

Temporary Worker Schemes in the UK: Impacts on Pro-Poor Policy
University of Sussex, June 7th, 2004
Workshop Report

Over the last 2-3 years, there has been both an expansion in the number of work permits granted for foreign workers in the UK, and the introduction of new work permit schemes for highly-skilled workers and specific sectors (currently the hospitality and food processing sector). These schemes have been designed to meet the needs of the UK labour market, and might therefore be expected to have positive outcomes for the UK. However, the way that these schemes are designed will also impact on the balance of costs and benefits both for the migrants themselves, and for their countries of origin.

On June 7th, 2004, a workshop was held at the University of Sussex to address the following questions:

- What have been the impacts (or, what are the likely impacts) of UK temporary worker schemes for developing countries?
- Focusing on low-skill recruitment in particular (for agriculture, food processing, hotel and catering and the care sector), what adjustments to existing schemes could be recommended that would enhance outcomes for developing countries, and specifically for the poor?
- Could temporary worker schemes be extended to new countries or sectors in a way that could be designed at the outset to benefit sending countries (and especially the poor) as well as the UK?

The aim of the workshop was to share experiences of temporary workers schemes in the UK with various stakeholders representing the government, international organizations, private organizations and non-governmental organizations and as well to identify practical ways to make temporary worker schemes more development friendly.

SESSION 1: Migrant Selection and Home Labour Markets

Presenters: Rebecca Cowen, Christine Lumb

Summary of key discussion points:

- Extension of SAWS
- Problems of migrants having to pay to work in the UK
- Conditions of migrants in the UK

The nature of SAWS has clearly changed from a student travel/exchange program to an agricultural industry labor shortage program geared primarily at students. This scheme can be useful to train students that come from countries where agriculture is essential although poorly managed. Close work with agricultural universities in countries can be managed so that students can put into practice what they learn in the UK. The scheme benefits participants financially with an income of approximately £3000 to £8000 each season and through training and learning by doing.

SAWS allows farms to meet their labor needs by accessing workers for up to six months. In 2004, contracted operators recruited their quota of 25,000 non-EU students. The average age of participants is approximately 22 years old, with almost equal proportions of men and women over the age of 18 and enrolled in full time education. 750 farms across the UK benefited from this scheme in 2004. The benefits are numerous:

- Financial – workers receive minimum wage/can save to fund their studies
- Cultural – learn about life in the UK and development of English language skills
- Educational – learning about the agricultural industry and operations in the UK
- Protection – wages, standards (ie: health and safety), accommodation

The future of SAWS is changing and is most recently demonstrated in the Minister's 35% cut of entry permits for the year 2005 which reflects the EU accession states take up of spots on the program in 2004. Other plans for 2005 are country specific quotas. The rationale behind setting and cutting quotas are questioned as it is felt that many of the participants in SAWS who are now members of the EU may leave agriculture, which could result in a further increase in the quotas. It may well be too early to determine the trends of these migrants. In 2004 the new registration scheme for EU states had its largest amount of registered workers in the agricultural sector. Quotas in general are set based on departmental consultation. Country specific quotas intend to be based largely on return agreements.

There is a concern that costs of entry into the program are high (\$1000 to \$2000 per participant). This reflects a situation that looks as if migrants are paying to work in the UK. Many of the participants of SAWS are burdened with debt upon entry to the scheme. Ensuring that the cost to participants is brought down is a big concern. Although the operators that run SAWS are clear on the charges that can be made to participants, and must make this clear to the participants, the use of third party operators often results in exploitative practices. Regulating third party operators and what they charge participants is difficult and requires more control. Operators can and do charge other voluntary fees (ie: medical, insurance), and sole operators often charge for accommodation.

