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# **Back to the Future? Can Europe meet its Labour Needs through Temporary Migration?**

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## ABSTRACT

Around 1974, most Western European countries abandoned policies of migrant labour recruitment, and moved towards increasingly restrictive entry rules. Today, employers, politicians and European Commission officials are considering a return to policies of systematic admission of migrant workers. Temporary or seasonal migrant worker programs have already been introduced in a number of countries. This paper inquires whether Europe is likely to return to pre-1974 migrant labour approaches. It examines the demographic, economic and social changes that have led to this new interest in labour immigration, and looks at recent proposals on temporary migration, including those of the Global Commission on International Migration. It discusses experiences of temporary migrant worker programs in Germany and the UK, and goes on to look at the European Commission's 2005 Policy Plan for Legal Migration. The paper shows that the current approaches differ significantly from the guestworker programs of the past and that there is thus no question of a general return to pre-1974 type policies. However, some current approaches do share important common features with past guestworker programs. They may lead to negative social outcomes in both receiving and sending countries.

## KEYWORDS

temporary migrant worker programmes; guest workers; undocumented migration; brain drain; development; migration policy; European Commission; Germany;UK

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Twenty years ago, IMR published my article entitled: ‘The guest-worker in Western Europe: an obituary’ (Castles, 1986). This article examined the recruitment of foreign workers by Western European countries after 1945, the reasons for cessation of recruitment in 1973-4, and the long-term consequences for W. European societies. Today, employers, politicians and European Commission (EC) officials are concerned about future supply of labour and are considering a return to policies of systematic admission of migrant workers. Temporary or seasonal migrant worker programs have already been introduced in a number of countries, including Germany, Netherlands, Norway, Ireland, Belgium, Sweden, Greece, Italy and Spain and the UK (OECD, 2005; Plewa and Miller, 2005). In addition some Southern European countries have used large-scale legalization programs to turn undocumented workers into regular members of their labour forces (Reyneri, 2003). Now a European Union-wide approach to admission of migrant workers has been proposed (CEC, 2005a; 2005b).

Are we about to witness a ‘resurrection’ of guestworker recruitment in new guises? That is the central question of this working Paper. The Paper will look first at past experiences of foreign worker recruitment, and then discuss what has changed since to make important groups think that a return to labour import may be the best strategy. I will examine recent proposals on temporary migration, including the ideas of the Global Commission on International Migration (GCIM, 2005). Then I will discuss experiences of temporary migrant worker programs (TMWPs) in certain European countries, and go on to look at the EC’s recent Policy Plan, to ask what it is proposing and what it is leaving out.

It will become evident that the current approaches differ significantly from the guestworker programs of the past with regard to: differentiation between highly-skilled and lower-skilled workers; the extent and duration of TMWPs; and the claimed intention of linking migration to the development of countries of origin. Thus there is no question of a general return to guestworker policies. However, I will argue that some current approaches do share important common features with past guestworker programs, especially through discriminatory rules that deny rights to migrant workers. They may thus lead to negative social outcomes in both receiving and sending countries.<sup>1</sup>

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<sup>1</sup> An earlier version of this Working Paper was the basis of a keynote address at the Conference: Fortress Europe? Effects and Consequences of Labour Migration, held by the Heinrich Böll Foundation in Hamburg, 16-17 February 2006. I thank the participants for their comments. I also thank the

## *THE RISE AND FALL OF THE WEST EUROPEAN GUESTWORKER SYSTEM*

As the title of the 1986 article indicated, there was a general belief at the time that large-scale labour import to Europe was a thing of the past: it had been caused by a special set of conditions, which would not be readily repeated. Between the end of the Second World War and the early 1970s, all the fast-growing industrial economies of W. Europe had imported labour, especially for lower-skilled jobs in manufacturing, construction and the services. In some cases (UK, Netherlands, France), many of the workers were from former colonies and were entitled to settle permanently – they were already citizens of the receiving county, or could easily obtain this status. Other migrants (such as Portuguese coming to France or Moroccans to the Netherlands and Belgium) entered spontaneously and were regularized once they had jobs. Since there was general acknowledgement of the need for labour, undocumented migration and use of people smugglers (especially in the Portuguese case) did not provoke the sort of media frenzy that was to appear in the 1990s.

But in addition to these unmanaged flows, all the W. European countries at one time or another experimented with systematic recruitment of temporary migrant workers. The UK, France, Switzerland and Belgium pioneered labour recruitment in Southern Europe as early as the 1940s, while Germany and the Netherlands followed on (Castles, 1986). As a latecomer, Germany was able to learn from experiences elsewhere. Its system for recruiting ‘guestworkers’ was very sophisticated: it was based on a high degree of state involvement, as well as bilateral agreements with countries of origin. By recruiting workers for a limited period, restricting their labour market and residence rights and minimizing family reunion, the idea was to provide a ‘*mobile labour potential*’ (as German employers put it). The approach was known as ‘*rotation*’: the labour reserves of S. Europe, Turkey and N. Africa could provide a constant flow of workers, but few would settle permanently, so there would be no significant social or cultural consequences for the receiving country. Moreover, temporary workers were expected to accept relatively poor wages and conditions, make few demands on social infrastructure and not get involved in labour struggles.

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following for valuable criticism and suggestions: Joaquín Arango (Universidad Complutense, Madrid), Mark J. Miller (University of Delaware), and Martin Ruhs, Oliver Bakewell and Hein de Haas (all University of Oxford).

Germany, and perhaps less consciously the other W. European states, was trying to *import labour but not people*. (Castles and Kosack, 1973).

However, it is important to note the limitations of guestworker systems. In several countries, official recruitment systems had been abandoned or had broken down by the 1960s, leading to patterns of unregulated entry and increased family reunion. Some labour-importing countries, like Belgium and Sweden, were open to family reunion from quite early on. Even in the German case, by 1969 only 44 per cent of new foreign workers were officially recruited, with others applying at German consulates on the basis of individual job offers (Castles and Kosack, 1973, 41-2). This was often a form of family reunion, since workers already in Germany could get their employers to request their husband or wife by name. Children were often brought in as ‘visitors’, while others were born in Germany. Undocumented entry was also increasing, with authorities sometimes turning a blind eye and tacitly regularizing migrants once they had jobs.<sup>2</sup> Young males still predominated, but the proportion of women was growing, and by 1970 there were estimated to be 470,000 foreign children (15.5 per cent of the foreign population) (Castles and Kosack, 1973, 51).

Many economists saw labour import as a key element in W. Europe’s long economic boom in the ‘30 glorious years’ (1945-75) (e.g. Kindleberger, 1967). Yet in 1973, the German Government suddenly stopped migrant entry, and nearly all W. European governments followed by 1974 (except the UK which had already curtailed immigration in 1962). The reason advanced at the time was the ‘Oil Crisis’, when OPEC states sharply increased their prices following the Arab-Israeli War. This was seen as the onset of a period of economic stagnation and high unemployment in the old industrial countries. Governments believed that foreign workers were no longer needed and that unemployment could be reduced by sending them home.

But the Oil Crisis was only the trigger for change: there were more fundamental factors at work and it seems likely that labour recruitment policies would have had to be rethought in any case. First, many industries and occupations were becoming dependent on migrant labour. *Temporary workers were being recruited to meet permanent labour demand*. Employers tried to retain workers with training and experience, and rotation began to break down. Second, as already noted, migrants were finding ways of reuniting their families or forming new ones. They began to

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<sup>2</sup> I am indebted to Mark Miller for pointing this out.

need family housing rather than worksite barracks. They also needed schools, medical care and social facilities. Third, migrant workers did join trade unions in W. European countries. They refused to accept sub-standard and discriminatory employment conditions. Migrants took leading roles in a wave of labour militancy in the early 1970s. Migrant labour was rapidly ceasing to be a low-cost option for employers and governments, and its social and cultural consequences were becoming evident.

The theory of the guestworker system was that by stopping recruitment, and terminating employment contracts, most migrants would leave. In fact, many did, but others stayed. Family reunion actually speeded up in the late 1970s and the 1980s, and patterns of settlement and ethnic minority formation became obvious to everyone (except political leaders in countries like Germany, the Netherlands and Austria. In Germany it was not until 1998 that mainstream political parties were willing to admit the obvious fact that *Germany was a country of immigration*). This result had not been predicted by the officials and politicians who had designed the guestworker system. They had failed to understand the inherent dynamics of the migratory process.

