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of Exception

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Anna Triandafyllidou
Editor

Migration and Pandemics

Spaces of Solidarity and Spaces of Exception

 Springer

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The idea for this book was born under total lockdown in Toronto, in April 2020. A lockdown at the time unheard of, which partly continues to this day. This book is dedicated to my colleagues that form the Canada Excellence Research Chair in Migration and Integration programme, at Ryerson University. For their resilience, hard work, critical thinking, and capacity to connect and laugh over Zoom through these long 12 months.

Anna Triandafyllidou
Toronto, 9 March 2021

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Abbreviations

ACLU	American Civil Liberties Union
AI	Artificial Intelligence
AVRR	Assisted Voluntary Return and Reintegration
BIPOC	Black, Indigenous, and people of Colour
CAP	Common Agricultural Policy
CARES	Coronavirus Aid, Relief, and Economic Security Act
CAS	Emergency Reception Centres (<i>Centri di Accoglienza Straordinaria</i>)
CBSA	Canada Border Services Agency
CDC	Center for Disease Control
CERB	Canadian Emergency Response Benefit
CHSLD	Residential and Long-Term Care Centre
CIPPIC	Canadian Internet Policy and Public Interest Clinic
CDWC	California Domestic Workers Coalition
CCRS	Continuing Care Reporting System
DACA	Deferred Action for Childhood Arrivals
DLI	Designated Learning Institution
DWBOR	Domestic Workers' Bill of Rights
EURODAC	European Asylum Dactyloscopy Database
FFCRA	Families First Coronavirus Response Act
FLSA	Fair Labor Standards Act
FRONTEX	European Border and Coast Guard Agency
GCC	Gulf Cooperation Council
GDPR	General Data Protection Regulation
HEROES	Health and Economic Recovery Omnibus Emergency Solutions Act
ICE	US Immigration and Customs Enforcement
IDP	Internally Displaced People
IDWF	International Domestic Workers Federation
ILO	International Labour Organization
IOM	International Organization for Migration
IRC	International Rescue Committee
LTC	Long-Term Care

LTCF	Long-Term Care Facilities
LTRC	Long-Term Residential Care
MCDW	Massachusetts Coalition of Domestic Workers
MPRIC	Multi-Purpose Reception and Identification Centre
OECD	Organisation for Economic Co-operation and Development
OSHA	Occupational Safety and Health Administration
NDPREM	NORKA Department Project for Returned Migrants
NDWA	National Domestic Worker Alliance
NFSA	National Food Security Act
NGO	Non-governmental Organisation
NLRA	National Labor Relations Act
OSEPI	Open Society European Policy Institute
PCA	Personal Care Attendant
PPE	Personal Protective Equipment
PSW	Personal Support Worker
SAWP	Seasonal Agricultural Worker Program
SMI	Minimum Interprofessional Salary (<i>SalarioMinimoInterprofesional</i>)
SNAP	Supplemental Nutrition Assistance Program
STCA	Safe Third Country Agreement
SWADES	Skilled Workers Arrival Database for Employment Support
UI	Unemployment Insurance
UKCISA	UK Council for International Student Affairs
UNHCR	United Nations High Commissioner for Refugees
WHO	World Health Organization
WILD	Women's Institute for Leadership Development
WTO	World Trade Organization

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Part I
Pandemic Borders, Belonging, and
Exclusion

Chapter 1

Spaces of Solidarity and Spaces of Exception: Migration and Membership During Pandemic Times



Anna Triandafyllidou

1.1 Introduction

During 2020, as the coronavirus pandemic spread around the world, we have witnessed countries making unprecedented decisions, restricting international travel and closing borders but also chartering flights to bring in migrant workers employed in essential sectors. While important (internal) travel restrictions were first implemented by China in late February 2020 on the Chinese New Year holiday, the relevance of borders in relation to controlling the pandemic became internationally visible when the United States banned EU citizens from entering the country on 14 March 2020 as Covid-19 cases and victims sharply rose in Italy and a number of other European countries. A sweeping closure of the EU external borders to all non-EU citizens was announced on 17 March 2020 – a rare occasion where EU citizenship had a tangible effect on all EU citizens' livelihoods without being mediated by their national citizenship. That closure confirmed that EU citizens and their national governments felt they were closer together and in solidarity and interdependence under this pandemic although intra-EU border closures followed. Indeed, March 2020 saw the closure of borders between countries with very long and strong socio-economic and political ties such as Canada and the US (a closure that is still effective at the time of writing in November 2020), or member states of the European Union with one another. Regional trade and migration within west Africa were also interrupted abruptly when, for instance, Nigeria closed its borders on 23 March after recording its first death from the virus. And while it was initially hoped that the summer of 2021 will bring not only temporary relief but also a way out of the pandemic, it has since become clear that 2020–2021 will be marked with at least selective border closures and migration and mobility restrictions. The wider impact of the pandemic on society and the economy will be long lasting and global.

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The concern that travellers increase the risk of Covid-19 contagion was and still is legitimate. At the same time, border closures did not keep ‘everyone’ out, only those who were non-citizens or non-permanent residents. In some countries, like Canada, exceptions were made for temporary residents who effectively live in the country. Many EU countries (including, for instance, Spain, Portugal, Poland, and Germany) implemented blanket extensions of stay permits for all foreigners during spring 2020 to avoid people losing their legal status under the lockdown (EMN, 2020a). Similar measures were taken in Canada, Chile, Israel, and New Zealand, while Italy implemented a regularisation program with a view of providing status to illegally staying aliens working in agriculture and the care sector. Some countries implemented different facilitation procedures like allowing for online renewals of permits, as in the Netherlands, or automatically renewing the status of people who had lost it during the pandemic, as happened in Canada, until the end of 2020, to give them more time to gather necessary documents or find a new job or both (ibid.).

The pandemic border closures not only raised important questions about membership but also left many migrants stranded at destination countries, at origin or also, for some, while in transit. People found themselves unable to go back to their countries of origin as international transport systems came to a halt. Some (as happened in Japan for legally staying foreign nationals) were not allowed entry back to their country of residence even if they had lived there for the previous ten years (Shakuto & Baldari, 2020). Some who were ready to emigrate, had a new job and a new life waiting for them at a new country, were left stranded, waiting for borders to reopen to foreigners (Triandafyllidou & Nalbandian, 2020). And yet others, those more vulnerable, like asylum seekers or migrant low skill workers (e.g. domestic or construction workers) found themselves locked up in dormitories (as in Singapore or the UAE) or refugee camps (as in Greece) (see Molnar Chap. 3, in this volume). By contrast, those migrants engaged in ‘essential’ or ‘key’ work sectors, like health and care systems or the agri-food sector benefitted from special arrangements so that they could reach destination countries to work and ensure that there was no disruption to such essential services that regular residents or citizens rely on (Palumbo & Corrado, 2020b; and also Palumbo and Corrado Chap. 8, in this volume). Other low skilled or semi-skilled migrant workers, however, faced forced returns to their country of origin. Qatari authorities deported Nepali citizens back to Nepal, while the UAE threatened south Asian countries that future labour migration would be jeopardised if they refused to take back their citizens (Shivakoti, 2020). Oftentimes departing workers lost salaries not yet paid or had to leave their belongings behind.

States have adopted a mixed ‘citizens first’ approach in terms of public health protection and restriction of mobility enforcing territorial border closures. At the same time, as the pandemic has unfolded since early 2020, states are providing protection to both temporary residents and people with ‘pending’ status (waiting for regularisation or visa renewal) to avoid their finding themselves in a situation of irregularity under the pandemic emergency. The pandemic border closures have indeed raised numerous complex legal, political, and ultimately symbolic questions about what community, solidarity, belonging, and civic responsibility mean. The

crisis has shown with renewed emphasis that citizenship is a complex and multi-faceted concept and reality, and that there are several alternatives of community and membership that we need to consider that may not necessarily be tied to the legal relationship between the individual and the state expressed in the classical notion of national citizenship (Baubock, 2018). The exceptional character of the Covid-19 emergency has both reinforced the importance of citizenship as a priority marker of who belongs and who is to be allowed access to the country or access to emergency benefits during the pandemic crisis. At the same time the emergency has pushed the boundaries of what I will call '*effective membership*' further to include everyone present in the territory. We may even argue that the pandemic emergency has given rise to an alternative mode of membership that could be termed *jus domicili* (Stavilă, 2013) and is based on effective presence in the territory of the state.