Recruitment for SAWS is expanding from the EU. Operators have discretion as to where they want to recruit from although the costs of visas for the UK and obtaining entry clearance continue to be obstacles. Recruitment from China has begun since no practical experience in agriculture is offered in universities. The problem is that distance and the difficulties mentioned above make the experience an expensive one. Employers do not necessarily have preference for certain nationalities. They do though require hard workers. The potential return of students in particular from countries like China is difficult to gauge especially when the financial cost of migration is high, when countries have exploitative movements and trafficking practices, students may be young and have no dependents other than parents and where there is a large illegal population in the UK where a migrant can easily go underground. On the other hand, their position as students and responsibilities to their families may encourage their return. In the long term, people do tend to return. Monitoring return of SAWS workers is difficult and since no official mechanism is in place, recruitment agencies do this through contact with universities in the country of origin.

Health and safety regulations and training in areas such as language skills are important so that people understand these regulations and their rights. Agriculture is traditionally an unsafe sector in which people work visibly long hours. This practice is neither healthy nor safe. Workers contracts stipulate their hours and wages (NMW or piece rate). Casual harvesters have the freedom to leave fields at their own discretion although many choose to work longer hours. The question is whether or not this practice should be allowed and who should essentially be responsible for health and safety training. Farmers may for example be willing to invest in skill development of their workers, but they would want the same workers back the next year.

Points of leverage to make new schemes development friendly

- Countries of recruitment
- Place of recruitment (ie: universities)
- Recruiters
- Quotas
- Payment of fees to access schemes
- Qualifications for eligibility (ie: students; meeting visa requirements)
- Monitoring

SESSION 2: Employment Conditions

Presenters: Don Flynn, Nick Clark, Bridget Anderson, Roger Plant

Summary of key discussion points:

- Reduction of complexity of entry rules
- Fair Employment Commission concept
- Visas not tied to Employers
- Access to Trade Unions
- Codes of Practice
- Access to Tribunals
- Blacklist of employers and recruiters
- Focus on forced labor practices

Schemes must be largely simplified if they are to promote welfare, development and the legitimate interests of workers. There are currently 22 schemes listed on a government website not including students and spouses of students that enter the UK. Also, the workers registration scheme has been elaborated on an ad hoc basis. The trend is for schemes and regulations to become more complex.

The following are some implications for the driving complexity of temporary worker programs:

- Programs become more complex as the government tries to shoe knit schemes
- Programs continually move beyond the realm of those that administer them
- Migrants themselves do not know or understand the categories, rights and basic rules of programs thus creating a dependency on other organizations.

A great concern is that of the redress available to migrant workers. Some people are not technically considered "workers." An example of this is a foreign student working in the UK while studying, au pairs or cultural exchange students. An understanding of this must be made along with the difficulties of irregularity and the hardships encountered by these people who find themselves in exploitative conditions and have no way to enforce their rights due to their status. The tribunal process is lengthy and in the case that a migrant loses their job they may not be able to stay in the country to make their claim. Other problems exist with schemes and access to working rights, for example, when schemes are time limited they also limit worker rights. Migrants working for 12 months or less do not benefit from unfair dismissal. Wages and deductions are undermined when fees are charged to migrant workers. The amount of money received by migrants may be significantly less than agreed once employers deduct other fees like recruitment fees, accommodation, uniforms etc. Industry rates can be escaped by employers who at least comply with minimum wage standards. Tax and employment insurance are difficult to claim. Subcontracting allows people who profit from temporary workers to be distanced, thus not offering redress for workers. The concept of a Fair Employment Commission which would offer redress for workers has benefits although the question remains of who would finance the Commission? Employers who maintain poor employment practices should be blacklisted from possibilities of obtaining foreign workers and participating on schemes.

Another way of ensuring migrant's rights are through codes of practice. Employer codes of practice can be useful if they can be used for litigation whereas voluntary codes of practice have proven to be of little value. Enforcement of codes is the major concern, not only for working practices in the UK but also for:

- Recruitment abroad
- Accommodation standards while living at the workplace in the UK. It is common practice for recruiters and employers to place or let out housing to migrants at inflated prices.
- Working time directives.

Resources and political will block the development and enforcement of such codes. Sanctions often result in situations much worse for the worker as opposed to employer. Workers require a supervisory body that will: ensure their rights and can access to be heard and at the same time protected. Information should be provided to migrants in foreign languages. Trade Unions could be utilized to take on workers rights cases. Other organizations exist that support migrants rights. The problem is that they, along with unions are excluded from the workplace. It is more likely that workers would approach a union/organization rather than the state. Bilateral agreements are needed to ensure that UK agencies do not change roles overseas.