Why did some migrant workers become permanent settlers? Again, there were several reasons. First, migrants' objectives were linked to the life cycle. When young single workers migrated, they wanted to stay for a few years only. As they grew older, got used to work and life in Western Europe, and established families, their objectives changed. Second the recession was much worse in Turkey and North Africa than in Europe, so there were strong economic incentives to stay. Third, migrant workers had been, at least partially, integrated into W. European welfare systems. They had entitlements to unemployment benefit, education and social services, which made it worthwhile to stay on despite worsening employment prospects. Fourth, in liberal-democratic societies, governments could not simply expel legally resident foreigners. Both the German and French governments introduced programs to get migrants to leave, but the courts protected their rights to secure residence status and equal treatment before the law. The constitutions of European countries generally stress the rights of the family, and the courts enforced these – even against the will of the governments. Finally, a coalition of pro-immigrants forces developed, embracing trade unions, churches and civil rights organizations. These had significant impact on policies on immigration and immigrants through their ability to influence social-democratic and liberal parties.

While migrant labour forces declined or remained constant, total immigrant populations continued to rise. Now another element inherent in the guestworker system became significant: the approach had been based on principles of the inferiority and the separation of the foreigner. W. European societies did not integrate immigrants as equals, but as economically disadvantaged and racially discriminated minorities. As a result, immigrants tended to settle in specific neighbourhoods, marked by inferior housing and infrastructure. These neighbourhoods became the basis for ethnic religious, cultural and social associations, as well as for ethnic enterprises. Thus the guestworker system and its inherent contradictions led to today's ethnically diverse but socially divided European societies (Castles, with Booth and Wallace, 1984; Schierup, Hansen and Castles, 2006).

Since the 1980s, European governments and civil societies have become increasingly concerned with issues of integration and social exclusion of ethnic minorities, such as trends towards labour market segmentation, residential segregation and high unemployment (especially of minority youth). Conflicts and violence have been manifested through extreme-right racist movements, institutional racism in official agencies and periodic riots, starting with black youth protests against police discrimination in Britain in the 1980s and continuing up to the minority youth revolts of autumn 2005 in France. Policy approaches ranging from 'Republic inclusion' (France), through ethnic minorities policy and then integration policy (Netherlands), to multiculturalism (Britain) have been tried and found wanting. The result is a widespread belief by policy-makers that temporary labour recruitment should be avoided since it would inevitably lead to settlement and unpredictable social impacts. Yet European employers and governments are currently reconsidering temporary labour migration – the next two sections seek to explain why.

#### *WHAT HAS CHANGED SINCE?*

The early 1990s saw an upsurge of migration to W. Europe. Newcomers included war refugees from former Yugoslavia; asylum seekers from Romania, the former Soviet Union, the Middle East, Africa, Asia and Latin America; family members joining people already in Europe; and new labour migrants – highly-skilled and low-skilled, regular and irregular. The public impression that the fall of the Iron Curtain was the main reason for the increase was belied by the fact that many migrants came from the

global South. Geopolitical change in the North was running parallel to the economic and political impacts of globalization on less-developed countries (Castles and Miller, 2003). The reaction of European policy-makers was to tighten up national immigration restrictions and to increase European cooperation on border control through the Schengen Agreement, the Dublin Agreement and then through enhanced EU cooperation from 1997. An important reason for this restrictiveness was the fear that temporary migrants might again turn into new ethnic minorities.

But there was another reason. The end of labour import to Europe around 1974 had been connected with a new phase in global capitalist development. Instead of concentrating manufacturing production in the old industrial areas, new techniques of communication, management and control now made it more profitable to invest in less-developed countries, with lower wages and more restricted worker rights (Froebel, Heinrichs and Kreye, 1980). European governments therefore believed that low-skilled migrant workers would not be needed in Western Europe in the foreseeable future, and that their entry would be economically and socially harmful.

Highly restrictive labour migration policies were maintained through the 1990s, despite the obvious fact that low-skilled workers were coming in (mainly as irregular migrants, family members or asylum seekers). The new immigrants were more diverse than those of the 1960s in origins, culture and social characteristics. Moreover, Southern European countries that had been major sources of migrant workers in the past now became immigration areas, pulling in large flows, mainly of undocumented migrants.

However, in recent years there has been a gradual shift in official views. An important milestone was the 2001 *Süssmuth Commission Report* to the German Government (Süssmuth, 2001), which argued powerfully that Germany had long since become an immigration country and would need to rely on labour migration to fill both skilled and less-skilled jobs in the future. In Britain, after nearly 30 years without any serious economic analysis of the effects of migration, the Home Office brought out a report that highlighted the potential benefits of labour migration (Glover, et al., 2001). European economists (Dustmann, et al., 2005; Straubhaar and Zimmermann, 1992) and governments began to participate in a debate on migration that had already been underway in the USA, Canada and Australia for many years (Smith and Edmonston, 1997; Wooden, 1994).

What led to these change in attitudes? There seem to be two main factors and several subsidiary ones. A major *economic factor* was the realization that developed countries could not export all low-skilled activities to low-wage countries. The manufacture of cars, computers and clothing could be shifted to China, Brazil or Malaysia, but the construction industry, hotels and restaurants, hospitals and many other service enterprises could not. They had to be where their customers lived. As Sassen (amongst others) pointed out, the rich global cities of the North developed polarized labour markets: the old blue-collar skilled workforce was deskilled and squeezed out, but there was a growing need for both highly-skilled immigrants and for low-skilled immigrants to service the needs of the global elites. (Sassen, 1988). European governments scrambled to give preferential entry to tertiary-qualified workers such as information and communication technology (ICT) specialists and medical personnel, but refused to recognize the need for low-skilled migrants, who could therefore only come as undocumented workers: European politicians told them not to come, but the labour market bade them welcome (Castles, 2004b, 2005).

A major *demographic factor* was the realization that total fertility rates had fallen so far in many European countries that populations are beginning to decline. This also meant that populations are getting relatively older, so that fewer people of working age will in future have to support more elderly people (UN, 2000).<sup>3</sup> Eurostat projections show that the population of the EU25<sup>4</sup> as a whole is likely to fall slightly from 457m in 2004 to 450m by 2050 (a decline of 1.5 per cent). However, the decline will be much sharper in Germany (9.6 percent), Italy (8.9 per cent) and the 10 mainly Eastern and Central European ‘Accession States’, which joined the EU in 2004 (11.7 per cent). More serious still is the decline in working age population (15-64): currently in the EU25, 67 per cent of the population are of working age, compared with 16 per cent who are 65 and over. By 2050, a working age population of 57 per cent will have to support 30 per cent aged 65 and over (CEC, 2005a, Annexe Tables 1 and 2; see also Holzmann and Münz, 2006). As the EC argues (CEC, 2005a, Section 1.2):

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<sup>3</sup> It is important to note that the problems of population decline and ageing are less in countries that have had relatively high immigration in recent times, like the USA and Australia, than they are in Western and Southern Europe.

<sup>4</sup> The EU25 refers to the 25 Member States of the European Union following the accession of 10 new members in May 2004.

Immigration does not provide in itself a long-term solution to falling birth rates and an ageing population, but it is one of the available tools within a broader policy mix... In the short to mid-term, labour immigration can ... positively contribute to tackling the effects of this demographic evolution and will prove crucial to satisfying current and future labour market needs and thus ensure economic sustainability and growth.