This chapter discusses the contradictions that the pandemic has exposed regarding migration at two levels: first at the level of membership and belonging, and second at the level of migration governance. Border closures and selective openings have raised important questions about the notion of membership, solidarity, and responsibility, asking whether this pandemic opens up possibilities for a new understanding of citizenship or of membership to a political community that is post-national. Second the pandemic has subverted our dominant understandings of desired, valued, and unwanted migration as those migrant workers previously considered 'disposable' like farmworkers, domestic and care workers, courier employees, and platform workers suddenly became 'frontline' essential workers, much needed, while the previously valued and desired highly skilled migrants have been temporarily neglected (Nalbandian & Triandafyllidou, 2020a, b). After posing these two sets of questions and highlighting what could be new and innovative answers, this chapter presents the contents of the book and how they seek to answer these two questions of how we should understand migration and membership in pandemic times and how we should (re-)organise the governance of migration during and after the pandemic.

1.2 Membership, Responsibility, and Solidarity in Pandemic Times

The Covid-19 virus has proven to be truly transnational, moving fast across not only national borders but also across ethnic communities, social classes, cities, and small towns, ignoring territorial borders and sovereign governments. Despite this transnational character, the virus has pointed to how much countries, governments, and even health authorities are interdependent under the emergency, yet states reacted initially by prioritising citizens. Weighing their obligations towards solidarity and protection of citizens has led to border closures – the most notorious of which was US President Donald Trump's sudden closure of the US border to all EU citizens in March 2020. Under pandemic circumstances, citizens have been allowed to return

to their own country but ‘others’ – notably temporary residents, their family members, international students, and visitors or distant family members of citizens – have been banned from entry. The rationale of these decisions has relied on a balancing act between a health risk, on one hand, and membership and solidarity, on the other. Those who do not belong fully to the nation-state need to stay out, at least temporarily. The border closure has also affected those seeking international protection. Their right to apply for asylum was temporarily *de facto* suspended in many countries such as Canada (for people coming from the US) or Greece (mostly for those crossing via Turkey). One might argue that there was a trade-off between the reasons that favour admission (solidarity toward citizens, obligations toward refugees, immigration objectives) and the possible health risks that come from admitting people (citizens or others) arriving from abroad. There seemed to be, in other words, a cost-benefit analysis where the benefits of protection to refugees was simply discounted.

The rationale of solidarity and interdependence and the trade-off between protecting citizens vs assisting aliens under the pandemic emergency merits some further discussion though. There are two different facets of this argument; one concerns the extent to which citizens have a priority over ‘others’, even if those others are temporary residents of the country and hence partly members of the political community. While in theory the answer to this argument may be straightforward, in practice this is less the case as one wonders how one should classify temporary residents (under different legal statuses) who effectively have strong ties with their ‘host’ country in the sense that they live, work, pay taxes, contribute to the community, send their kids to school, and participate in public life even if they do not have political rights. The second facet introduced a novel element as it concerns the level of civic responsibility that we are entitled to expect from citizens who should behave in a way that protects their fellow citizens. But then how do we account for temporary residents who make a special civic contribution to the community under the emergency situation, notably through working at essential and risky sectors?

The pandemic and related international border restrictions have emphasized the existence of different layers of membership within each country. Such membership layers distinguishing citizens from residents from aliens are not new and immigration and enforcement policies have played an important role in (re-)constructing imagined communities of ‘aliens’ (Aleinikoff, 1995; Romero, 1998). The pandemic has pushed the boundaries of these different layers, blurring and redrawing their contours. The emergency has raised important clarification questions: where does the boundary between insiders and outsiders effectively lie and who should be in or out? For instance, should people with temporary status be given exemptions from border restrictions or should they be excluded? What matters most: their effective residence or their immigration status? Similarly, should asylum seekers be included – in respect of the international right to asylum – or should this right be suspended during the pandemic?

We can imagine the effective population of a country as a set of concentric circles (see also Triandafyllidou & Veikou, 2002): The inner group includes the citizens, those who belong and who have a clear and stable legal relationship with the

state. The citizens are expected to take priority in terms of protection of their right to life and health, both as regards their protection through reduced international mobility but also through access to the public health or welfare system. At the same time, they are expected to show loyalty and solidarity to fellow citizens, which in the case of the pandemic emergency may include adhering to the guidelines of the authorities or, for instance, restraining from international but also domestic travel with a view to avoid spreading the virus. I will return to this argument a little later.

In immigration countries like Canada or Australia or the US, people accepted as permanent immigrants (e.g. green card holders in the US, so-called PRs in Canada) are treated like citizens for what concerns their socio-economic rights, including for instance access to public health or family reunification rights. In other countries with significant immigrant populations, like Britain or Germany, this status is called 'the right to abode' and is given to people who were initially temporary migrants but acquired long-term resident status. Transnational entities like the European Union create an additional layer of belonging as European citizenship gives EU citizens who live in another member state equal rights with those of the citizens of that country (Bauböck, 2019). Such people who are not citizens but who have an enhanced residence status have been treated under the pandemic like citizens and the pandemic actually has somehow reinforced their belonging to the in-group.

A grey zone between belonging and exclusion has cast its shadow over people with temporary status who have been admitted to a country for a specific period, whether for study or work, and who are likely to be relatively recent arrivals. These have faced significant hardship (Raghuram & Sondhi, 2020) as the permits of some expired during the lockdowns while others lost their jobs and hence risked losing their status as a result of the pandemic (Wright, 2020). The pandemic though has forced countries to consider what Canada has termed the 'effective residence' of temporary aliens. Hence beyond the issue of citizenship, the pandemic has brought to the fore the notion of 'effective membership'. It forced governments to ask where people live habitually, where they send their kids to school, where they pay taxes or have health coverage. The pandemic pulled this outer circle of transient members of the community into the inner circle of those who effectively live in the country for what concerned border restrictions (from which they were exempted). At the same time these transient members were internally excluded in some countries as they did not have access to emergency unemployment or family benefits (as happened for instance for temporary migrants in Germany and for Syrian refugees in Turkey). While effective membership may thus still seem tentative, the pandemic has raised the question of whether this notion of effective residence can be codified into law. For instance, it could include consular protection if found temporarily abroad under a sudden border closure, or the right to re-unite with second-degree family members such as elderly parents or adult children who may find themselves cut off from extended family during the pandemic restrictions.

While for temporary migrants maybe the dilemmas of border restrictions and service provisions were easier to solve through an inclusive approach, the dilemmas raised by asylum seekers entering a country to seek protection or temporary migrants whose status has expired raised more difficult decisions (Jubilut & Silva, 2020;

Godoy & Bauder, 2020). In the face of increasing contagions and scarce health resources, the balance would clearly tip over prioritising citizens and legal residents. At the same time legal instruments ensuring a general human rights approach like the Canadian Charter of Rights and Freedoms (1982) or the EU Charter of Fundamental Rights (2012) would call for the inclusion of people with precarious status under the protection net of the welfare state and health system. Effectively a review of relevant approaches in the EU and OECD countries has revealed that states have opted for universal coverage particularly regarding access to health services during the pandemic for all people present in their territory regardless of status (EMN, 2020a). The approach there was two-pronged: on one hand, special measures were taken to extend legal status or also regularise those without status and, on the other, health coverage was provided for all with concerted efforts for sharing information in different languages in most EU and OECD countries (EMN, 2020a, 8).

In other countries though like the UAE or Singapore (Molho, 2020) such protections were not afforded to temporary migrant workers who were often locked up in their dormitories to prevent contagion when cases were discovered in their community. Several lost their job and no protection was afforded them; they had to live off their savings while waiting for repatriation flights (see also Rajan and Arokkiaraj, and Sahin Mencutek Chap. 10, in this volume). In addition, those temporary workers or asylum seekers who work in the informal labour market – as is the case for many Syrians in Turkey, Lebanon, or Jordan – the closure of the catering and tourism industries left them without their basic means of subsistence and facing important administrative and linguistic barriers in accessing information about health and sanitation measures.