Another problem that arises for migrants is when their visa or work permit is tied to the employer. Worker dependence on employers for their immigration status creates trouble particularly when problems arise or if the migrant wishes to switch employers. This results forms of abuse such as non-payment or threats.

Temporariness in itself creates a problem where workers may opt for poorer working conditions because they know that it is not long-term employment. Younger workers with no dependents may be less concerned with workplace rights and pay in comparison to older workers with families.

There is a trade off between rights and workers. It may be that migrant workers are employed because employers can have them work under poor conditions. Employers may in fact request less migrants if they become too costly. This would happen in the case that migrants have a choice, have movement and can enforce their rights. On the other hand, if rights are increased, fewer migrants may be allowed in to the country. There is the fear that through limiting workers and narrowing schemes, the system will be undermined by way of an increase in illegal working. How to focus on interventions which reduce exploitation, which at the same time do not compromise work for migrants is necessary.

Forced labour conditions exist in the UK. Unless it can be identified as such it is difficult to prosecute or eliminate exploitative practices. What is crucial is the pervasiveness of the structure of forced labour. In looking at the way the food chain is structured, poor employment practices are visible regardless of the good intentions of the company. These issues of purchasing practices and forced labour must be placed on political agendas.

SESSION 3: Maximizing Capital Flows

Presenters: Jonathan Simons, Jenny Coffin, Malcolm McKinnon

Summary of key discussion points:

- Partnerships of UK and developing countries banks
- Compulsory savings schemes
- Requirements for banks to provide financial services to migrants
- Reimbursement of tax and national insurance
- More information and support to migrants to open banking accounts and to send money
- State to state reimbursement
- GATS Mode IV

Remittance flows from the UK are hard to capture and data is quite poor. Flows are channeled through banks, money transfer operators and small, 'hawala' type systems. The government fosters an environment for fair competition where migrants can make choices in regards to the management of their income while policy ensures that migrants have viable options for sending money. This is supported through financial inclusion, the strengthening of services and appropriate regulatory framework at the country of origin. Financial inclusion is the key to promoting the wider financial sector development and familiarizing people with mainstream banking. The main issues in terms of remittances are access in sending and receiving countries and ensuring that financial infrastructures can handle remittance flows, the cost of sending money and the lack of trust or understanding of banks. Goal is to facilitate the flows of remittances for migrants

Private initiatives by banks, for example the pairing of banks in sending and receiving countries can facilitate these services. Operations with banks in Canada and Mexico for example have built relationships and have reduced the cost of sending money. Government can play a role in promoting and supporting such initiatives.

The links between remittances and temporary migration raise questions regarding the remitting patterns of migrants and whether financial services like bank accounts are available to migrant workers. Migrant workers that participate on temporary schemes, like SAWS for example can have difficulties opening bank accounts in the UK. Often they do not even have bank accounts in their own countries. Workers can be skeptical of banks thus creating a barrier to their financial participation. Migrants send home money at different periods during their stay abroad. Those that must take out loans to migrate may remit more frequently to pay off loan interest. A main problem for migrants is that traveling and carrying large amounts of money in cash becomes dangerous. Air travel is the most secure way of returning home with lump sums of money. Workers may also use 'hawala' style operators who are required to be registered with HMCE for anti money laundering purposes. Setting up financial services for migrants would be advisable to prevent these problems and to integrate migrants into the financial system for the facilitation of money transfer.

The Money Laundering Regulations require those conducting relevant financial business, amongst other things, to identify their customers and also to put in place procedures of internal control and communication for the purposes of forestalling and preventing money laundering. Although

workers on SAWS are advised to bring personal information, providing information regarding residency can be difficult for migrants, as banks often require printed evidence. It is though possible while working on a temporary worker scheme to provide proof of residence, and the Financial Services Authority (FSA) has made it clear in its Guidance that banks have to ensure that where people cannot reasonably be expected to produce detailed evidence of identity, they are not denied access to financial services

There is strong debate as to whether or not the government should require for banks to provide financial services to migrant workers or not. Engagement with the banks could be useful in this regard. Banks could be shown the economic benefits to them of migrants having accounts, for example if people do stay longer banks will have the potential to supply other services.