These are the major factors explaining the growing support for new labour immigration policies, but several others should be mentioned briefly:

- Despite official calls to suppress the informal economy (CEC, 2005a, Section 1.1) there is strong evidence that this has grown in recent years, and is indeed an unintended consequence of official measures to secure a 'flexible labour market' (Reyneri, 2001, 2003), which in turn are dictated by the imperatives of economic liberalization and globalization.
- Demographic shifts can also lead to social change. The proportion of children aged 0-14 in the EU25 population is projected to fall from 16.4 per cent in 2004 to 13.4 per cent in 2050 (CEC, 2005a, Annexe Table 2). If there are fewer young people, these may well expect improved educational opportunities, and very few of them are likely to be available for low-skilled jobs. Age-care is one sector that will grow rapidly, and is likely to be increasingly dependent on mainly female migrants.
- Globalization has been marked by growing inequality. In 1970 the 'advanced countries' (according to the IMF classification) received 68 per cent of world income, the 'rest of the world' got 32 per cent. By 2000 the 'advanced countries' received 81 per cent of world income, while the 'rest of the world' got 19 per cent. (In the same period the world population share of the advanced countries fell from 20 per cent to 16 per cent) (Freeman, 2004). 'Today, high-income countries have per capita GDPs that are 66 times those of low-income countries and 14 time those of middle income countries' (GCIM, 2005, 12). This inequality is a very powerful force driving migration, however great the risks to the migrants. Developed countries are therefore under international pressure to help open up legal channels of migration, in ways that may be conducive to development of the South.
- Similarly, the efforts of northern countries to recruit highly-skilled personnel from the South have led to fears that the 'brain drain' would hamper economic

development and lead to severe shortages of key personnel in health care, education, management and administration. This too compels European governments to look for cooperative ways of managing migration that might increase the benefits to countries of origin.

- The other great disparity between Europe and many less-developed regions concerns the level of democracy and human rights. Many migrants coming to Europe are escaping conflict and persecution at home. Large numbers of new entrants are refugees and asylum seekers; others are people with ‘mixed motivations’ – they are fleeing both poverty and repression.

The recent Global Commission on International Migration (GCIM) summed up the great forces driving mobility as ‘development, demography and democracy’ (GCIM, 2005, 12). These are powerful reasons why the call for policies to manage migration has taken on a new prominence over the last few years.

#### *THE REDISCOVERY OF TEMPORARY MIGRANT WORKER PROGRAMS IN DEMOCRATIC STATES*

In global perspective, TMWPs did not end with the curtailment of European recruitment around 1974. Capital investment and industrialization in new regions (especially in the Gulf Oil State and the Asian ‘tiger economies’ Singapore, Hong Kong, Taiwan and South Korea) led to large-scale labour migrations, which were often controlled through contract labour or guestworker systems (Abella, 1995; Skeldon, 2000; IOM, 2003). Typical of such systems introduced in the 1980s and 1990s were the strict rules designed to prevent long-term residence and family reunion. The governments concerned were aware of the European experience and were determined to prevent a repetition in their own countries. International migration scholars have argued that such systems can succeed in less democratic states, which are willing to deny rights to foreign workers, restrict their access to the legal system, and make draconian use of deportation.<sup>5</sup>

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<sup>5</sup> Whether these labour-importing countries can prevent migrant settlement in the long run is not clear, since there do appear to be trends towards labour market dependency on migrants and increased family reunion in some Asian countries (Castles, 2003). Moreover, the strikes and demonstrations by migrant workers in Dubai in early 2006 showed the difficulty of permanently suppressing worker rights. But that is the not the theme here.

Similarly, there is a widely held belief that TMWPs are unlikely to succeed in democracies, because of the existence of strong legal systems and international human rights instruments. Migrants – even those officially considered to be temporary residents – gain welfare entitlements, become bearers of civil and political rights and have access to the courts. As the post-1974 experience showed, it is very hard for democratic countries to force former guestworkers to leave. This helps explain why some democratic labour-importing states – notably Japan and the USA – have not so far made much use of guestworker systems, but have instead tacitly tolerated undocumented migration (Martin, 2004b; Castles, 2004a; 2004b). As of March 2006, the USA was estimated to have an undocumented population of 11.5-12 million (Passel, 2006) of whom about half are from Mexico.

However, in recent years there has been a tendency to advocate a return to TMWPs in democratic receiving countries. One reason is the perceived demand for migrant workers of all skill levels due to the economic and demographic factors outlined above.<sup>6</sup> A second is the realization that, where there are strong economic drivers of labour migration, border control alone will not be able to fully prevent it, but rather drives it underground. A third – closely related – reason is the post 11 September 2001 belief that undocumented migration is not only an economic and social issue, but also a security problem. If such migration is going to take place anyway, politicians now think it better to control entries to make sure they do not pose a security threat. This seemed to be the thinking behind President Bush's January 2004 proposal for a US guestworker program (Migration Policy Institute, 2005). In the meantime, the Republican Party has sidelined such efforts and forced through Congress a law calling for the construction of a wall along much of the border with Mexico. This in turn has evoked mass demonstrations by undocumented Hispanic workers and their supporters throughout the USA. The Republican Party is split between those who support employer demands for migrant labour (including President Bush) and more nationalist anti-immigration groups. This dramatic politicization of migration shows the complexity of the temporary worker issue.

A fourth reason for the renewed interest in TMWPs is the belief that appropriate policy settings could lead to successful outcomes and avoid the pitfalls of

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<sup>6</sup> It should be noted that demand for migrant labour is not an objective factor, since employers and governments could adopt alternative strategies, such as measures to improve the wages, conditions and

the past. This view is well summarized in a recent paper by Ruhs, which argues that such programs can bring significant net benefits for receiving countries, migrants and their countries of origin. However: ‘To achieve these net-benefits in practice will almost certainly require a high degree of government involvement and intervention in the labour market’ (Ruhs, 2005). Ruhs maps out the measures that would be needed:

- The strict enforcement of immigration and employment laws, especially against employers who illegally employ migrants and/or violate minimum wage and employment regulations.
- The regulation of the cost at which migrants are made available to employers through, for example, the charging of monthly work permit fees for each migrant employed.
- The implementation of effective labour market test, i.e. of mechanisms that create incentives for employers to recruit migrant workers only after all reasonable efforts have been made to recruit local workers.
- The regulation or at least the monitoring of the migrant recruiting industry with an eye to monitoring/controlling migrants’ costs of migration.
- The protection of migrants’ rights by making work permits portable within certain sectors/occupations and after a certain period of time.
- Mixed incentive-enforcement measures to facilitate the return home of migrants whose temporary work permits have expired.

Ruhs argues that any temporary worker program will involve ‘some trade-off between the economic gains ... and restrictions of some of the individual rights of migrants while employed abroad’ (Ruhs, 2005, 14). He also notes that TMWPs ‘will always lead to pressures for permanent settlement of at least some of the migrants admitted as guestworkers’, (Ruhs, 2005, 18) but believes that such pressures can be minimized through a mixture of enforcement measures and incentives to return home. Host countries may decide to allow the transfer of a certain number of temporary workers to permanent status, but this should not an expectation for migrants at the time of recruitment.

Ruhs’ paper was written for the Global Commission on International Migration (GCIM) and appears to have had a significant impact, as the GCIM recommends that:

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social standing of jobs frequently rejected by nationals, or measures to increase productivity and raise

States and the private sector should consider the option of introducing carefully designed temporary migration programs as a means of addressing the economic needs of both countries of origin and destination (GCIM, 2005, 16).

The GCIM Report notes the danger that TMWPs can lead to such problems as worker exploitation and unplanned permanent settlement, but argues that such outcomes can be prevented by a set of appropriate government policies designed to secure equal treatment of migrant workers while abroad, enforce sanctions against both employers and migrant workers who violate the terms of the programs, encourage migrants to return home, and assist in their reintegration (GCIM, 2005, 17-18). In positive terms, the intention is to replace exploitative guestworker programs with mutually beneficial systems of voluntary circular migration.<sup>7</sup>

This positive view of temporary migration programs leads to important questions. First, does this approach have the potential to overcome the power imbalances, which have hitherto allowed governments and employers in labour-importing countries to enforce arrangements that disadvantage migrant workers and their countries of origin. In other words, can the high level of state control of temporary migration that Ruhs and the GCIM envisage be achieved? This is clearly a crucial point: TMWPs can only be mutually beneficial if governments take an active regulatory role. This would mean a reversal of neo-liberal approaches, which have led to a decisive reduction in state involvement in the economies of developed countries since the 1980s. It would also require developed-country employers to relinquish some of the profits obtained through imposing low wages and poor conditions on migrant workers. Scepticism is called for here: it seems more likely that employers would prefer to employ undocumented workers, rather than accept higher wage costs.

A second question is of a more normative character: is it acceptable to trade off worker rights for economic gains for those workers? This seems quite problematic, as it could undermine parallel calls by GCIM for improved global governance of migration, which is linked to implementation of ILO and UN Conventions laying down worker rights.

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skill levels in such occupations. I will return to this point later.

