, the hyperflexibility of transnational and domestic labor markets and the precariousness of employment in the EU—two major factors contributing to the background conditions against which intra-EU TLM, including posted work, takes place. They simply revise formal employment rules without pushing for the necessary radical change.

In addition to the structures that put temporary migrants into a disadvantageous position, the unjust policies that regulate the very organization of both receiving and sending societies must be transformed. For instance, as noted, in many EU receiving countries and in A8 and A2 sending countries there has been a decrease in the public provision of services for child and elder care and, consequently, a progressive externalization of care work onto the family, which has reinforced gendered understandings of care and has further constrained those women who cannot resort to private care services and/or devote themselves entirely to their families. Addressing structural injustices will entail the "reorganization of the relation between production and reproduction,"⁶⁴ that is, a restructuring of the very systems of long-term care provision for children and the elderly in both sending and receiving countries.

A transformation of the hyperflexible and precarious transnational labor markets and the organization of care work across and within European countries

would be profound, long-term, and difficult to bring about. It would require systematic interventions at multiple levels and would also necessarily involve not only states but also nongovernmental actors, such as recruitment and temporary agencies. Attempting such a transformation may also raise important issues of economic and social inequality among EU member states and, thus, involve a broader discussion about what justice within the EU should entail. Although a structural injustice approach cannot be translated into an immediate blueprint for action, it does show how the provision of special rights to temporary migrants needs to be theorized by looking at the structural processes that temporary migration projects are part of, and that the provision of these rights should be considered as only one component of a radical structural transformation at both the domestic and transnational levels.

Before concluding, an observation is in order. From within a structural injustice perspective, involving those subjected to structural injustices in collective endeavors against such injustices is crucial. Indeed, without the epistemic input of those suffering from structural injustice, reforms may be ineffective and even counterproductive.⁶⁵ Moreover, those experiencing structural injustice “have unique interests in undermining [that] injustice.”⁶⁶ However, it is also important to recognize that for many temporary migrants, the interest in achieving short-term gains very often prevails over the long-term interest in dismantling the structural processes contributing to their condition of vulnerability and that of other similarly positioned temporary labor migrants. As Lisa Berntsen observes in her discussion of mobile migrant workers in the Dutch construction industry, intra-EU temporary labor migrants do exercise agency over their vulnerable condition. However, they tend to do so in ways that bring them some material improvement of their individual situation (for example by changing jobs), without engaging in collective actions to change the systematic conditions.⁶⁷ To wit, temporary migrants often “exercise their agency in ways that tend to contribute to the continuation of oppressive cross-border employment practices”⁶⁸ and other domestic and transnational unjust structural processes.

Obviously, this does not mean that temporary migrants should be blamed for opting for shorter-term gains. It simply, yet importantly, suggests that other collective agents that have a higher capacity for collective action, such as migrant nongovernmental associations, migrant workers organizations, and trade unions, should attempt to involve migrants in collective actions, and that doing so will require them to devise new strategies of mobilization.⁶⁹ For instance, to overcome the

reluctance of Polish temporary migrants to unionize, the United Kingdom's GMB trade union established a Southampton Polish holding branch, which was meant to offer migrant workers the opportunity to voice their immediate specific problems and needs while aiming also to progressively involve them in the longer-term collective struggles waged by the established branches.⁷⁰ Trade unions in some receiving countries have started to build bridges between native workers and temporary migrants from A8 and A2 countries by, for instance, forging alliances with trade unions in Eastern Europe; creating transnational unions; and collaborating with NGOs, migrant associations, and even established communities and local churches. To be sure, such initiatives are constrained by the allegedly different interests of the involved parties and are always precarious due to economic and social changes, which can increase a climate of hostility and mistrust.⁷¹ This does not mean, however, that they are not worth pursuing. Conversely, it shows that collective agents, such as trade unions, have to keep thinking outside the box to come up with innovative strategies that can mobilize intra-EU temporary migrants.⁷²

Ideally, future strategies should involve not only native workers and intra-EU temporary migrants but also other categories of persons affected by the unjust structures of TLM within the EU. Joint action must be inclusive, targeting those common structures that unjustly put all parties in a situation of vulnerability while also recognizing that different parties may have different interests and occupy different positions within such structures.