Asylum seekers posed important dilemmas to countries with long traditions of asylum like EU countries or Canada (George, 2020; Abji et al., 2020; Ellis, 2020). For those inside the country, the approach has been inclusive in affording them protections based on both a human rights perspective and with a view to overall limiting the spread of the virus in the community. However, there were often inhumane practices too (Flynn & Welsford, 2020): for example, in Greece asylum seekers in the metropolitan area of Athens or the Aegean islands were confined in the reception centres when positive cases were discovered. The crowded living conditions in these centres did not prevent the virus's spread within those communities – while access to healthcare was also limited or non-existent (Molnar & Braam, 2020) – but priority was given to keeping the virus in the camps and avoiding its spread among the wider community of citizens outside the camp. The border in those cases was recreated within the state, separating those who do not belong from those who belong (see Rosińska and Pellerito Chap. 7, in this volume) within the country's territory. Similar approaches were documented in the US too where detention centres became Covid-19 hotspots (see Boris Chap. 4, in this volume).

Refugee claimants seeking protection by crossing international borders were however the most vulnerable and most exposed category where the pandemic showed how citizenship is prioritised over an international right to asylum or an international respect of human rights. Asylum seekers were pushed back from the

Canadian border to the US (Ellis, 2020) and prevented from entering Greece from Turkey. While in both cases there are international safe third country agreements in place that could legally justify the move, in both cases those pushed back were in vulnerable conditions and the countries to which they were pushed back are not particularly safe. The Federal Court of Canada in fact ruled on 23 July 2020 that the Canada-US Safe Third Country Agreement (STCA) violates the Canadian Charter of Rights and Freedoms by allowing Canada to send refugee claimants back to the US. Despite these challenges, it was clear that the inner political community of members could not ‘afford’ to help aliens under the pandemic emergency by allowing them to enter the country. Similar challenges were documented in South Africa (Rugunanan, 2020) and in Singapore and Malaysia (Petcharamasree, 2020).

The pandemic crisis has thus had a *polarising effect* on our understanding and practice of membership: while it pushed people with temporary status towards the inner circle, it pushed outside those who may have needed protection the most. The pandemic has reproduced borders within the territory of the nation-state by creating closed refugee camps or migrant dormitories and by assigning different mobility rights to citizens/permanent residents and temporary residents. The latter face some discretion at the border if an immigration officer questions the necessity of their presence in the country or they have to prove through additional pieces of evidence that they regularly and effectively reside in the host country.

While many states used their emergency and quarantine laws, and in this sense acted lawfully in exercising delegated legislative authority to declare an exception, they ended up stripping asylum seekers from their right to seek asylum. While a restrictive perspective seeking to evade international obligations in relation to asylum may have been a longer trend, it was exacerbated during the pandemic, leading to the situation that Agamben (2005, see Humphreys, 2006) specified: they exercised their power in deciding on the exception and suspended the juridical order because of the serious crisis threatening the state and its ‘legitimate’ population. Thus, protecting the most basic rights of asylum claimants to seek refuge is annulled. Border closures such as between Canada and the US to prevent any asylum claimant from entering Canada or on the Greek islands reinforce a sense of national solidarity among citizens and permanent residents and a transnational solidarity among sovereign states, but leave in limbo, in a space of exception, those who are among the most vulnerable populations: notably asylum seekers and irregular migrants seeking entry. They fall into this zone of “active abandonment” that is neither inside nor outside the polity, it is just there at the border (Pinelli, 2018).

The pandemic has exposed further fissures and dilemmas in our understanding of the limits and hierarchies of membership, belonging and solidarity. As it happened in Canada, the US, Germany, Italy, Spain, or Poland many of the frontline workers in senior care homes, farms, or food processing plants were people with precarious status, notably seasonal migrants, asylum seekers waiting for their application to be processed, or mere sojourners without the right to work. They performed their ‘citizenship duty’ even if they had no secure legal status and did not belong to the community. Indeed, this argument sparked a controversy in Quebec, Canada, in June 2020 when asylum seekers employed in senior care homes – which were hard hit by

the pandemic – mobilised, asking to obtain permanent residency status as a recognition of their contribution to the safety and care of community members (Levitz & Kestler d'Amours, 2020). The Prime Minister of the province refused but after further negotiations with the federal government, a special path to permanent residency was announced by the federal minister, Marco Mendicino, on 14 August 2020. Minister Mendicino explained the decision by reflecting on the fact that these asylum seekers put themselves at risk day after day on the pandemic and 'they demonstrated a uniquely Canadian quality' (argued Mendicino) 'in that they were looking out for others and so that is why today is so special' (Seidle, 2020).

On the other hand, several citizens have been found in breach of their civic duty to follow government guidance, for instance, to not travel across regions. Maria (the name is fictitious), originating from Sicily and studying in Milan, in early March 2020 travelled home to Palermo as Lombardy became a 'red zone' and moving in or out of the region was forbidden. Upon arrival, she visited her grandfather at a seniors' home in the region. Five days later Maria developed symptoms of Covid-19. The facility was quarantined and over one hundred people, including staff and seniors, were directly affected, some died. Maria did not travel across international borders and is a citizen of Italy. But her behaviour was not in line with the notion of loyalty and solidarity towards her fellow citizens, even if inadvertently. And, of course, she was not the only one. During the fall of 2020 we have witnessed a rise of Covid deniers and mask protesters rallying across Europe and North America while young people partying without masks have been advocating their right for fun since they are less susceptible to suffering severely from the illness.

The pandemic has thus highlighted important contradictions between the status of citizen/permanent resident and the ways in which one acts in a civically responsible way, protecting fellow citizens with their behaviour (or indeed exposing them to risks). The question that arises and is discussed in some of this book's chapters is the extent to which these new insights can become codified in migration and citizenship law (see for instance Macklin Chap. 2, in this volume). This brings me to the second set of questions that the pandemic has raised in relation to migration governance which I will tackle in the following section.

1.3 Selective Openings and Closures: Essential Work and Frontline Migrant Workers

Under the emergency, specific categories of workers (which include migrant workers) have been characterised as 'essential' – vital for the economy and the community's well-being (see Macklin, also Gahwi and Walton-Roberts Chap. 6, in this volume). These have included medical and paramedical personnel, care workers but also farm labourers and people working in the food processing industry. These workers have not only been essential but also vulnerable as the sectors they work in and the conditions under which they work put them at risk of contracting the virus.

As borders closed and immigration came to a halt across Europe and North America, farmworkers have been exempted from such restrictions and were even brought to destination on chartered flights from Mexico to Canada and from Romania to Germany for instance.

Governments in Canada and Germany but also Italy, Spain, and Poland mobilised (see also Palumbo and Corrado Chap. 8, in this volume) to find appropriate solutions for bringing in migrant workers for agriculture, including chartered flights with few passengers sitting at a safe 'distance', assistance to employers for the quarantine period in appropriate accommodation, and self-isolation. However, these measures had less to do with a new sensitivity about the living or working conditions of these temporary foreign workers. Rather, they were a knee-jerk reaction to the fear of the agriculture and food processing sectors' production chain breaking down, leaving supermarkets in short supply and harvests wasted (Nalbandian & Triandafyllidou, 2020b). The concern was also to protect the local community from contagion and a possible outbreak if a migrant worker tested positive for Covid-19. Indeed, the safety measures and monitoring and support only extended through the quarantine period. After it was lifted, there was little follow-up or protection for the migrant workers (Migrant Workers Alliance for Change, 2020), who were often returned to crowded accommodation or given protective equipment when their work did not allow for physical distancing. The meat industry in several European countries, the US, and Canada emerged as a pandemic hotspot (Palumbo & Corrado, 2020a). Similar challenges were faced by care workers in private homes under the pandemic (Caregivers Action Centre, 2020; Marchetti & Boris, 2020) who were confronted with restriction of their freedom, laid off without notice, and often risked irregular status and expulsion because they were found to be in breach of their stay permit through no fault of their own.