<sup>7</sup> The term 'circular migration' is used very positively by the GCIM, but does not appear to be defined in its Report. Elsewhere, circular migration is linked to the idea that 'if migrants feel that a decision to return home is not irreversible, they will be more likely to make such a decision'. This can be achieved through 'the introduction of flexible citizenship or residence rights'. The idea is that migrants could then undertake repeated short periods of work abroad, increasing labour market flexibility and reducing permanent settlement House of Commons International Development Committee, 2004, 48).

A third crucial question is whether the mix of enforcement measures and incentives envisaged by Ruhs and the GCIM would actually prevent settlement of workers recruited on a temporary basis by democratic-receiving countries, as happened after 1973 in Europe. This would imply that the state has more capacity to override the factors listed above – the dynamics of the migratory process, the role of the welfare state, democratic legal systems and human rights instruments – than in the past. Some observers believe that the stricter immigration rules introduced in recent years have created this control capacity. On the other hand, the persistence of undocumented migration casts doubt on this. Probably the real difficulty lies in conflicting interests that undermine effective control (Castles, 2004a; 2004b).

#### *RECENT EXPERIENCES OF TEMPORARY MIGRANT WORKER PROGRAMMES*

There is currently a global trend towards increased temporary labour migration. This is partly due to rapid improvements in transport and communications, which are an integral part of globalization. It is easier than in the past for people to move temporarily for work and then return home, especially if they have the opportunity of repeating the process if they wish to. Patterns of repeated and circulatory migration are becoming much more common. One way of encouraging this is through regional free movement agreements, like that covering mobility within the EU, but this seems to work well only if there is a commitment to long-run equalization of the economic levels of the participating countries. As Martin points out in another paper for GCIM, many governments prefer unilateral or bilateral temporary worker programs. However: ‘many and perhaps most of the world’s migrant workers are outside legal admissions channels’ (Martin, 2005).

So the current situation is that international bodies like the GCIM favour multilateral solutions, governments favour bilateral or unilateral programs, employers often prefer undocumented workers – and many governments seem to tacitly accept this. However several European countries have set up programs to recruit, admit or regularize migrant workers.

Most European countries have special visa categories or immigration rules to attract highly-skilled workers. Such personnel often move to take up short-term employment offers or are transferred from country to country within multi-national corporations. The principle of temporary migration matches the aims of many such

workers – although some do decide to stay on. There is strong international competition for qualified and experienced specialists, especially in management, ICT, and the health sector (Findlay, 1995). The USA, Australia and Britain attract highly-skilled personnel by offering them opportunities for family reunion and permanent settlement. By contrast, Germany's 'Green Card' scheme for 20,000 ICT specialists announced by Chancellor Schröder in 2000 did not allow family reunion and long-term residence (Green, 2004). The scheme was a failure, with only about 5000 ICT workers taking it up. Germany's 2004 *Zuwanderungsgesetz* (immigration law) (Bundesministerium des Innern, 2004) was thus designed to facilitate entry of highly-skilled personnel requested by employers. For the first time, such migrants could apply immediately for permanent residence. However, the law maintained the 1973 recruitment ban for low-skilled workers, who can therefore only come in through small-scale temporary worker schemes for specific sectors, or as undocumented migrants.

In the long run, meeting demand for lower-skilled workers is likely to be equally important for Europe, and it is here that policy is least developed. Most states still reject the idea of legal entry provisions for lower-skilled non-EU workers. One reason for this is the belief that future labour needs can be met from the labour surpluses of the 10 Accession States which joined the EU in 2004 and of Bulgaria and Romania, which will join in 2007. Instead, schemes for temporary (including seasonal) entry of limited numbers to meet specific labour need have been established, not only by Germany but also by the Netherlands, Norway, UK, Ireland, Belgium, Sweden, Greece, Italy and Spain (Plewa and Miller, 2005) (see also OECD, 2005, 103-5). It is not possible to review these schemes in detail here, so my account will focus on Germany and the UK.

Germany seems to be the European country that makes the most systematic use of TMWPs.<sup>8</sup> In the late 1980s, the combination of growing labour demand in Germany and relaxation of departure controls in eastern European countries encouraged Poles, Czechs, and Hungarians to enter as 'tourists' and spend short periods (generally just a few months) working in agriculture, building, or catering. The German authorities favoured this type of temporary migration, but preferred it to take place in a legal and organized way. They therefore introduced a number of

foreign-worker programs (often referred to as ‘new guestworker programs’ (Rudolph, 1996)), which by the late 1990s were leading to temporary employment of around 350,000 foreigners a year (Martin, 2004a: 239). The largest is the seasonal worker program, set up in 1991, which provides for bilateral agreements with central and eastern European countries to admit workers for up to three months in agriculture, building or catering. In 2001 there were 278,000 seasonal workers, of whom 85 per cent came from Poland, and the rest mainly from Romania, the Slovak Republic, Croatia, and Hungary (OECD, 2004: 200). Conditions were laid down in the bilateral agreements, and recruitment is subject to ‘EU preference’: seasonal workers may be employed only if no EU workers are available.

Another program is for foreign ‘contract workers’, employed by firms in their home country, who come to work in Germany for up to two years on specific projects, usually in the building sector. There were 47,000 such workers in 2001, nearly half of them from Poland (OECD, 2004: 200). German firms contract foreign firms and their workers to carry out certain parts of construction projects. The workers remain employees of the countries of the subcontracted firms and are employed under the conditions negotiated with their non-German employers, which entail a large reduction in real labour costs for the German firms. Other smaller programs cover cross-border commuters from the Czech Republic and Poland, and short-term recruitment of nurses from former Yugoslavia and Asian countries.

Transnational subcontracting arrangements within the European Union are a further way of providing flexible labour for the German building industry. Workers from countries with relatively low wages and social costs such as Portugal and Britain may be ‘posted’ temporarily by their firm to work on subcontracts in Germany. More than 200,000 employees from other EU countries were working on German construction sites in 1999 (Hunger, 2000: 189). The building labour market has become deeply split, with different categories of low-paid foreign workers (‘illegals’, non-community sub-contracted workers, ‘posted’ workers from low-wage EU Member States) competing with highly paid domestic counterparts.

A study of the Berlin building industry (Hunger and Thränhardt, 2001) explored the consequences of these new migration patterns. Following reunification and the move of the German government to Berlin, the city experienced an

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<sup>8</sup> The discussion of German TMWPs here is partly based on (Schierup, Hansen and Castles, 2006,

unprecedented building boom as impressive official buildings were erected. Yet 25 per cent of unemployed persons in Berlin were building workers by 1996. Employers preferred to take on cheaper contract workers or posted workers. In addition, large numbers of workers came in as daily commuters from the former East German hinterland of Brandenburg. This competition had adverse effects on unionized building workers, many of whom were long-term foreign residents of Berlin. As Hunger and Thränhardt point out, in the old German model of long-term employment, the workplace and the trade union have been sites of inter-ethnic communication and integration. Racism against migrants has always been less pronounced at work than in other social areas. The decline of the long-term employment model and its replacement with contract workers has thus had negative effects on social integration and inter-group relations.

Closely linked to such legal forms of temporary employment are increasing trends to undocumented immigration and employment. The regulated German labour market has long been seen as the antithesis of the large-scale informal or ‘black’ economies of southern Europe. Yet trends towards the growth of small enterprises, deregulation, casualization, and contracting-out have opened up the space for informal employment. Undocumented workers in Germany include illegal immigrants, but the majority of undocumented workers are probably people who entered legally but who do not have (or have lost) permission to work. This includes asylum seekers awaiting a decision. Some workers in irregular employment are actually legally resident foreigners who cannot obtain regular work contracts (Wilpert and Laacher, 1999: 53). It is impossible to say how many undocumented workers there are in Germany, since estimates are notoriously unreliable: Martin notes figures ranging from 150,000 to 1.5 million, and points out the difficulty in effectively policing Germany’s long land borders (Martin, 2004a: 242). Düvell notes estimates of between 0.5 and 1.1 million irregular immigrants in Germany (Düvell, 2005, Table 2.1).