It would be simplistic to say that migrants do not benefit from the taxes they pay. Moreover, tax is not designed to be a system where individuals get out what they put in. One option is for some portion of tax and NI to be reimbursed but these amounts would have to be calculated individually. This could create large logistical problems.

The arguments for and against mandatory saving schemes whereby migrants receive a certain portion of their wages and tax benefits upon return home can be debated. They are viewed as promoting a negative view of foreign workers and restrict the individual rights of workers. State to state reimbursement is an option in the case of recruiting skilled professionals instead of training and retaining people in the UK.

GATS Mode IV

The UK has not seen the reciprocations of other members under GATS Mode IV. The UK is looking for other countries to open up to where they are exporting. Presently in the Doha Round, it was decided that the UK would strive for achievement where developing countries benefit and where also the UK can gain. The remaining question is whether or not the World Trade Organization should be involved in the enforcement process.

The following points arose regarding the enforcement of labor standards:

- Many countries do not want the WTO involved with the enforcement of ILO labour standards. They fear that some countries will be opposed to sanctions on labour standards. It is argued whether or not the UK should refuse mode IV if ILO standards are not included. Social considerations should not be left out of the process and it is felt that if governments were to act alone standards would be left to the lowest possible common denominator.

The benefit of GATS is that all labour markets are opened the same way. They would not be undermined by bilateral negotiations. Another advantage is the offer for multiple entries through the use of a GATS multi-entry visa. Other benefits include:

- GATS based approach would be unbound and would provide access to workers.

- Facilitation of intra corporate transferees, for example the movement of managers internationally within the same company
- Extension of Business Visitors with work permits for up to three months
- Broadening of the contract service suppliers to 22 sectors and permits provided for those workers with 3 years experience, a university degree, an open tender feature for workers and an economic needs labour market test.
- Independent professional sector expanded to 8 sectors. Economic needs labour market test has been dropped.

For some countries bilateral negotiations work better although under GATS and the outcome of dealing in mode IV would most likely mean more multilateral approaches which can also offer a standard schedule of commitments for all involved.

SESSION 4: How Temporary is Temporary?

Presenters: Martin Ruhs, Jan de Wilde

Summary of key discussion points:

- Expectations of temporariness
- The reality of return
- Mechanisms and incentives for ensuring return

The expectation of “temporary” is the key to the discussion on temporary labor migration. General work permit schemes are not as such since migrants can upgrade their status if they stay long enough in a country. Essentially temporary worker schemes expect that workers will return home. In relation to this two criticisms must be addressed:

1. Temporary worker schemes are ethically undesirable
2. Temporary worker schemes are unfeasible since you can not forcibly return people

An ethical case is needed for these migrants. The criticism is that there is a built in discrimination to these programs and it is undesirable to have second-class citizens within a society. As a counter argument, temporary schemes are good for the following reasons:

- They are a good policy option. The alternative to these schemes is illegality.
- From the migrants point of view they are given an increased access to the labor market
- From the sending countries point of view temporary programs are better than permanent ones due to brain drain and remittances (the longer the stay, the smaller the remittances)

The feasibility of schemes is questioned. The Gastarbeiter program in Germany for example resulted in migrants remaining in Germany although unemployed in order to claim benefits. In the Bracero program in the US, soaring illegal immigration rates continued at the end of the program as many people returned. Migrants often stay longer to achieve their saving targets. Examples of return incentives could be the transfer of social security payments or saving schemes, ensuring that migrants achieve saving targets through the monitoring of contracts and the allowing of movement back and forth between countries to maintain networks at home. Enforcement is

essential for all who violate the regulation of the terms of schemes including workers and employers.