These exemptions from border restrictions for essential workers and the related challenges that ensued in terms of protection from the virus but also from severe exploitation are common across North America and Europe (Palumbo & Corrado, 2020b; Triandafyllidou & Nalbandian, 2020). The agri-food sector hit the headlines in the summer of 2020 because of concerns about the food supply chain but also in recognition of the difficult working and living conditions in the sector. Agriculture is characterised by demanding working conditions, low prestige, and low pay, where work is mainly seasonal and requires a supply-and-demand mechanism that is ultra-flexible. Workers must be available on call and can be easily dismissed. At the same time, as Corrado and co-authors (2018) have argued, today's agriculture is characterised by intensive pressures to keep production costs low. Large corporations in the retail and agri-food sectors push for low prices to maximise benefits and, given the large volume of products that they can absorb, can impose their conditions on producers. Producers are faced with irreducible costs, like the increasing need to invest in automation, the cost of water and energy for production, and the cost of fertiliser, seeds, and feed. Thus, squeezing labour costs through employing migrants with precarious status appears almost an inevitable choice, particularly for smaller producers. The structure of the network among commercial chains, agro-entrepreneurs, intermediaries, and the final consumers pushes for lower prices for

fruits and vegetables and with difficult traceability of products (Corrado et al., 2018). Employment dynamics in agriculture are thus shaped by several factors that include but are not confined to migrant labour. Rather they have more to do with agricultural policy, the structure of the agricultural and food processing sectors, and the limited controls over oligopolistic tendencies in national markets.

Similar challenges have been registered in the care sector particularly when it comes to care for seniors. The demand in European countries remains high; the population is aging and its care needs rising but there is as yet no viable plan for catering to these needs. The pandemic has exposed labour shortages in the sector and vulnerabilities of workers in terms of precarious status (temporary or indeed undocumented), difficult and often substandard working conditions, lack of access to fundamental rights and support by non-governmental organisations or government agencies that already existed (see also Triandafyllidou & Marchetti, 2015; Triandafyllidou, 2013). These vulnerabilities have been exacerbated by the pandemic and have exposed important care gaps across North America and Europe (see Gahwi and Walton Roberts, also Rosińska and Pellerito Chap. 7, in this volume; Rogalewski, 2020; EFFAT, 2020).

However, a crisis such as this can tip the balance and put in motion a mechanism for change. Several policy initiatives were taken in both the agriculture and care sectors in the last few months by different countries in the effort to address these challenges. On 15 May 2020, the Canadian government introduced the Agri-food Immigration Pilot where migrant workers in agriculture could apply for permanent residency. Unfortunately, the programme – criticised for being inaccessible as it requires equivalency of secondary education diploma in Canada and relatively high proficiency in English language – foresees only 2750 applicants and family members and expires on 14 May 2023. There have been however important policy discussions on how to improve the pathway of seasonal workers to permanent residency and on combining this pilot with the Municipal Nominee pilot that Canada is also about to launch, whereby mid-sized cities would be able to invite new immigrants (Alboim & Kohl, 2020).

On 14 May 2020, Italy implemented a regularisation programme, addressing farmworkers and domestic and care workers in private homes. When the deadline expired at the end of August 2020, 207,000 migrant workers and their employers had submitted their applications under this programme, of which 176,000 were domestic workers (Ministero del Lavoro, 2020). It is estimated that these applicants cover only a portion of the undocumented migrant worker population in these sectors, particularly in agriculture where applications were comparatively few (Bonifazi & Strozza, 2020). There is no doubt that this will provide for a significant improvement in the livelihoods of a large number of people even though it may not fully address the exploitative working conditions that migrant workers in these sectors face (Zanfrini, 2020). In contrast to the solutions offered by Italy or Canada, in the US the debate is yet to re-emerge even though the US Department of Labor National Agricultural Workers' Survey documents that approximately 47% of the roughly 2.4 million farmworkers in the US are undocumented. A bill providing two-step

access to legal status and then citizenship was introduced in Congress in January 2019 but has stalled since March of the same year.

The pandemic has kickstarted important policy discussions on how agricultural or welfare policy, on one hand, and migration policy, on the other, can work in tandem to address labour market shortages while offering secure status and rights to workers. Unlike in the past, current studies have focused on a medium- to long-term perspective and on both the economic and social sustainability of the relevant sectors (see also Gahwi and Walton Roberts Chap. 6, in this volume; Fasani & Mazza, 2020; EMN, 2020b). Reports focusing on migrants in rural areas have been looking into regional and sectoral distributions, levels of skills, and employers' concerns (Kalantaryan et al., 2020; Baiocco et al., 2019). The question that arises of course is how this initial positive reaction and drive towards innovation and sustainability can translate into more lasting changes and whether there is political will to address structural issues such as the protection of labour rights and particularly the rights of migrant workers. On this front the lessons learnt from the EU refugee emergency of 2015–2016, the initial positive policy innovations like the emergency resettlement quotas and the calls for reforming the Dublin system, have been significantly watered down in subsequent years, leading to a much less ambitious EU pact on migration and asylum (European Commission, 2020; Beirens, 2020). The pandemic though has fuelled a transnational policy debate on how to address imbalances and shortages in these sectors, pushing the emphasis away from immigration and into the specific employment and service sectors.

The question that arises at both the analytical and policy levels is whether the global migration governance institutions and tools at our disposal are fit for this purpose. The advantages and limitations of the global governance of migration have been extensively discussed for the last 20 years (Betts, 2010; Koser, 2010). However, a crisis of forced immobility rather than migration such as the one caused by the pandemic is unprecedented. The newest tools in our global governance palette, notably the Global Compacts, were designed for a hyper-mobile not an immobile world. Nonetheless, several of its key objectives are still relevant and can provide a path towards reopening, such as reducing vulnerabilities during migration, strengthening consular services, using detention only as a last resort, and providing migrants with access to basic services such as healthcare (Newland, 2020). The calls for action included in the Global Compact for Migration (2018) on coordinated border management, on providing predictable procedures for migration screening and assessment in order to refer migrants to appropriate channels for admission, and on providing adequate documentation to all migrants are all issues that are still relevant as countries prepare to reopen after the pandemic. The situation on the ground for returning or stranded migrants is particularly challenging (see also Sahin Mencutek and Rajan and Arokkiaraj Chap. 11, in this volume). The need to address this situation and the limited capacity of origin countries to deal with reduced remittances and massive returns remains of course a challenge for both domestic and regional migration governance (Shivakoti, 2020).

1.4 The Contents of this Volume

Contributions to this volume discuss theoretical and policy challenges that the pandemic crisis has posed to international migration. The first part of this book focuses on the analytical and normative questions that pertain to the management of the pandemic emergency and the governance of migration and asylum, while the second part focuses on specific categories of migrants that face the most acute challenges in relation to the pandemic.

In Chap. 2 Audrey Macklin discusses the notion of essential work or essential workers. Macklin focuses on those exceptions to the border closures and the ways in which they were justified and legitimised. She shows how the category of ‘essential’ was produced, revised, and represented through the interaction of pandemic-driven exigencies and nationally-specific legal, political, and economic constraints. To understand how the admission into Canada of certain people was accepted as legally, economically, and/or politically essential, argues Macklin, one must take account of Canada’s character as a settler society, its economic integration with the US, and its growing dependence on migrant workers and international students to subsidise food production and higher education for nationals. Her argument however has a general valence as these different dimensions of being economically, politically, or legally essential have dominated policy decisions in many countries around the world.

Addressing the pandemic has brought a new interest to the use of technology for contact tracing and indirectly hence for surveillance of people’s movements and contacts in the interest of public health. Petra Molnar, in Chap. 3, discusses how we can learn from previous experiments of bio-surveillance implemented on migrant and refugee populations, and also warns against an enthusiastic embrace of such technologies. Molnar argues that such technological experiments on people on the move (particularly refugees) have been shown to breach privacy and endanger lives. Algorithms used to power this technology are vulnerable to the same decision-making of concern to humans: discrimination, bias, and error. Unfortunately, little regulation exists to govern technological experimentation. Virus-killing robots, cell-phone tracking, and artificially intelligent thermal cameras can all be used against people crossing borders with far-reaching results and impacts on various human rights. The pandemic offers both a risk but also an opportunity to rethink the way in which technology can be used to support rather than surveil vulnerable populations on the move.