CONCLUSION

A structural injustice approach explains how temporary migration projects within the EU are both enabled by and serve to reinforce unjust structural processes in the receiving and sending countries—processes that put not only migrants themselves but also other similarly positioned migrants and other categories of persons in a vulnerable position. A structural injustice approach does not deny the importance of granting temporary migrants certain special rights to pursue their legitimate goals. However, it shows that the justice of intra-EU TLM cannot be understood and should not be normatively assessed in isolation from the broader unjust complex structural processes in which it is embedded. Addressing such an injustice, thus, does not simply entail the provision of rights facilitating temporary migrants' legitimate goals but also a more structural transformation of the national and transnational context in which migrants would exercise these rights.

NOTES

- ¹ For some recent data on the different forms of TLM in the OECD area, see OECD, “International Migration Outlook 2017” (Paris: OECD Publishing, 2017), pp. 19–25, www.oecd-ilibrary.org/social-issues-migration-health/international-migration-outlook-2017_migr_outlook-2017-en.
- ² For some exceptions, see Rainer Bauböck, “Temporary Migrants, Partial Citizenship and Hypermigration,” *Critical Review of International Social and Political Philosophy* 14, no. 5 (2011), pp. 665–93; and Valeria Ottonelli and Tiziana Torresi, “Temporary Migration Projects and Voting Rights,” *Critical Review of International Social and Political Philosophy* 17, no. 5 (2014), pp. 580–99. It is important to observe that, while political theorists tend to focus on temporary migration programs established by liberal democratic states, such programs are widespread across the globe. For instance, Qatar’s *kafala* system, which until recently recruited foreign labor from impoverished areas of countries such as India, Nepal, and Sri Lanka, has lately come under the spotlight during Qatar’s preparations for the 2022 World Cup, and has sparked an international outcry for the abhorrent conditions of exploitation and abuse. See Owen Gibson, “Migrant Workers Suffer ‘Appalling Treatment’ in Qatar World Cup Stadiums, Says Amnesty,” *Guardian*, March 30, 2016, www.theguardian.com/global-development/2016/mar/31/migrant-workers-suffer-appalling-treatment-in-qatar-world-cup-stadiums-says-amnesty. Although the *kafala* system was abolished in December 2016, the new regulations have still raised serious concerns over the safety of temporary migrant workers. See Amnesty International, “Qatar: Migrant Workers Still at Risk of Abuse Despite Reforms,” Press Release, December 12, 2016, www.amnesty.org/en/press-releases/2016/12/qatar-migrant-workers-still-at-risk-of-abuse-despite-reforms/.
- ³ By still conceiving of the normative challenges of TLM as issues of partial citizenship, Bauböck argues that further enlarging the EU and promoting similar state-unions in the rest of the world can be one way to solve such challenges. See Bauböck, “Temporary Migrants, Partial Citizenship and Hypermigration,” pp. 671, 681. Ottonelli and Torresi, instead, advance the proposal of implementing (additional) special rights to facilitate temporary migrants’ life plans. See Ottonelli and Torresi, “Temporary Migration Projects and Voting Rights.” I will return to this last proposal below.