Sector Based Schemes in the UK remain operating as a pilot until January of 2005. Migrants are allowed to work one year and have the opportunity to return after two months outside of the UK. While intending to be an incentive to be able to return to the UK, these mandatory two months outside the UK are problematic as it is difficult to prove that a worker has left for this amount of time. Both the care and construction sectors are not included in the sector-based schemes, each having their own particular interests and not wishing to take part.

The advantages of schemes is that they fill labor gaps and can contribute to the development of sending countries if people come from the poorest countries, if remitting is made cheaper and easier, if people return with both social and financial capital and if upon return training and business development is provided.

The ideal length of schemes varies. A scheme must be long enough for it to be worthwhile but it also must be short enough so that people do return (ie: 6 months to 1 year). Mechanisms that ensure return take the form of both incentives and sanctions:

- Choosing nationalities from which migrants originate – return becomes harder when there is a large illegal community in the host country
- Maintaining the possibility of returning or re-enlisting in the scheme
- Separating a percentage of wages/food/accommodation placed in accounts to receive upon return
- Transfer of some social security rights
- Increased employer sanctions
- Employer bonds

The reality of return is a debated issue in migration. There is an assumption that migrants must return, thus reinforcing negative ideas regarding migrant workers. This debate tends to focus on low skilled workers as opposed to professional skilled ones, while at the same time, no mechanisms are in place to bring back national UK professionals.

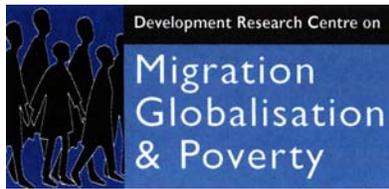
The development of return incentives are various. One of such incentives could be the development of a matching dollar scheme where the government of the UK deposits matching amounts of money into a migrant's home account or through the British Consulate upon the return of the migrant to their home country. Certain departments of the government may not be attracted to this type of scheme for various reasons:

- Motivation would be driven by domestic concerns
- There would not be enough money to finance the scheme

Follow Up

Further papers and a policy briefing are to be prepared and presented to the DSA Annual Conference in London on 6 November 2004.

Annex 1



Temporary Workers Schemes in the UK: Impacts on Pro Poor Policy Workshop University of Sussex, June 7th, 2004

Participant suggestions on how to make temporary worker schemes more development friendly*:

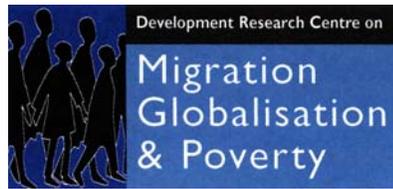
- Proper enforcement of employment law. Ways must be found for workers to seek redress from employer malpractice without risking their jobs
- Informal meeting between Barclays, labour recruiters and government departments to explore ways of ensuring that temporary workers do have access to bank accounts
- Empower migrants and make it easier for them to move away from abusive employers
- A key aspect is for workers to have direct routes to labour markets without going through intermediaries
- Work more closely with sending countries, perhaps at a government level, to demonstrate how temporary workers can benefit their countries of origin. For example, SAWS could have as an objective the improvement of agriculture in the country of origin
- Manage the expectations of temporary worker schemes amongst potential migrants
- On an individual basis the dollar for dollar initiative suggested would not work – it would have to be group-based
- Obligatory savings schemes should be designed for temporary workers
- Small business training initiatives should be developed for temporary workers after their return
- Matching dollar scheme – UK government should pay £500 lump sum to returning temporary migrants in recognition of their 'unused' tax and NI [NB: Agricultural students on SAWS do not pay tax or NI]
- While a matching dollar scheme is interesting, it may not work for some migrants in schemes, for example SAWS workers
- Bilateral discussions with sending countries may assist on the banking issue