In Chap. 4 Eileen Boris focuses on structures of systemic racism and precarity that compound the vulnerability of undocumented, transgender, and gender non-conforming individuals and those from racially othered group under the pandemic. Women among them have found new difficulties in meeting double obligations: to earn a living and care for households, both family requiring daily tending and those dependent on remittances sent back to countries of origin. Especially among migrants labelled as ‘essential workers’, the lack of protective equipment and labour rights has put them on the frontline of exposure. But domestic and home care

workers, meat packers, field hands, and others have stepped out of the shadows to demand inclusion in social assistance, occupational health and safety laws, and other state benefits. They have not relied on the state alone; rather, they have developed mutual aid and coalitional activism to advance their dignity and improve living as well as working conditions. With a focus on the US, for over two centuries a major destination for migrants, this chapter historicises the recent hardships and the organizing of migrant workers.

Turning to the local level, Chap. 5 by Mireille Paquet, Noémie Benoit, Idil Atak, Meghan Joy, Graham Hudson, and John Shields looks at urban centres that have been especially hit by the Covid-19 pandemic, with a special focus on non-status and precarious migrants. Using official data and published research, this chapter explores how city sanctuary policies in Canada have addressed these pandemic risks. The chapter highlights the specificities of sanctuary policies in the Canadian context and documents that while cities have not rescinded these interventions during the pandemic, they also have not built on them when developing services for urban residents. The chapter discusses how the pandemic interacts with the multi-level governance of migration and migrant integration and explores whether this crisis can be a lever for reform, increasing cities' resources and capacities to implement and institutionalize policies for non-status and precarious migrants.

In the second part of this volume, Lena Gahwi and Margaret Walton-Roberts (Chap. 6) review the impending global care crisis in terms of the quantity of care needed for an aging population and the quality of both the care provided and conditions of work for those who provide this care. Through a critical comparative overview, this chapter points to the imbalances characterising long-term care provision and the type and skill mix of labour, including the degree to which immigrant workers are over-represented in this sector. The chapter offers conceptual reflections on elder care as a matter of social justice and ethics in terms of those needing and providing care. These ethical and social justice concerns take on a specific global dimension as care has been transnationalised through migration and global care chains. Looking at different funding models for long-term care and taking into account the pressures that the pandemic has put on an already strained system, the chapter highlights the gendered and racialised devaluing of migrant labour so essential to the sector and the importance of effecting crucial reforms.

Chapter 7 by Anna Rosińska and Elizabeth Pellerito focuses on the case of domestic and care workers employed in private households and discusses the risks and vulnerabilities they face. During the current global pandemic, when the family or household has been considered the most basic unit of quarantine, the role of the domestic worker – someone who by definition crosses the threshold and enters the space of the home – became problematised quickly. Some tasks like elder care, childcare, and personal or disability care have become more important than ever at a time when few could access social services in person and institutions like care homes were the source of major outbreaks. On the other hand, the 'outsider' status of these workers – transgressing the boundaries not just of the physical household space, but often also of race, immigration status, and class – has meant that some service workers were more readily regarded as disease vectors who were too risky

to allow into the home and let go with little or no warning. State responses to the pandemic in the US have included stay-at-home orders that differentiate between essential and non-essential businesses; shifting immigration regulations; and federal and state relief bills, many of which continue to exclude the sector as a whole and undocumented immigrant workers from accessing relief measures. Overall, domestic workers were confronted with the impossible choice between isolating with the families they worked for so as not to put their own families at risk or losing their jobs and forfeiting access to state-provided benefits and relief systems. This chapter uses online ethnography of organisations, an online survey for domestic workers, and outreach work within the labour and workers' rights movement to analyse the multilevel response of domestic workers' organisations to address the crisis. Organisations, especially worker centers, doubled their efforts to absorb part of the pandemic shock. These responses span from initiatives addressed at immediate financial and material relief for individual workers to continued policy advocacy at the federal and state levels for broad-based protections like hazard pay, health and safety regulations, or eviction moratoria.

Chapter 8 by Letizia Palumbo and Alessandra Corrado focuses on the much-discussed agriculture sector and the shortages and challenges that the pandemic had caused already by spring 2020. Border lockdowns have immobilised thousands of foreign seasonal workers at their countries of origin, prompting fear of labour shortages and food production losses in Europe and North America. While over the last 30 years migrant farmworkers have become a fundamental component of core sectors such as the agri-food sector, it is only in the current health emergency that these have been clearly recognised as essential workers, as the need arises to address food security. Palumbo and Corrado investigate the working conditions of migrant farmworkers alongside national debates and institutional interventions in Italy and Spain during the Covid-19 crisis. The chapter provides a critical comparative analysis of the legal and policy interventions adopted to address migrants' condition of vulnerability. Both countries count on important contingents of EU and non-EU migrant farmworkers, especially in the production of fruit and vegetables. Moreover, they present common aspects regarding supply chain dynamics and labour market policies, but also some specific differences with respect to labour migration and social policies. Both countries have adopted actions to address the condition of irregularity of migrants during the pandemic. However, despite the enthusiastic and optimistic tones from the general public, these interventions reveal shortcomings that significantly limit their impact and outcomes. This calls into question the extent to which migrant workers are really considered 'essential' on a long-term perspective and, therefore, to what extent the current pandemic constitutes an opportunity for a new national push to enforce labour and migrant rights.

International students are a less discussed but significantly vulnerable population under the pandemic emergency. International students were not included in most migration debates because they were seen as temporary sojourners, moving for a few months or years and then transitioning back, either to the countries from which they came or changing their status into workers. However, the coronavirus pandemic has exposed both the essential and constitutive nature of international

students to higher education. In Chap. 9, Parvati Raghuram and Gunjan Sondhi demonstrate that they constitute an important part of export earnings in some of the major receiving countries, contribute to subsidising the university sectors and the local economy through their expenditure on housing and consumer goods as well as their work in selected industries. Crucially, they also play an important part in knowledge production and circulation – the core business of higher education. They are thus an important part of the very fabric of higher education. These issues have come to a head during the pandemic as mobilities are interrupted and education reshaped. The coronavirus emergency has starkly exposed this financial dependence that higher education sector has on high fee-paying international students. This chapter explores the issues that international students have faced and the impact of suspended mobilities on the sector and draws out the conceptual implications of inserting students into migration research on the pandemic.

One of the most important impacts of the pandemic as regards international migration has been that of forcing hundreds of thousands of migrants to return, totally unexpectedly and without any preparation. It was not only visitors and tourists who were obliged to return to their place of origin but also internal and international migrants who lost their jobs nearly overnight. Migrants' decisions have been marked by deep impasses between staying and return. Against this background, Chap. 10 by Zeynep Sahin Mencutek addresses the following questions: how and to what extent did the pandemic trigger the returns of migrants? What were the diverging characteristics of returning compared to other crisis-situations and before pandemic times? How do receiving and sending countries respond to returns? How has the pandemic influenced migrants' aspirations about staying and returning? These questions enable reconsidering the highly contested concepts of return migration scholarship such as voluntary versus forced returns (including deportations and removals); sustainable versus unsustainable returns; permanent versus temporary returns.

Chapter 11 by S Irudaya Rajan and H. Arokkiaraj further explores the question of return migration from the Gulf countries. Most of the affected workers are blue-collar, largely employed as temporary workers in construction and allied sectors. As per the Ministry of External Affairs (India) statistics, 2.5 million Indians have gone abroad for employment in 2019 alone. Among the migrants from India, countries in the Gulf have historically been the most-favoured destinations for job roles in the construction sector. However, the pandemic crisis halted construction projects in the Gulf. Furthermore, a drastic drop in oil prices has affected Gulf oil and non-oil economies severely. This has had an adverse effect on Indian construction workers in Gulf as they face the threat of unemployment, leading to their voluntary or forced return to India. For example, as of December 2020, 61,009 Kerala emigrants, most of them in the Gulf, have lost their jobs abroad due to the pandemic, making their return inevitable given their already temporary status in these countries. Against this background, this chapter examines a broad research question—how is India prepared to handle the changing trends in the Indo-Gulf migration corridor and the subsequent return emigration from the Gulf? This chapter highlights the perspectives of individual major sending states, such as Kerala and others, and their

responses towards Gulf returnees. Moreover, it provides insights by revisiting the existing economic and social security for the return migrants and their families within the framework of state welfare schemes, thereby examining rehabilitation and re-integration mechanisms for return migrants at the central and state levels in India.