Germany’s new guestworker programs provide limited numbers of workers for specific sectors, unlike the pre-1973 system, which provided much larger numbers of low-skilled workers for a wide range of industries. Moreover, the new programs are designed to prevent settlement. The German authorities do put resources into inspection and even prosecute employers – which is unusual in other countries. Yet,

despite this, illegal migration and employment have apparently become permanent features of the German labour market, providing a substantial share of the labour force in certain sectors of the economy. Martin notes in particular the building industry, but points to the flexibility of a large undocumented workforce moving between different sectors. He also points to the ineffectiveness of a huge corps of German labour inspectors, assigned to enforce labour and immigration laws, in actually curtailing illegal employment of undocumented migrants. Such difficulties indicate the presence of strong vested interests in the continuation of illegal employment practices. They seem even to indicate their semi-official acceptance within the context of the German welfare and labour market regime (Martin, 1997: 491).

The UK has also set up programs to bring in both permanent and temporary workers in recent years. After a period of restriction, which saw the number of new work permits of over one year's duration decline to just 5700 in 1982, numbers began to increase again, especially after 1994, reaching a peak of 129,000 permits in 2002 (Clarke and Salt, 2003). This was due to strong economic growth, which has led to high demand for labour. There have been shortages of highly-skilled personnel, while local workers are not available for many low-skilled jobs in agriculture, food processing, hotels and catering and cleaning. As a result of policies of economic deregulation started in the Thatcher years and continued by the Labour Government since 1997, the British economy is very open to casualized and informal work relationships, which has made it easy for employers to take on undocumented migrant workers and asylum seekers.

Since 1997 the government has set out to promote economic migration to provide skills in short supply domestically and to increase the competitiveness of the UK economy (Clarke and Salt, 2003, 564) The aim has been 'managed migration' through a work permit system based mainly on employer demands – the Home Office prides itself on processing 90 per cent of such applications within one day (Somerville, 2006, 35). In 2004, 124,000 persons were admitted on work permits, of whom 82,700 were permit holders and 41,600 their dependents (Office for National Statistics, 2005). Two-thirds of immigrants are highly-skilled, mainly working in managerial and professional occupations (Layton-Henry, 2004, 319), especially in the fields of ICT, health and education (Clarke and Salt, 2003,547).

However, there was no similar effort to set up a general recruitment system for low-skilled migrants. Instead, the Home Office established a complex system of specialized work permits that created 'side-doors' into some forms of low-skilled work. These include (all figures below are from Office for National Statistics, 2005, Table 1.2):

- *Working holiday-makers*: this scheme was originally for people aged between 17 and 27 from Commonwealth countries, who could work for up to two years, but had no entitlement to any welfare benefits, nor to stay on after the two years. They were often young people from Australia, New Zealand or Canada, who took up a range of usually low-skilled jobs while visiting Britain. In 2002 they numbered 41,700. In 2003, the age limit was raised to 30, and visa holders were permitted to switch to the work permits scheme after a year. Entries under the scheme increased to 62,400 in 2004.
- *The Seasonal Agricultural Workers Scheme (SAWS)* was set up to bring in young people from across Europe to work for up to three months in agriculture. The number of entrants was 17,000 in 2002, 21,000 in 2003 and 15,000 in 2004. Most SAWS migrants came from Poland, Ukraine and the Baltic States. All these countries, except Ukraine, joined the EU in 2004, with important impacts on the Scheme (see below).
- *The Sector Based Scheme (SBS)* was set up in 2003 to provide lower-skilled workers for food processing and hotels and catering, with an annual quota of 10,000 for each sector (Clarke and Salt, 2003, 573). The hotels and catering quota was largely used by Bangladeshi workers, recruited as kitchen staff and waiters by Asian restaurants. However, workers were only allowed to come for one year, but it was impossible for them to recoup their high migration costs (fares, bribes to officials etc.) in this period, so most stayed on illegally. The scheme was suspended in 2005.
- Britain also admits migrants for *domestic service* – there have been about 10,000 a year since 2001. A related category is *au pairs* (mainly young women who assist with child-care and housework): their number fell from 15,000 in 2003 to 5600 in 2004. This fall is hard to explain, but may have been due to EU accession of countries of origin.
- A further source of short-term labour for the UK is *overseas students*, who are permitted to work up to 20 hours a week during term-time, and full-time in the

university holidays. In 2004, 294,000 students and 13,000 dependents were admitted under this scheme. It is not clear how many entered the labour market, but it is known that many did, and indeed that ‘learning English’ was sometimes a pretext to gain admission in order to work.

These limited recruitment schemes have proved insufficient to meet the widespread demand for low-skilled workers in the UK. Employers therefore resort to undocumented migrant workers (including asylum seekers). The undocumented population is unknown, but estimates range from 50,000 to 500,000 (Düvell, 2005, Table 2.1). Government ministers and Home Office officials are aware of this, but seem to find this situation preferable to setting up adequate legal migration channels – a policy that would encounter vocal opposition from the right-wing tabloid press.

In any case, the situation changed fundamentally in May 2004 with the accession to the EU of several countries that had been main sources of undocumented workers (Poland, Czech Republic, Latvia, Lithuania and Estonia). The UK, unlike all other EU countries except Sweden and Ireland, did not introduce a waiting period for such workers, so they immediately became legal members of the workforce. There was much discussion of the beneficial effects – for instance of being able to call on Polish plumbers and other skilled building workers. There were 277,000 registrations of accession state nationals as workers from May 2004 to September 2005 (Home Office, 2005).

In March 2006, the British Government published a White Paper announcing a comprehensive reform of the immigration system. The new points-based system is to be ‘focused primarily on bringing in migrants who are highly skilled or to do key jobs that cannot be filled from the domestic labour force or from the EU’ (Home Office, 2006, 1). Points will be awarded for ‘attributes (which predict a migrant’s success in the labour market) and control factors (which relate to whether someone is likely to comply with the conditions of their leave [to enter])’ (Home Office, 2006, 16). Points will be awarded for such attributes as educational qualifications, previous earnings, prospective earning, whether a job is in a shortage occupation and age. ‘Control factors’ are concerned with preventing abuse of the system (over-staying and irregular employment) especially through a sponsorship system – i.e. by making employers or educational institutions responsible for ensuring that migrants comply with the rules.

The new system has five tiers: Tier 1 is for highly-skilled individuals; Tier 2 for skilled workers with a UK job offer; Tier 3 for ‘limited numbers of low skilled

workers needed to fill specific temporary labour shortages'; Tier 4 for students; and Tier 5 for youth mobility and temporary workers 'for a limited period of time to satisfy primarily non-economic objectives' (Home Office, 2006, 2). The White Paper makes it quite clear that low-skilled migration from outside the EU is to be phased out and to be used only as a temporary expedient in limited circumstances. Existing schemes for the low-skilled are to be abolished (the Sector Based Scheme already has been, and the Seasonal Agricultural Workers Scheme will be by 2010). The Home Office assumes that all future demand for low-skilled workers will be met through entries from Accession States, including Romania and Bulgaria from 2007 (Home Office, 2006, 29-31).

The new system is designed to increase the efficiency of migration management, to improve compliance and to reduce scope for abuse (Home Office, 2006, 1). Whether it will succeed depends very much on whether EU Accession States are able to meet future demand for low-skilled labour. In fact, demographic projections show that Eastern and Central European countries will experience dramatic demographic decline in the future. (CEC, 2005b, Annexe Tables 1 and 2). Moreover, as their economies develop, they are likely to employ more of their domestic labour potential. It therefore seems probable that this labour source will only be sufficient for UK demand in the short to medium term (perhaps 5-10 years). After that, undocumented labour migration from outside the EU may well increase once more – or the British Government will have to change its entry system yet again.

What lessons do the German and British cases have for the future perspectives of TMWPs in Europe? Germany's 'new guestworker' programs are linked to the availability of migrant workers in neighbouring countries, who are willing to meet seasonal and temporary needs for labour, especially in agriculture, construction and hotels and catering. However, where these needs are not in fact temporary, undocumented work is also significant. The UK has concentrated on encouraging immigration of the highly-skilled – partly by offering permanent stay even for groups that may be fairly mobile – while opening only small 'side-doors' for the low skilled. Undocumented employment seems to play a major role in certain economic sectors. The response to EU enlargement has been to close even these side-doors. In both cases, it is clear that guestworker programs on the pre-1974 scale are not envisaged. TMWPs are only used for specific and limited purpose.