- Training to temporary workers would be beneficial, especially in certain sectors. The fact that SAWS workers for example are students most likely returning to finish degrees, you could build on training initiatives in that scheme
- Extend GATS Mode IV bound arrangements to extend direct access to labour markets of northern countries for workers from the south
- An extension of GATS Mode IV needs to be combined to clear protections for workers rights
- Less concerned should be placed on the issue of making migrants return home
- Undocumented workers within the UK should be able to apply for temporary labour schemes
- Work to ensure that migrants can achieve their savings targets. An example would be to ensure that the work contracts migrants receive upon arrival in the UK are the same as were offered in their country of origin
- Do not abolish existing Sector Based Schemes
- Other countries should agree to open up GATS Mode IV to temporary mobility of labour in the way that the UK has offered
- Migrant workers rights must be recognized. An important underlying problem is the power of employers to control an individuals migration status
- Obfuscation of employment rights due to the multiplicity of agencies and sub-contracts
- A gendered discussion on temporary mobility and migration is needed
- The option of interest-free loans in order for people to migrate on these schemes
- The involvement of migrant workers themselves in these types of discussions and policy making
- If temporary worker schemes help reduce undocumented migration, funds spent on detention could be released
- The Prime Minister's root and branch review means more than a simple incremental change is possible
- Try to devise a much more broad-based scheme for unskilled workers
- People try to fit to SAWS but it is now not really a cultural-based scheme at all. Recruitment agencies should adopt principles for a code of practice that are well set out by the National Health Service

- A concern about compulsory savings or tax repatriation is that it might be too prescriptive, difficult to administer, and create additional burdens for taxpayers
- Migrant rights must be upheld and joint work with recruitment agencies and sending countries is important
- Support for the principle of voluntary savings
- Completely repackage sector-based schemes. Measurable benefits for workers must be made along with benchmarks for contributions to development as part of its mission
- A twelve month scheme is too short, particularly if people have to pay \$1,000-3,000 as an entry cost. Schemes should last for three to five years
- The most effective policing would be from workers themselves, through their awareness that they do have rights
- Collapse every other category in managed migration into a revised scheme
- Better evidence is required on what the particular issues are for developing countries
- Looking back to first principles, one must consider what these schemes designed to achieve? These schemes must fit into the wider government picture
- All migrants are different and have different motives and skills. Incentives on schemes may apply only to certain people. Compulsory savings plans and lump sums may be problematic in this respect – e.g. would they apply to migrants from the US?
- A focus should be made on making it easier for people to save and invest their money is important

* At this workshop a variety of stakeholders were heard and a variety of differing opinions and suggestions are reflected in the above statements. The objective of the workshop was to have an open discussion, not to draw a consensus on the issues covered.

Annex 2



Temporary Workers Schemes in the UK: Impacts on Pro Poor Policy Workshop Participant List University of Sussex, June 7th, 2004

| NAME | TITLE | INSTITUTION |
|----------------------|--|--|
| Bridget Anderson | Research Programme Coordinator | COMPAS, Oxford |
| Martin Ruhs | Senior Labor Market Economist | COMPAS, Oxford |
| Christine Lumb | Executive Director | Concordia Ltd |
| Mike Power | Migration Team, Policy Advisor | Department for International Development |
| Malcolm McKinnon | Head of Trade in Services | Department of Trade and Industry |
| Jenny Coffin | | HM Treasury |
| Jonathan Simons | | HM Treasury |
| Rachel Prime | Immigration Research and Statistics Service | Home Office |
| Jeremy Kempton | Economic Advisor | Home Office |
| Stephanie Barrientos | | Institute for Development Studies |
| Roger Plant | Head, Special Action Programme to Combat Forced Labour | International Labour Organization |
| Jan de Wilde | Chief of Mission | International Organization for Migration, London |
| Don Flynn | Policy Officer | Joint Council for the Welfare of Immigrants |
| Catherine Barber | Research Officer | Oxfam |
| Ben Rogaly | | Sussex Centre for Migration Research |
| Michael Collyer | Research Fellow | Sussex Centre for Migration Research |
| Clare Waddington | Research Officer | Sussex Centre for Migration Research |
| Richard Black | Co-Director | Sussex Centre for Migration Research |
| Paula Tenaglia | Research Officer | Sussex Centre for Migration Research |
| Nick Clark | Policy Officer | Trades Union Congress |
| Chris Jones | Policy Development Manager | Work Permits UK |
| Rebecca Cowen | | Work Permits UK (SAWS) |