Last but not least, Chap. 12 by S Irudaya Rajan and R. B. Bhagat examines the effect of the Covid-19 pandemic on internal migrants in India. According to the 2011 Census, there are over 450 million internal migrants in India, of which a massive 54 million constitute inter-state migrants. In addition, India also has 85 million intra-state (within the state) migrants. These migrants largely consist of casual labourers who comprise a huge percentage of the informal sector workforce, in both rural and urban areas of India, and are vital to the country's economy. These workers are also some of the most vulnerable sections of India's labour force, with inadequate coverage in terms of working conditions and social safety nets, and are also largely absent from India's policy discourses. However, the pandemic brought their precarity to the focus of the entire nation as, confronted with unemployment and destitution during a 54-day national lockdown, many migrants were forced to leave their places of work en masse, often in inhospitable conditions, to make their way home. This chapter thus highlights the size and extent of internal migration in India as well as its distribution across different states in India and how the covid-19 crisis and lockdown affected their lives and livelihoods. It particularly looks at the responses of central and various state governments – at the destinations, origins, and even places of transit where migrants have been stranded – to ensure migrants' well-being. The chapter also analyses the economic impact of the migrant exodus from major destinations and how that will affect migration patterns and policy in India in the future.

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Chapter 2

(In)Essential Bordering: Canada, COVID, and Mobility



Audrey Macklin

2.1 Introduction

The cross-border movement of a virus threw into chaos the cross-border movement of everything and everyone else.

The unprecedented conjuncture of border closure and domestic immobilisation disrupted conventional patterns of movement and mobility into and within Canada. The hierarchy of admissibility according to legal status and national origin has been jumbled. Consider that in summer 2020, cars on Canadian streets bearing US licence plates were viewed with suspicion and hostility, prompting calls to the Canada Border Services Agency (CBSA) to report the illicit presence of Americans.

This chapter uses Canada as a case study to explore two features of Covid-19's impact on bordering. The first concerns the relationship between the control of movement across borders and the control of movement within borders. The coronavirus pandemic made this salient because of the drastic and unfamiliar restraints imposed on individual movement at local and inter-provincial levels. In *Spheres of Justice*, Michael Walzer (1982) famously provided a normative defence of closed national borders by, *inter alia*, predicting that if national borders were open, sub-state and local communities would reactively erect barriers to entry to preserve the perception of communal membership. This world of a 'thousand petty fortresses' was contrasted to a national territory characterised by unimpeded mobility. In other words, Walzer argued that the maintenance of free movement within the state is underwritten by the presumption of closure at national borders. Covid-induced regulation both tracks and disrupts this hypothesis.

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The second feature of Canada's pandemic migration regulation is the reconfiguration of the conventional priorities and preferences for non-citizen entry. Like other affluent countries, Canadian migration law facilitates travel and migration by nationals from other states of the Global North (and Australia/New Zealand) and impedes it for nationals of the Global South. Ideas about the desirable traveller and migrant are infused with ideas about class, race, gender, religion, and ability. This passport privilege has been temporarily displaced by a different hierarchy based less on desirability than on immediate necessity. In Canada and elsewhere, pandemic rules have been organised around assessments about whose entry, which labour, and which interests are 'essential,' replete with online questionnaires to locate applicants in the shifting landscape of pandemic admissibility (Government of Canada 2020c) I offer a typology of 'essential' that braids together economic, legal, and political elements. While this chapter is not comparative, I suspect that that the particular calculations about who and what is 'essential' vary between states, and that these variations might link to different conceptions of the place of migration in the nation, and national belonging. Canada is a settler-society. It is built literally and discursively on a commitment to immigration that, in the first instance, displaced Indigenous people and consolidated and expanded colonial power. It provided the demographic, economic, and social foundation upon which the state was assembled and continues to grow. Other states have a different migration history and trajectory, but all face similar challenges around Covid-19.

2.2 The Unexceptional Border

A conventional metaphor for the border depicts it as a filter or screen that slows and halts the entry of some, while permitting and expediting the entry of others. In ordinary times, this image is juxtaposed against the situation within state territory, where movement is unimpeded and virtually unregulated. The pandemic has eroded this distinction between governance of movement at the border and inside the country. I do not anticipate that the changes wrought by Covid-19 will become permanent, but what has changed irrevocably is the assumption of irrevocability.

As the coronavirus travelled the world passport-free, a predictable reaction of states was to target for exclusion travellers from alleged source-countries – first China, then Iran and Italy. We know this exclusion narrative well, replete with images of foreign viruses infecting the body politic, and we observed the deplorable enthusiasm with which some political leaders fomented and exploited it. The racist and stigmatising effects of labelling Covid-19 the 'Chinese' or 'Wuhan' virus" are made no less pernicious by their predictability.

Critics of border closures rightly observed that they would likely fail to halt the spread of the virus, partly because these closures inevitably happen after the virus has already found its way in – the inverse problem of shutting the barn door after the horse has bolted. By around mid-March 2020, it had become evident that the virus was everywhere and could not be stopped, only slowed. At that moment, borders

slammed shut more tightly and more pervasively than many of us had ever seen in our lifetimes. But this quantitative intensification of border control masked a shift in its qualitative character that was produced by a transformation in the governance of movement more generally.

Discriminating against ‘dangerous’ foreigners from certain states – China, Italy, Iran – belongs to the banal work of racist border control in the Global North. It has a long and ignoble pedigree. Identifying foreigners as vectors of disease and degeneration in both physical and moral terms is a familiar trope. One need not reach far back to recall, for example, the ‘homosexual Haitian drug user’ as the originary villain in the HIV/AIDS origin story. ‘Xenophobia: Covid Edition’ seems to this observer like a variation on a familiar theme.¹ But this endeavour of excluding the foreign menace was superseded under Covid-19 by the project of halting movement as such, of which cross-border movement was only one type. Once it was apparent that stopping the virus was not viable and the goal shifted to slowing its spread (pending a vaccine), any and all movement became undesirable. In this context, borders continue to mark critical jurisdictional breaks. Canada does not govern the territory of other states, and the actions and inactions of those other states in managing the pandemic become a source of risk embodied by individual foreign travellers. But it is less the conduct or character of border-crossers themselves that is at issue, than the fact that states exercised no authority over how other states governed their residents during the pandemic.

At the same time, the pandemic precipitated unprecedented restraints on movement within the territory of the Canadian state – and this applied to citizens and non-citizens alike. From the individual body, to the household, municipalities, provinces and, finally, the state, the universal object of governance became the arrest of human movement. Although the risk of contracting Covid-19 was unequally borne by racialised and economically disadvantaged people, each person was a potential vector and victim of disease, and controlling mobility preoccupied every jurisdiction at every scale of governance. With policing techniques ranging from appeals to solidarity to threats of criminal sanction, people were told to stay home, to stay away from one another, and to stay put. In ordinary times, the default position for state borders is closure, subject to exception; within the state, the default is free movement, subject to exception. In Canada, s.6 of the Canadian Charter of Rights and Freedoms not only protects the right of citizens to enter, but also the free movement of citizens and permanent residents throughout Canada. Yet, under the coronavirus pandemic, it was all stasis, all the time, everywhere, for everyone. Movement was policed by state actors, by neighbours, via cell phone technology and otherwise; inessential movement was subject to opprobrium, or worse. Borders between

¹For example, Canada adopted explicitly racist entry policies against Chinese migrants from 1885 to 1946, and covertly (and more effective) racist policies against Japanese and South Asian migrants from the early twentieth to mid-twentieth century. *See generally*, Sharry Aiken, ‘From Slavery to Expulsion: Racism, Canadian Immigration Law and the Unfulfilled Promise of Modern Constitutionalism,’ in Vijay Agnew, ed., *Interrogating Race and Racism* (Toronto: U of T Press, 2007), 55–111.

provinces that hitherto only functioned to mark the transition between sub-state jurisdictions were activated to impede inter-provincial or inter-regional movement. A Newfoundland law barring interprovincial travel withstood constitutional challenge, though it is under appeal at the time of writing (Taylor, 2020).

Within this regime of pervasive immobilisation inside the state, where citizenship is almost irrelevant, border control appears less distinctive and more like one component of an apparatus devoted to halting the circulation of people. The technology of border control is purpose-designed to maximise coercion and minimise accountability, and one should not trivialise its specificity and violence. Having said that, it is worth noting how *border control* under the pandemic was interpolated into an infrastructure of *mobility control* that was not primarily about migration. It was primarily about protecting public health – the same objective shared by a suite of domestic measures, including quarantine, lockdown, social distancing rules, internal travel restrictions, mobile app contact tracing, and so on. In this sense, the border’s function in arresting movement was no longer unique. That is new.