- ⁴ Iris M. Young, *Responsibility for Justice* (New York: Oxford University Press, 2011) and “Responsibility and Global Labor Justice,” *Journal of Political Philosophy* 12, no. 4 (2004), pp. 365–88.
- ⁵ European Commission, “Five Years of an Enlarged EU: Economic Achievements and Challenges,” European Economy Series (Luxembourg: Directorate-General for Economic and Financial Affairs, 2009), p. 132, ec.europa.eu/economy_finance/publications/publication14078_en.pdf.
- ⁶ Joanna Napierała and Paulina Trevena, “Patterns and Determinants of Sub-Regional Migration: A Case Study of Polish Construction Workers in Norway,” in Richard Black et al., eds., *A Continent Moving West? EU Enlargement and Labour Migration from Central and Eastern Europe* (Amsterdam: Amsterdam University Press, 2010), pp. 51–72.
- ⁷ Izabela Czerniejewska and Elżbieta M. Goździak, “‘Aiding Defeated Migrants’: Institutional Strategies to Assist Polish Returned Migrants,” *International Migration* 52, no. 1 (2014), p. 88.
- ⁸ Unless otherwise stated, when examining intra-EU TLM, I will mainly refer to the post-enlargement east-to-west migration flows.
- ⁹ See, for example, Meghan Benton, Susan Fratzke, and Madeleine Sumption, “Moving Up or Standing Still? Access to Middle-Skilled Work for Newly Arrived Migrants in the European Union” (Washington, D.C. and Geneva: Migration Policy Institute and International Labour Office, 2014), p. 2, www.migrationpolicy.org/research/moving-or-standing-still-access-middle-skilled-work-newly-arrived-migrants-european-union; and Adrian Favell, “The New Face of East–West Migration in Europe,” *Journal of Ethnic and Migration Studies* 34, no. 5 (2008), p. 711.
- ¹⁰ See, for example, European Commission, “Five Years of an Enlarged EU,” pp. 133–34; and Andrew Geddes and Sam Scott, “UK Food Businesses’ Reliance on Low-Wage Migrant Labour: A Case of Choice or Constraint?” in Martin Ruhs and Bridget Anderson, eds., *Who Needs Migrant Workers?: Labour Shortages, Immigration, and Public Policy* (Oxford: Oxford University Press, 2010), p. 195.
- ¹¹ Meghan Benton and Milica Petrovic, “How Free Is Free Movement? Dynamics and Drivers of Mobility within the European Union” (Brussels: Migration Policy Institute Europe, 2013), p. 18, www.migration-policy.org/research/how-free-free-movement-dynamics-and-drivers-mobility-within-european-union.
- ¹² European Commission, “Five Years of an Enlarged EU,” p. 138; and Ewa Palenga-Möllenbeck, “New Maids – New Butlers? Polish Domestic Workers in Germany and Commodification of Social Reproductive Work,” *Equality, Diversity and Inclusion: An International Journal* 32, no. 6 (2013), pp. 557–74. For normative analysis of the effects of TLM on the wellbeing of migrants’ children, see Anca Gheaus, “Care Drain: Who Should Provide for the Children Left Behind?” *Critical Review of International Social and Political Philosophy* 16, no. 1 (2013), pp. 1–23.