It would not be permissible to generalize from the two cases discussed here to draw conclusions about the situation in the other European countries. Southern European countries in particular have large migrant labour forces as a result of mainly undocumented immigration since about 1990. Guestworker type programs have not played a significant role, since spontaneous entry followed by periodic regularization measures seems to have proved an effective way of channelling workers into economies marked by high levels of informal employment (Reyneri, 2003). The quota system introduced in Spain in 2002 to bring in migrants on short-term permits to meet specific labour-market needs was small in scale and seems to have been rather ineffective (OECD, 2005, 104).

Plewa and Miller examine recent Southern European labour migration experiences, with special emphasis on Spain (Plewa and Miller, 2005). They draw attention to the way programs for temporary migration have been undermined by the possibility of achieving regularization and long-term residence. They argue that legalization of the type used extensively in Spain and Italy in recent years does give workers more rights, but may cause employers to replace the legalized workers with new undocumented migrants. In any case, legalization tends to lead to permanent settlement, because migrants are reluctant to give up their residence status, once they have obtained it. However, Arango argues that the idea of a guestworker system was never considered in Spain, and that initial one-year permits are renewable, allowing migrants to apply for permanent residence after 5 years.<sup>9</sup> Similarly, according to Reyneri, recent research indicates that workers who have achieved regularization in Italy have on the whole managed to keep this status.<sup>10</sup> Thus it might be argued that the specific Southern European model of spontaneous entry and informal economy (King, Lazaridis and Tsardanidis, 2000) has little need of TMWPs. Migrants in these countries may be less exposed to the constraints of guestworker programs, but they are highly vulnerable to changing government policies on entry and residence, exploitation in the labour market and social exclusion (Reyneri, 2003).

Plewa and Miller provide some general insights into TMWPs in Europe. They find that recent guestworker programs have been much smaller than earlier ones. However, they argue that the policies have been essentially the same: the economic

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<sup>9</sup> Personal communication from Professor Arango, March 2006.

<sup>10</sup> Presentation by Professor Reyneri at the Conference: Fortress Europe? Effects and Consequences of Labour Migration, held by the Heinrich Böll Foundation in Hamburg, 16-17 February 2006.

objectives of both receiving and sending countries are paramount, while workers have substandard social conditions and limited rights. The linking of work permits to specific employers, areas or occupations has weakened the position of migrant workers. In addition, employers have often failed to comply with the rules. The frequent preference of employers for undocumented workers undermines temporary worker programs. Thus Plewa and Miller believe that the new guestworker programs have the same flaws as the earlier ones, and are unlikely to achieve their aims of meeting low-skilled labour demand and preventing settlement (Plewa and Miller, 2005).

This limited nature of TMWPs in Europe is perhaps one reason why undocumented entry and employment have become so significant. Although accurate figures do not exist, experts put the total number of undocumented immigrants in the EU at between 4.1 and 7.3 million (Düvell, 2005, Table 2.1) – lower than the 11.5-12 million in the USA but still very significant. In analytical terms, we may see TMWPs and systematic use of undocumented workers as alternatives. Although employers and policy-makers are reluctant to admit it, they may well see irregularity as a better option in some cases, since it may avoid both economic and political costs. The social costs, on the other hand, are borne by both migrants and local workers. This does not seem a good basis for immigration polices, especially at the European level.

#### *THE EUROPEAN COMMISSION'S 2005 GREEN PAPER AND POLICY PLAN*

##### *The 'road map' for migration*

Let us now return to the European Commission's recent proposals. The *Green Paper on an EU Approach to Managing Economic Migration* of January 2005 was part of the Commission's response to the Hague Program on migration policy adopted by the European Council in 2004. The Green Paper was designed to 'launch a process of in-depth discussion ... on the most appropriate form of Community rules for admitting economic migrants and on the added value of adopting such a common framework'. The Commission notes that the EU25's working age population will fall by 20 million between 2010 and 2030, which 'will have a huge impact on overall economic growth, the functioning of the internal market and the competitiveness of EU enterprises' (CEC, 2005b, 3). The Commission therefore argues that it is time to revisit the

restrictive immigration approaches of the past, especially because the absence of appropriate policies on economic migration may lead to increased irregular flows. While recognizing that decisions on admission of economic migrants are the responsibility of Member State governments, the Commission advocates 'transparent and more harmonized common rules and criteria at EU level for admitting economic migrants' (CEC, 2005b, 4).

The Green Paper certainly did lead to the intended discussion, both through debate at policy meetings (including a public hearing in June 2005) and through a flood of critical submissions by official agencies and non-governmental organizations (e.g. Amnesty International, 2005; e.g. JCWI, 2005). No attempt will be made to summarize this debate here. The upshot of the discussion was the publication of the Commission's *Policy Plan on Legal Migration* in December 2005. This is an important document because:

The Policy Plan defines a Road Map for the remaining period of the Hague Program (2006-2009) and lists the actions and legislative initiatives that the Commission intends to take, so as to pursue the coherent development of EU legal migration policy. (CEC, 2005a, 3)

The Policy Plan argues that economic immigration responds to a 'need scenario' in Member States, which are already experiencing substantial labour and skill shortages. These shortages are sure to get worse and concern 'the full range of qualifications – from unskilled workers to academic professionals' (CEC, 2005a, 4). On this basis one might expect a comprehensive plan for migration policy, embracing all skill levels. However, this is not what is to be found in the Policy Plan. Although the Green Paper had floated the idea of a 'horizontal framework covering conditions of admission for all third-country nationals seeking entry into the labour market of the Member States', this was rejected by several Member State governments. Instead the Policy Plan proposes a 'general framework directive' and four 'specific instruments'.

The general framework directive would be designed to 'guarantee a common framework of rights for all third-country nationals in legal employment already admitted in a Member State, but not yet entitled to long-term residence' (CEC, 2005a, 5). This could be linked to a 'joint work/residence permit – held by the worker and containing the most advanced biometric identifiers', which in turn would be linked to the existence of a legal work contract. This approach might increase the security of residence of some existing migrants, and allow their mobility throughout the EU.

However, it would not, apparently, be relevant for new migrant workers. Moreover, existing migrants would apparently lose both their work and residence permits if the employer terminated their work contracts. This appears to reinforce migrant workers' vulnerability on the labour market.

The four specific directives concern the following types of migrant worker (CEC, 2005a, 6-8):

- Highly-skilled workers, for whom common special procedures for selection and admission as well as attractive conditions would be offered.
- Seasonal workers for agriculture, building and catering, who would be allowed to come in for a certain number of months per year for 4-5 years. No possibility of transferring to permanent employment and residence after this period is envisaged.
- Intra-corporate transferees moving within international companies, who would be granted temporary residence.
- Remunerated trainees, who would be allowed temporary residence while on a recognized training course (which might include paid work) with EU firms.

Clearly the main emphasis in the Policy Plan is on attracting highly-skilled workers. The implication is that this group will get preferential admission conditions, and easy access to permanent residence. This fits in well with the existing practice of many EU Member States. Such an emphasis can be problematic, if it leads to a loss of key workers and human capital from poor countries: the so-called 'brain drain'. Of course, many highly-skilled workers circulate between developed countries, but there is growing concern about the emigration of professionals, such as engineers and ICT specialists, who may be important for the economic development and social well-being of origin countries in the Global South.

Such concerns apply particularly with regard to medical personnel. Between a quarter and a third of physicians in the UK, Canada, the USA, Australia and New Zealand are foreign-trained. The major source regions are Africa, the Caribbean, S.E. Asia and S. Asia. The British National Health Service had more than 30,000 nurses of foreign origin in 2002, and is heavily dependent on the recruitment of trained staff from Africa and Asia (Alkire and Chen, 2006, 104-5). This can lead to crisis situations in regions of origin. It has been estimated that 61 per cent of graduates of Ghana's main medical school, who qualified from 1986-96, emigrated (Dovlo, 2006, 118). There are thought to be more Ghanaian medical doctors practicing in the UK than in

Ghana. This can lead to a process of dequalification: highly-trained African and Asian nurses are known to end up working as carers in British old people's homes. The effects are even more problematic for Southern African countries like Malawi, which is struggling with the HIV-AIDS epidemic and finds that the majority of its doctors are being attracted away by the much better pay and conditions in the UK. According to the GCIM 'it is estimated that there are currently more Malawian doctors practising in the northern English city of Manchester than in the whole of Malawi' (GCIM, 2005, 24).