Thanks to Covid-19, a vision of Walzer’s world of a thousand petty fortresses came into view, with provinces erecting barriers to non-residents, including former residents. People in rural areas grumbled loudly about city dwellers ‘escaping’ to their cottages or chalets and bringing the coronavirus with them. Fragile northern communities (especially Indigenous) denied access to people from outside the region. But Walzer imagined this as a reaction to [more] open borders. That is not the explanation for the domestic restraint of movement under the pandemic. There is no trade-off between closure at one scale and openness at another. Here, state sovereignty is not manifested by preventing entry, but by controlling, confining, and surveilling all movement, of which cross-border movement is only the exemplar. We cannot know now, and perhaps will not know for a long time, the durability, shape, and the trajectory of states’ newly-revived and amplified will and capacity to regulate movement that begins not with crossing a border between two states, but with crossing a threshold between abode and outside world. The regulatory response to Covid-19 reveals the growing capacity of the state to engage in networked and coordinated control of human movement. The choice to refrain from exercising control is not the same as the absence of control. In my view, the measures adopted because of Covid-19 undermine the very idea of mobility as free movement and bring into view an alternative picture of mobility as permitted movement.

2.3 Essential Connections

2.3.1 *Essential Movement*

Even in a pandemic, borders cannot be hermetically sealed. While the pandemic obviously restricted entry, it also reconfigured the basis for admission in revealing ways. Unlike many other states, the Canadian government did not respond to the

pandemic by declaring a national emergency and invoking the powers contained in the *Emergencies Act*. Under Canada's federal system, international border control falls under federal jurisdiction, and Emergency Orders issued and renewed monthly by Cabinet under the authority of s. 58 of the *Quarantine Act* regulated cross-border movement, overriding or otherwise altering existing provisions of the *Immigration and Refugee Protection Act (IRPA)*. The *Quarantine Act* is narrower in scope than the *Emergencies Act* because it only applies to people or cargo entering or departing Canada. It also contains significantly fewer procedural protections and much weaker accountability mechanisms than the *Emergencies Act*. Exercising state power via the *Quarantine Act* rather than the *Emergencies Act* echoes a similar choice made by the federal government after 9/11 to address national security and terrorism using the powers granted under the *Immigration and Refugee Protection Act* rather than the *Anti-Terrorism Act*. In both instances, the government opted for regulatory instruments that minimised rights protection and accountability. Relatedly, the *Quarantine Act* and *IRPA* are organised around movement across borders and non-citizens respectively, the spaces and subjects that attract least rights protection in Canadian law. Reliance on the *Quarantine Act* and *IRPA* also have the effect of reinforcing a stereotype of foreignness as vector of disease and danger to the body politic.

The term 'essential' became the stamp on the notional permit that validates movement. Technically, the Emergency Orders do not positively authorise 'essential' border crossing. Instead, they prohibit entry for 'optional' or 'discretionary' purposes. The residue that remains is travel for an 'essential purpose'.

Who or what is essential, and why? For present purposes, I will detach the label 'essential' from 'services', 'work', or 'worker' and instead consider more broadly the kinds of reasons that give shape and content to the category 'essential', which in turn signifies an exception to the default of stasis and exclusion. I propose that entry might usefully be classified as *legally* essential, *politically* essential, or *economically* essential. The legal dimension captures constitutional, international, or legislative provisions that constrain the power of the state to exclude. While it is true that most laws create exceptions for emergencies of various sorts, the existence of an initial legal obligation to admit can still exert significant force in policy choices.

Entry is economically essential to a state in respect of those workers who transport otherwise unavailable goods or who provide vital and otherwise unavailable forms of labour such as healthcare, sanitation, transportation and delivery, and food production and distribution. However, as the Canadian case shows, workers are not the only non-citizens considered essential to the Canadian economy.

The category of politically essential entry overlaps with the other two and is necessarily contested and contingent. Claims that entry is legally or economically essential will be leveraged by interested parties (employers, institutions etc.) to persuade politicians to create an exception to the default of closure and exclusion. But the political impetus may also be generated from successful public appeals to moral, social, or pragmatic considerations.

These proposed categories of essential entry are neither mutually exclusive, nor static. They simply provide a rough schema for organising and comparing the

diverse responses of various states to the challenges of COVID and trans-border movement.

2.3.2 *The US and Everywhere Else*

Canada's only land border is with the United States. The Canada-US border is not only a barrier, but also a suture stitching together two political units into a deeply interdependent economic, social, and political relationship (Salter, 2012). Early on, it became obvious that neither the US federal government, nor most state governments, would or could act quickly to contain the spread of Covid-19. Inevitably, the *per capita* infection and fatality rates in the US would (and did) soar relative to Canada. Restricting the flow of entrants from the US was both vital from a public health perspective and potentially devastating to the Canadian economy. This tension between sovereign self-interest and unequal economic power plays out across the full range of Canada-US relations, and the pandemic provided another occasion to observe its effect on migration and border management.

Each month since March 2020, Cabinet has renewed not one, but two Emergency Orders under the *Quarantine Act* that govern cross-border movement. One is for foreign nationals entering Canada from the US. The other is for foreign nationals entering from all other countries. The salient difference between the two Emergency Orders is the default starting point. Foreign nationals from the US are prohibited unless their entry is not for an optional or discretionary purpose. Foreign nationals from elsewhere are prohibited unless they come within a list of designated exceptions *and* if their entry is not for an optional or discretionary purpose. A non-exhaustive list of examples of discretionary or optional travel includes 'tourism, recreation, and entertainment.' Until October 2020, international students arriving directly from the US were admissible if they possessed student permits issued anytime; international students arriving from anywhere else had to possess student permits issued before 18 March 2020. As discussed below, the government amended these rules in mid-October 2020.

The reason for the preferential treatment of the US is straightforward: it is the only country with which Canada shares a land border. North American economic integration makes the cross-border traffic of goods (including food and health equipment) from the US vital to Canadians. US truckers became essential workers to Canada, and the Emergency Order enabled them to traverse the border as visitors (they were also exempt from the quarantine requirement). Indeed, the same quarantine exemption applied to hundreds of Canadian nurses living in the Windsor, Ontario, area who crossed the border daily to work in Detroit hospitals and returned home to Windsor.

Travel to Canada for tourism and business travel were prohibited as optional and discretionary, although special permits were granted for overland transit through Canada from the continental US and Alaska, and vice versa. Well-publicised stories of Americans who assured CBSA that they were transiting through Canada but who

were actually vacationing in Canada stoked a certain degree of suspicion and animosity directed at drivers of cars with US licence plates. While mocking Americans is something of a national pastime in Canada, there was something undeniably novel about casting white, affluent, middle-aged American tourists in the role of foreign scofflaws and vectors of contagion. Even more troubling, however, were revelations that senior Canadian officials authorised entry of several US business executives to Canada during the pandemic with no requirement to quarantine (Gatehouse et al., 2020).

2.4 Citizens and Permanent Residents

As states moved to close borders in response to the pandemic in early 2020, Canadian citizens outside Canada remained free to re-enter, subject to a 14-day quarantine period. Indeed, the Prime Minister of Canada repeatedly urged Canadians abroad to return to Canada as soon as possible. Since the right of citizens to enter Canada is constitutionally protected under Section 6 of the Canadian Charter of Rights and Freedoms, as well as international law, one might understand access by citizens to Canadian territory as *legally essential*. But it bears noting that citizens who exhibit any symptoms of Covid-19 can be refused boarding by airline carriers, rendering them *de facto* excluded. And for over two weeks in late December 2020, Canada banned all inbound flights from the UK in response to the revelation of a more infectious strain of the virus in the UK (first detected in September 2020). The ban applied to all air travellers, regardless of citizenship. The end of the UK ban was followed by a requirement that all air travellers seeking entry to Canada from abroad test negative for Covid-19 within three days of departure for Canada. Here, bio-status trumped citizenship-status when citizens travelled by air, which they must do to reach Canada from anywhere but the US.