- ¹³ See, for example, Joseph Carens, *The Ethics of Immigration* (New York: Oxford University Press, 2013), ch. 6; and Patti Lenard and Christine Straehle, "Temporary Labour Migration, Global Redistribution, and Democratic Justice," *Politics, Philosophy & Economics* 11, no. 2 (2012), pp. 206–30.
- ¹⁴ Ibid. See also Alex Sager, "Political Rights, Republican Freedom, and Temporary Workers," *Critical Review of International Social and Political Philosophy* 17, no. 2 (2014), pp. 189–211; and Lea Ypi, "Taking Workers as a Class: The Moral Dilemmas of Guestworker Programmes," in Sarah Fine and Lea Ypi, eds., *Migration in Political Theory: The Ethics of Movement and Membership* (New York: Oxford University Press, 2016), pp. 151–74.
- ¹⁵ On the difference between misfortunes and injustices, see Judith N. Shklar, *The Faces of Injustice* (New Haven: Yale University Press, 1990).
- ¹⁶ Susan Brownmiller, *In Our Time: Memoir of a Revolution* (New York: Dial Press, 1990), pp. 280–81.
- ¹⁷ Young, *Responsibility for Justice*, p. 52.
- ¹⁸ Ibid., p. 47.
- ¹⁹ Ibid., p. 52.
- ²⁰ Ibid., pp. 106–108; 111–13.
- ²¹ Here I cannot discuss all the processes that are implicated in the vulnerable condition of temporary migrants within the EU or all the agents contributing to such processes; in this article, I can only aspire to mention some examples that reveal the structural nature of the vulnerability experienced by such migrants.
- ²² Ines Wagner, "The Political Economy of Borders in a 'Borderless' European Labour Market," *Journal of Common Market Studies* 53, no. 6 (2015), p. 1371.
- ²³ See, for example, Erka Caro et al., "Posted Migration and Segregation in the European Construction Sector," *Journal of Ethnic and Migration Studies* 41, no. 10 (2015), pp. 1600–20; Nathan Lillie, "Subcontracting, Posted Migrants and Labour Market Segmentation in Finland," *British Journal of Industrial Relations* 50, no. 1 (2012), pp. 148–67; and Wagner, "The Political Economy of Borders in a 'Borderless' European Labour Market."
- ²⁴ Deborah Sporton, "'They Control My Life': The Role of Local Recruitment Agencies in East European Migration to the UK," *Population, Space and Place* 19, no. 5 (2013), p. 455.
- ²⁵ On the concept of "ethnic niches," see Roger Waldinger, "The Making of an Immigrant Niche," *International Migration Review* 28, no. 1 (1994), pp. 3–30.
- ²⁶ See, for example, Jon Horgen Friberg, "The Stages of Migration. From Going Abroad to Settling Down: Post-Accession Polish Migrant Workers in Norway," *Journal of Ethnic and Migration Studies* 38, no. 10 (2012), p. 1600; and Sporton, "They Control My Life," p. 448.
- ²⁷ Sporton, "They Control My Life."
- ²⁸ Sporton, "They Control My Life," p. 444. See also Allan Findlay et al., "The Role of Recruitment Agencies in Imagining and Producing the 'Good' Migrant," *Social & Cultural Geography* 14, no. 2 (2013), pp. 145–67; and Napierała and Trevena, "Patterns and Determinants of Sub-Regional Migration," p. 61.
- ²⁹ Sporton, "They Control My Life," p. 451.
- ³⁰ Young, *Responsibility for Justice*, p. 52.
- ³¹ Ibid., p. 27.
- ³² Valeria Ottonelli and Tiziana Torresi, "Inclusivist Egalitarian Liberalism and Temporary Migration: A Dilemma," *Journal of Political Philosophy* 20, no. 2 (2010), p. 202.
- ³³ Ottonelli and Torresi, "Inclusivist Egalitarian Liberalism and Temporary Migration."
- ³⁴ Young, *Responsibility for Justice*, p. 53.
- ³⁵ Ibid., p. 60.
- ³⁶ For a compelling normative analysis of exploitation in the context of TLM, albeit one that focuses on guest-worker programs, see Ypi, "Taking Workers as a Class."
- ³⁷ Wagner, "The Political Economy of Borders in a 'Borderless' European Labour Market," p. 1379.
- ³⁸ Remus G. Anghel, "Changing Statuses: Freedom of Movement, Locality and Transnationality of Irregular Romanian Migrants in Milan," *Journal of Ethnic and Migration Studies* 34, no. 5 (2008), p. 796.
- ³⁹ Cara M. Uccellini, "'Outsiders' After Accession: The Case of Romanian Migrants in Italy, 1989–2009," *Political Perspectives* 4, no. 2 (2010), pp. 70–85; and William Allen and Dora-Olivia Vicol, "Bulgarians and Romanians in the British National Press: 1 December 2012–1 December 2013" (Oxford: Migration Observatory, 2014).
- ⁴⁰ Jon Horgen Friberg, "Culture at Work: Polish Migrants in the Ethnic Division of Labour on Norwegian Construction Sites," *Ethnic and Racial Studies* 35, no. 11 (2012), p. 1925; and Micheline van Riemsdijk, "Variegated Privileges of Whiteness: Lived Experiences of Polish Nurses in Norway," *Social & Cultural Geography* 11, no. 2 (2010), p. 129.