However, what is most significant in this Policy Plan is not what is in it – but what is not. It adds up to a set of limited measures designed to encourage and harmonize types of labour import already encouraged by several Member States. It completely fails to address the one of key long-term problems of EU labour markets – even though this problem is stressed in the Commission documents – *the projected future demand for labour of all skill levels*. Most importantly, the Plan ignores the already existing demand for lower-skilled workers in important economic sectors, which is sure to get more pronounced in the future. Thus the Policy Plan will do nothing to address the growth of undocumented migration, and the high risks and considerable exploitation that such migration brings for the workers concerned.

The Policy Plan contains a number other elements, which will not be reviewed in detail here. The planned measures to improve knowledge and information on migration are to be welcomed. The same goes for measures to improve the economic and social integration of immigrants already living in the EU. The Policy Plan also stresses the need to improve collaboration with 'third countries' (i.e. countries of origin and transit) to develop 'win-win opportunities' for both the migrants and the countries concerned. Identifying and addressing the negative effects of specific cases of brain drain is one aspect of this. But it hard to know how seriously this will be taken in EU policy planning and implementation, since it could contradict the central objective of attracting highly-skilled migrants. Proposals for facilitating return migration and circular migration, for instance through long-term multi-entry visas, could be beneficial, and fit in with proposals made in recent analyses of issues of migration and development (GCIM, 2005; IDC, 2004). However, this part of the Policy Plan is very short on detail, and it is far from clear that the EU Member States are prepared to introduce and enforce rules that might limit the economic gains made

by employers and governments in the North in order to safeguard the interests of southern sending countries.

*Open questions on the Commission's Policy Plan*

There is strong evidence that demographic and economic factors will lead to considerable future labour demand across the skill spectrum in the EU, and that it will not be possible to meet this from domestic labour markets. The hope that labour from accession states can fill the gaps seems misplaced, since Eastern and Central European countries face sharp demographic declines, and are likely to need their own labour resources. Even Turkish accession<sup>11</sup> would be unlikely to meet the EU's long-term labour needs, in view of Turkey's declining fertility and rapid economic growth. The current debate on economic migration to the EU thus raises some important questions.

*First, does the European Commission's Policy Plan offer an adequate and realistic 'road-map' for meeting the EU's future labour needs?* It appears to do so only for quite limited categories, namely highly-skilled workers, seasonal workers for specific sectors, intra-corporate transferees and remunerated trainees. In these areas the Plan could bring about harmonization and possibly more intra-EU mobility and improved conditions. However, these are sectors already fairly effectively covered by Member State laws and policies. The potentially much more important goal of creating legal channels for the growing number of lower-skilled workers likely to be required in the years ahead is simply left out of the Plan. The need for such workers is stated, but nothing is done to meet it. It seems clear that pressure of powerful Member States has forced the Commission to drop its original call (stated in the Green Paper) for a comprehensive system of economic migration management. The Policy Plan is thus highly deficient.

*Second, can temporary worker programs meet the future labour needs of the EU, if these are not temporary in nature, but rather the result of long-term shifts in demographic and economic structures?* Analysis of the past European experience with guestworker programs exposes the inherent contradiction of such approaches. European (and most notably German and Swiss) employers brought in workers on

short-term visas, but the labour demand was not of a short-term nature. The official ‘rotation’ policy failed, because employers had a strong interest in retaining trained and experienced workers. EU projections of labour demand show quite clearly that much of this is not short-term or temporary. With labour shortages across the board, employers will fight to retain workers in the future, and there is no reason to think that current approaches will be any more sustainable than those of the past.

*Third, what impacts might implementation of the Policy Plan have on the rights and social conditions of migrant workers?* It appears that it might lead to some improvements in legal rights and intra-EU mobility for existing immigrants legally present in the EU (although they will remain vulnerable in the event of losing their jobs). However, the Plan appears unlikely to do anything to improve the rights and conditions of future migrant workers. The relatively small numbers of future legal low-skilled migrants will be treated as temporary workers with enforced rotation and no right to settle. The larger contingents of lower-skilled workers who come to Europe spontaneously in response to strong demand for labour will have no choice but undocumented entry and irregular work. They will remain a marginalized and exploited labour potential, at the mercy of people-smugglers and unscrupulous employers. The increased efforts at border enforcement will make entry even more risky than it is at present.

*Fourth, will the Policy Plan lead to better collaboration with third countries, and hence to ‘win-win’ outcomes for countries of origin and destination, as well as for the migrants themselves?* The Plan does propose measures to limit harmful brain drain, but these measures are not outlined in detail and look very much like an afterthought. Ideas for linking migration to development, for instance through facilitating return and circular migration and encouraging productive use of remittances are worthy of support. But the implementation of such measures would require European countries to give up some of the advantages they gain from importing labour from the South. The political readiness for this degree of regulation does not seem to exist in Europe at present.

#### *ALTERNATIVE APPROACHES TO EUROPE’S FUTURE LABOUR DEMAND*

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<sup>11</sup> Whether the EU will decide to admit Turkey remains to be seen, but even if this is the case, it will

This Working Paper started with the question whether new approaches to labour migration in the EU and some of its Members States are tantamount to the ‘resurrection’ of the guestworker system that seemed to have been abolished around 1974. The analysis presented should make it clear that such a conclusion would be both simplistic and misleading. The policies of the 1945-74 period were designed to import low-skilled guestworkers. Today, official policies in the EU (and indeed throughout the developed world) target the highly skilled, while less-skilled workers are admitted only in very limited numbers through temporary and seasonal labour programs. The examination of policy trends in Germany, Britain and the EU as a whole showed the ever-stronger emphasis on importing human capital while restricting the entry of less-qualified workers. Policies to meet low-skilled labour shortages are designed as temporary and limited schemes for specific sectors.

Thus there is every reason to think that much labour demand will continue to be met by undocumented workers, who undergo considerable risks on the journey and face exploitation on arrival. As the European Commission argues so convincingly, future labour needs will go right across the qualification spectrum. Yet the Policy Plan fails to set up mechanisms for legal migration for the lower-skilled end of this spectrum. On this basis one could argue that Europe’s migration policies are even more misguided and hypocritical than they were before 1973. The EU and its Member States seem still to be trying to *import labour but not people* – just as the W. European countries did 40 years ago. Europe’s failure to face up to the realities of the situation leads to the great hypocrisy of modern migration policy (one shared by the USA and Japan): the systematic use of undocumented migrant workers, who are denied many of the rights laid down in the human rights instruments and labour conventions endorsed by these same countries. Building walls (between the USA and Mexico) and increasing naval patrols (between the EU and Africa) increases the death rate and the smugglers’ profits, but does not solve the problem.<sup>12</sup>

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take at least ten years,

<sup>12</sup> According to a map published in *Le Monde Diplomatique* in March 2004, 3300 migrants were drowned trying to cross from Morocco to Spain between 1997 and 2001, while hundreds more died at other crossing places into Europe. In 2006 there were reports that attempts to close off the shortest routes between Africa and Europe had led to even more hazardous routes, as smugglers attempted long Atlantic voyages with canoe-like open boats (*pirogues*) from Mauritania and even Senegal to the Canary Islands. More than 1000 migrants were thought to have already drowned in this way. Smugglers charge up to \$550 per person (*Guardian*, 23 March 2006).

Current approaches to labour migration have negative social consequences for both receiving and sending countries. Exploitation of migrant workers and the absence of secure residence status and basic rights for many new residents undermine the rule of law and the welfare state in liberal-democratic societies. Moreover, there is no reason to think that receiving countries will be any more successful in preventing unplanned settlement of ostensibly temporary migrants than in the past. Whether the new members of society came as undocumented workers or as legal guestworkers, they are likely to experience processes of discrimination and social exclusion. The result – as in the past – is likely to be divided societies and social conflict. As for sending countries, the continuation of serious power imbalances and lack of cooperative governance makes it difficult to achieve the potential development benefits of migration, and may lead to major political and social strains.

There has been much discussion about possible alternative in recent years. Although there is no space to go into detail here, three approaches may be mentioned:

1. Policies to reduce the demand for less-qualified labour, while improving the conditions and social status of manual work.
2. ‘Open borders’ policies, which abandon migration control and leave regulation to the market.
3. Policies to enhance international collaboration and governance, in order to improve outcomes for migrants as well as for sending and receiving countries.

The first approach questions whether highly-developed countries really do ‘need’ large numbers of lower-skilled workers.<sup>13</sup> The argument is that such labour demand is socially constructed by the poor wages, conditions and social status accorded such occupations as agricultural workers, building workers, hospital cleaners and catering staff. If the situation of such workers were substantially improved that might have three consequences: first, local workers would be more willing to take such jobs; second, marginal employers reliant on cheap (undocumented) labour would go out of business, leading to a decline in demand for low-skilled labour; and third, there would be incentives to improve productivity in these sectors through more investment in labour-saving technologies. This argument is generally supported by trade unionists, who believe that better wages, and enforcement of worker rights are the best ways of combating undocumented work.

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<sup>13</sup> I am indebted to Mark Miller for pointing out the importance of this issue.

In some ways this approach is reminiscent of the principle of ‘trade instead of migration’ advocated by economists and governments (e.g. Japan) in the 1970s and 1980s. Manufacturing was to be moved to low-wage economies, while only high-productivity jobs were to remain in the old industrial countries. This actually happened to some extent, but it did not eliminate the demand for low-skilled migrant workers for agriculture, construction, the services, and some remaining factories. The new variant is the idea that these jobs can also be eliminated, upgraded or shifted offshore. The limits to exporting construction and service jobs have been discussed often enough: these jobs have to be where the consumers are. Such sectors only remain viable through employing legal guestworkers (for instance on a seasonal basis) or undocumented workers.

In the end, eliminating low-skilled work and upgrading its social status depend on strict labour market regulation to enforce minimum wages and conditions and to keep out undocumented workers. This would undercut TMWPs that restrict workers’ labour market mobility, residence duration and human rights. If migrant workers are required, they should have the right to change jobs, bring in families and stay permanently if they want to. This could indeed be the basis for circular migration, since many migrants have no desire to stay permanently, as long the option of return is open to them. This could push up wages, and force inefficient producers out of business. But such policies would go against key principles of the neo-liberal deregulation agenda, which dominates European economic policies. Similarly, denying cheap labour to European farmers (who are often large companies rather than struggling individuals) would be beneficial to producers in developing countries. But it would go against powerful political interests and the ideologies of conservative parties.

The second alternative – opening the borders and leaving everything to market forces – is advocated by two normally divergent schools of thought: neo-classical economists and human rights advocates. Many economists believe that leaving regulation to market forces would optimize the benefits of migration for both sending and receiving countries and help in the long run to equalize wages between them (Chiswick, 2000; Martin and Taylor, 2001) Human rights advocates think that open borders would eliminate discriminatory and repressive state measures and enhance migrants’ rights. They also argue that the economies of both sending and receiving

countries would benefit, and that migration would not rise to insupportable levels, because most people will prefer to stay at home (Harris, 2002; Hayter, 2001).

As I have argued elsewhere (Castles, 2004a, 872-3) 'open borders' is a desirable long-term aim, but there are reasons to think that eliminating all migration control at the present time would be downright harmful:

- Effectively, there is already free movement for the highly skilled. This allows rich countries to plunder the scarce human capital of poor countries. More – not less – regulation of highly-skilled migration is needed.
- Employers often favour uncontrolled migration precisely because it leads to lower wages for competing local labour (especially for lower-skilled occupations). There is no guarantee of reaching 'equilibrium' levels of wages, but if they were achieved it might be at very low levels.
- The labour markets of developed countries could absorb only a small proportion of the unemployed or underemployed workers of the South. This is not likely to lead to significant improvements in wages or conditions in countries of origin.
- Labour inflows and pressure on wages in the North could lead to conflict between immigrant and local workers. In view of the existing anti-immigration mobilization by mass media and right-wing politicians, the consequences could be an upsurge in racism and violence, paving the way for extreme-right political gains.
- 'Open Borders' would eliminate the distinction between refugees and economic migrants. Elimination of current exclusionary asylum determination processes would make entry for refugees easier. But it might also remove the rationale for the international refugee regime based on the 1951 UN Refugee Convention and the United Nations High Commissioner for Refugees, which are vital for the protection for millions of vulnerable people in the current global situation of widespread conflict and human rights abuse.
- The elegant simplicity of the 'open borders' slogan is deceptive, as it would create new problems. In the current global context it could lead to an anarchic situation in which the weakest – in both sending and receiving countries – would be even more disadvantaged.

What about the third alternative: policies to enhance international collaboration and governance in the migration field? The idea is that governments and civil society should work together multilaterally to combat abuse and exploitation of migrants, and to realize mutual benefits for both sending and receiving countries. Migration should ‘work for poverty reduction’ (IDC, 2004, 4-5) and should ‘become an integral part of national, regional and global strategies for economic growth, in both the developing and the developed world’ (GCIM, 2005, 4). These and other reports put forward a series of proposals for maximizing the benefits of international migration, which include measures to limit the ‘brain drain’, to prevent smuggling and trafficking, to encourage the flow of remittances and to enhance the role of diasporas as agents of development. Such reports also call for ‘flexible systems of temporary and circular migration’ (IDC, 2004). The GCIM strongly endorsed TMWPs, but noted the danger that they could create a ‘second-class category of workers’. This could be avoided through appropriate program design and strong enforcement of rules on worker rights and conditions (see above and GCIM, 2005, 17-18).

This type of multilateral approach does seem to be the most promising way of meeting the labour demand in developed countries, while protecting worker rights and enhancing development benefits for the countries of origin. But – as already discussed above – international collaboration and enhanced governance of migration require two things that have been largely absent in the past. The first is the willingness of migrant labour importing country governments to work together with the governments of sending countries to achieve mutually beneficial economic outcomes. Up to now, the main objective of international cooperation on migration by the EU and its Member States has been to impose migration restriction measures on countries of origin. Cooperation to make migration serve development would mean reducing the profitability of migrant labour for receiving countries (at least in the short term), which in turn would mean taking on powerful employer groups.<sup>14</sup> A second requirement would be the introduction of effective systems of labour market regulation to recruit legal migrant workers to meet domestic labour needs, and to ensure that these workers received appropriate wages and conditions. It would also involve finding the fiscal resources to hire the necessary army of labour inspectors. As

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<sup>14</sup> In the long run, integration may actually raise migrant workers’ productivity, as they acquire education, training and work experience. Therefore, in the long run employer could well have an

already pointed out, that would mean a fundamental shift away from neo-liberal policies of deregulation. It would also require a major change in political rhetoric in order to explain the need for migrant labour to a public made sceptical by years of anti-immigration slogans.

Where do these rather pessimistic conclusions leave us? To sum up the discussion on the three postulated alternatives, the first and third could lead to positive outcomes for migrants and for sending and receiving countries, but are highly unlikely to be implemented due to interest divergences and lack of political will; the second (open borders) is desirable in the long run but utopian and potentially harmful in the current global context.

Yet there are positive trends. The analysis of Europe's future labour needs presented by the European Commission does point to the need for a comprehensive and collaborative approach – even though the Policy Plan does not reflect this very well. Thinking on migration and development by important bodies in European states does show a greater willingness to recognize the positive contribution of migrants and the needs of regions of origin. The principles and strategies advocated by the GCIM are also positive. The GCIM was only an advisory body, and its findings may well be ignored by those who hold political power, yet the fact that a body of this kind was supported by the UN Secretary General is a significant advance from the past, when the UN virtually ignored the issue of global cooperation and governance in the migration field.

Perhaps what we are seeing at present is that advances made in migration research and theory in recent decades are beginning to permeate bodies which can translate them into policy advice. But to actually achieve substantial shifts in policies requires the further step of creating the political will for change. This has yet to happen, and requires the active involvement of citizen groups, civil society organizations and political actors in both sending and receiving societies. In seeking to achieve this, one of the most important principles to remember is that of the interdependence of migration policies with those on trade, finance, development, foreign affairs and security. As the GCIM stated (GCIM, 2005, 9):

...migration policies have little chance of producing positive outcomes unless they are complemented by appropriate policies in many other areas that have

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interest in migrant integration, but migration policy decisions seem all too often to be based on short-

an impact on, and which are impacted by, international migration. In short, the issue of human mobility cannot be dealt with in isolation.

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term factors. (I am indebted to Hein de Haas for drawing my attention to this point).

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