- ⁴¹ Findlay et al., "The Role of Recruitment Agencies in Imagining and Producing the 'Good' Migrant," p. 147; and Van Riemsdijk, "Variegated Privileges of Whiteness," pp. 131–32.
- ⁴² Jon E. Fox, "The Uses of Racism: Whitewashing New Europeans in the UK," *Ethnic and Racial Studies* 36, no. 11 (2013), pp. 1871–89; and Sporton, "They Control My Life," pp. 162–63.
- ⁴³ Angela Coyle, "Resistance, Regulation and Rights: The Changing Status of Polish Women's Migration and Work in the 'New' Europe," *European Journal of Women's Studies* 14, no. 1 (2007), pp. 40–41.
- ⁴⁴ *Ibid.*, p. 41.
- ⁴⁵ Karima Aziz, "Female Migrants' Work Trajectories: Polish Women in the UK Labour Market," *Central and Eastern European Migration Review* 4, no. 2 (2015), pp. 87–105.
- ⁴⁶ Helma Lutz and Ewa Palenga-Möllenberg, "Care Workers, Care Drain, and Care Chains: Reflections on Care, Migration, and Citizenship," *Social Politics: International Studies in Gender, State & Society* 19, no. 1 (2012), p. 20.
- ⁴⁷ Helma Lutz, "Introduction: Migrant Domestic Workers in Europe," in Helma Lutz, ed., *Migration and Domestic Work: A European Perspective on a Global Theme* (Aldershot, U.K.: Ashgate, 2008), p. 1.
- ⁴⁸ Francesca Bettio, Annamaria Simonazzi, and Paola Villa, "Change in Care Regimes and Female Migration: The 'Care Drain' in the Mediterranean," *Journal of European Social Policy* 16, no. 3 (2006), p. 272; and Fiona Williams and Anna Gavanas, "The Intersection of Childcare Regimes and Migration Regimes: A Three-Country Study," in Lutz, *Migration and Domestic Work*, p. 14.
- ⁴⁹ Bettio, Simonazzi, and Villa, "Change in Care Regimes and Female Migration," p. 281.
- ⁵⁰ *Ibid.*, pp. 272–74, 281; and Palenga-Möllenberg, "New Maids – New Butlers?" p. 562.
- ⁵¹ Note that in old European countries, female care and domestic workers from Eastern Europe tend to be preferred over those coming from non-EU countries as a result of the intersection of gender with the racial structures analyzed above. See Helma Lutz, *The New Maids: Transnational Women and the Care Economy*, trans. Deborah Shannon (London: Zed Books, 2011), pp. 189–90.
- ⁵² See, for example, Bettio, Simonazzi, and Villa, "Change in Care Regimes and Female Migration," pp. 280; Palenga-Möllenberg, "New Maids – New Butlers?" pp. 566–67; and Lutz and Palenga-Möllenberg, "Care Workers, Care Drain, and Care Chains."
- ⁵³ Lutz, *The New Maids*, p. 190.
- ⁵⁴ *Ibid.*, p. 187.
- ⁵⁵ Ottonelli and Torresi, "Inclusivist Egalitarian Liberalism and Temporary Migration," pp. 218–21.
- ⁵⁶ Sporton, "They Control My Life," p. 453.
- ⁵⁷ Jane Hardy, Line Eldring, and Thorsten Schulten, "Trade Union Responses to Migrant Workers from the 'New Europe': A Three Sector Comparison in the UK, Norway and Germany," *European Journal of Industrial Relations* 18, no. 4 (2012), p. 353.
- ⁵⁸ On the representation of Polish migrants in the British press, see Ariel Spigelman, "The Depiction of Polish Migrants in the United Kingdom by the British Press after Poland's Accession to the European Union," *International Journal of Sociology and Social Policy* 33, no. 1/2 (2013), pp. 98–113.
- ⁵⁹ These policy proposals follow the recommendations made by the European Monitoring Centre on Racism and Xenophobia (EUMC) to address racism and xenophobia in the mass media. See European Research Centre on Migration and Ethnic Relations (ERCOMER), "Racism and Cultural Diversity in the Mass Media: An Overview of Research and Examples of Good Practice in the EU Member States, 1995–2000," edited by Jessika ter Wal (Vienna: EUMC, 2002), pp. 75–88, fra.europa.eu/en/publication/2002/racism-and-cultural-diversity-mass-media.
- ⁶⁰ For instance, see Zsolt Darvas, "Could Revising the Posted Workers Directive Improve Social Conditions?" *Bruegel*, August 29, 2017, bruegel.org/2017/08/could-revising-the-posted-workers-directive-improve-social-conditions/.
- ⁶¹ The text of the proposal on the Revision of the Posted Workers Directive, which has been put forward by the European Council, can be found at www.consilium.europa.eu/en/press/press-releases/2017/10/23/epsco-posting-of-workers/.
- ⁶² Under the proposed revision, it would still be possible for companies to transnationally outsource labor at a cheaper value, as employers are still not required to pay posted workers the same wage as the average wage of local workers in the industry, but only to pay them the minimum wage and provide them with equal remuneration.
- ⁶³ See, for example, Mehreen Khan and James Shotter, "EU Curbs on 'Posted' Workers Will Hit Competitiveness, Poland Warns," *Financial Times*, December 3, 2017.
- ⁶⁴ Nancy Fraser, "Contradictions of Capital and Care," *New Left Review*, no. 100 (2016), p. 116.
- ⁶⁵ Young, *Responsibility for Justice*, p. 146.
- ⁶⁶ *Ibid.*, p. 145.
- ⁶⁷ Lisa Berntsen, "Reworking Labour Practices: On the Agency of Unorganized Mobile Migrant Construction Workers," *Work, Employment and Society* 30, no. 3 (2016), pp. 472–88.

⁶⁸ Ibid., p. 485.

⁶⁹ For another case for recognizing the importance of trade unions and migrants' associations as tools whereby temporary migrants can stand up for their rights, see Ottonelli and Torresi, "Temporary Migration Projects and Voting Rights," pp. 589–94.

⁷⁰ Ian Fitzgerald and Jane Hardy, "Thinking Outside the Box? Trade Union Organizing Strategies and Polish Migrant Workers in the United Kingdom," *British Journal of Industrial Relations* 48, no. 1 (2010), p. 140.

⁷¹ For examples, see Magdalena Bernaciak, "Cross-Border Competition and Trade Union Responses in the Enlarged EU: Evidence from the Automotive Industry in Germany and Poland," *European Journal of Industrial Relations* 16, no. 2 (2010), pp. 119–35; Hardy, Eldring, and Schulten, "Trade Union Responses to Migrant Workers from the 'New Europe'"; and Jane Hardy and Ian Fitzgerald, "Negotiating 'Solidarity' and Internationalism: The Response of Polish Trade Unions to Migration," *Industrial Relations Journal* 41, no. 4 (2010), pp. 367–81.

⁷² Fitzgerald and Hardy, "Thinking Outside the Box?"

Abstract: Temporary labor migration (TLM) constitutes a significant trend of migration movements within the European Union, especially after the 2004 and 2007 EU enlargements. However, compared to other forms of TLM, intra-EU TLM has received scant attention from normative theorists. By drawing on Iris Marion Young's conception of structural injustice, this article analyzes the injustice of TLM within the EU. It argues that purely rights-based approaches are deficient and that a structural injustice approach is needed. The latter sheds light on the formal and informal processes that place EU temporary migrants in a condition of vulnerability and reveals the multiple individual and collective agents participating in such processes. Moreover, such an approach offers important insights into the agency of migrants by showing how they themselves reinforce structural processes that put not only (i) individual temporary migrants but also (ii) similarly positioned migrants and (iii) other members of the sending and receiving countries in a vulnerable position. A structural injustice approach does not deny that intra-EU temporary labor migrants should enjoy the rights and entitlements that they currently have in the host country as European citizens. Nor does it dispute that reducing the vulnerability of temporary migrants may require "special rights" accommodating the specific nature of their life plans. Instead, though such rights may be necessary, a structural injustice approach demonstrates how they are insufficient to tackle the injustice of intra-EU TLM and other forms of temporary labor migration more broadly.

Keywords: temporary labor migration, post-enlargement EU, structural injustice, agency, special rights, posted workers