Why did the Prime Minister exhort Canadians to return in the early days of the pandemic? One might read this as a romantic appeal to the Canadian diaspora: in times of crisis, one can and should return to the protective embrace of the homeland (Mégret, 2020). Of course, patriotism can be mobilised toward a variety of ends. The Chinese government blocked Canadian-Chinese dual citizens from leaving China (often with Canadian family members) and travelling to Canada. At the same time, the Chinese government actively discouraged thousands of Chinese international students attending Canadian university from returning to China, ostensibly to minimise any risk of reintroducing Covid-19 into China. It seems that Chinese citizens in China behave patriotically by remaining in China, while those abroad show their patriotism by remaining outside China.

In general, the call to ‘come home’ tracked the predictable eruption of xenophobia directed at actual or perceived ‘foreigners’ (Purohit & Mukherjee, 2020; Stevens, 2020). The familiar story is that the non-citizen and the racialised other (in this case, people with Asian features) always teeter at the edge of outsider status – and an outsider is always vulnerable when bad things happen and people look for someone

to blame. Around the world, anti-Asian racism and scapegoating of migrants and foreigners escalated.

From a purely pragmatic perspective, the Canadian Prime Minister's appeal to citizens abroad also anticipated the imminent global shutdown of international travel. The government wished to avoid the prospect of thousands of Canadian citizens stranded abroad and calling on the Canadian government to repatriate them. Even though the Canadian government insistently (though quietly) declares that consular assistance in the form of repatriation is dispensed as a matter of discretion, not entitlement, Canadians continue to expect it. The political cost of refusing to repatriate Canadians would have been enormous, so better to do so before the logistical and financial cost escalated even further.

Permanent residents of Canada do not enjoy a constitutional right to (re)enter Canada, but they do enjoy a statutory right under s. 19(2) of *IRPA* to enter Canada. Permanent residents must physically reside in Canada for at least six months a year to maintain their status. A purely statutory right can be abridged more easily than a constitutional right, but in any case, the orders issued under the *Quarantine Act* preserved permanent residents' ability to enter Canada on the same terms as citizens. This was true of most countries in the Global North, who recognised that exclusion of permanent residents would have been politically untenable. The Canadian government also included many permanent residents in repatriation flights (Government of Canada, 2020f).

Unsurprisingly, the government also discouraged Canadians from non-essential travel outside Canada. In the early days of the pandemic, many Canadians (with the support of some provincial premiers) did not heed the advice of public health officials not to travel south for spring break vacations, and it appears that this expedited the coronavirus's spread in Canada. Thousands of retired Canadians spend the winter in Florida, Arizona, and California, and many others vacation in southern destinations. In October 2020, Prime Minister Justin Trudeau cautioned against travelling to the US but added,

If someone chooses to travel, we're not going to keep them imprisoned in Canada. There is freedom of movement in this country. [But] they have to recognize that they're putting themselves at risk. They're putting loved ones at risk (Muggeridge, 2020).

In light of the various restraints on mobility within Canada, Prime Minister Trudeau's invocation of freedom of movement was striking, if not ironic. But perhaps more notable were the number of politicians, especially at the provincial level, who chose to travel south for warm weather vacations in December 2020, only to face a chilly public reception upon their return. Many were demoted, fired, or forced to resign (Canadian Press, 2021).

2.5 Foreign Nationals in Canada

2.5.1 *Workers*

Canadian immigration law defines foreign nationals as non-citizens who are not permanent residents. When the pandemic struck, some foreign nationals who had resided in Canada for extended periods on renewable work permits happened to be temporarily abroad. Their legal entitlement to enter is even more conditional and precarious under immigration law than that of permanent residents, but the government ultimately permitted them to return. To understand why, it is worth noting that over the past 15 years, Canadian immigration policy has reduced the proportion of 'high' skill economic immigrants admitted directly as permanent residents in favour of two-step immigration schemes that require migrants to undergo a period of temporary status before qualifying for permanent residence. Thousands of foreign nationals live and work in Canada more or less continuously for years (often with families) on a succession of temporary work permits. Many of those on temporary work permits are indistinguishable from those admitted as permanent residents in the economic class. But legally, the line between temporary and permanent resident status means that temporary residents' continuous, long-term physical presence in Canada is legally inconsequential in the sense that it does not accumulate into recognition as a permanent resident. During the pandemic, however, prior presence sufficed for purposes of admission.

2.5.2 *International Students*

All major Canadian universities are publicly funded, but governments cover a decreasing proportion of actual costs. Historically, the education of international students was framed as a form of quasi-international development assistance, in which students from the Global South would acquire a university education in Canada that they would carry back and apply in their countries of origin. By the turn of the twenty-first century, this neo-colonial model of international students as aid recipients had evolved into a neo-liberal model of international students as revenue stream. Programmes that enable some international students to obtain post-graduation work permits incentivise international students to choose Canada as a destination in the hopes of finding a pathway to permanent immigration. Today, Canadian universities depend heavily on tuition fees charged to international students; international student tuition across Canadian universities averages 4.5 times the fees charged to domestic students (Statistics Canada, 2020). Even as the pandemic pushed post-secondary institutions to facilitate online course instruction for the majority of programmes, universities were anxious to maintain international student enrolment. They worried that international students would balk at paying exorbitant tuition fees without the benefit of also living in Canada. Thus,

universities lobbied the federal government to ensure that international students who were willing to leave their home countries could still travel and live in Canada – even if they studied online upon arrival.

Universities found themselves in a quandary: the physical presence of international students is *economically essential* to Canadian post-secondary institutions. But universities' own efforts to manage the pandemic by going online refuted the claim that physical presence was essential to fulfilment of universities' pedagogical mission. The economic imperative to enable international students to enter Canada thus collided with the bar on entry for 'discretionary' or 'optional' purposes. Although the federal government allowed online courses to 'count' for purposes of activating a study permit, this did not resolve the problem of entry.

Universities only partially succeeded in enabling international students to enter in time for the start of the 2020–2021 academic year in September 2020. As with holders of temporary work permits, government policy drew on past residence as a criterion for designating entry as essential. Returning international students able to prove that they had already lived in Canada could enter. This did not address the situation of first-year international students, unless their university furnished a supporting letter from the university attesting that 'the program requires in-person attendance...once the [university] is able to resume classroom operations'. The university was also required to 'indicate a target start date for courses that require the student to be in Canada' (Government of Canada, 2020e). International students arriving directly from the US could hold student permits issued anytime; international students arriving from anywhere else could only hold student permits issued before 18 March 2020. But even with a study permit in hand, actual admission remained subject to CBSA officers' exercise of discretion at the port of entry. This meant that students could not confidently predict whether they would be admitted until they travelled to Canada.

In mid-October 2020, the federal government announced a new programme to enable international students to study in Canada. Henceforth, provincial governments would certify individual Canadian universities with an approved 'COVID readiness plan' as Designated Learning Institutions (DLI). International students possessing study permits for those DLIs could enter and would follow the quarantine protocol arranged by the university (Government of Canada, 2020h). This model was the product of assiduous negotiations between the government and Canadian post-secondary institutions. Although it arrived too late for the start of the 2020/21 academic year, it enabled universities to continue offering the 'in-Canada' experience to international students for whom online study was an unsatisfactory substitute for the money.

2.6 Family Members

Over 20% of Canada's population was born abroad. Immigration is written into Canada's nation-building narrative as a settler society; historically, family-based migration was considered integral to social and demographic reproduction, and not (unlike European states) primarily the consequence of decolonization or failed temporary labour migration schemes. Untold numbers of Canadian citizens, as well as permanent and foreign nationals in Canada, have close kin who are foreign nationals. Even though non-citizens have no currency in the political marketplace, they are virtually represented by the millions of naturalised citizens and descendants of immigrants. The admission of foreign family members of Canadian residents emerged as a contentious issue during COVID. Foreign family members had no legal or economic argument in favour of admission, but the government eventually relented, recognizing that their admission was *politically essential*, even if not legally required.

Emergency Orders under the *Quarantine Act* prohibit entry for optional or discretionary purposes, and specifically list tourism, recreation, and entertainment as examples. This leaves considerable interpretative latitude in the hands of CBSA officials. The government's initial position on non-optional/non-discretionary exceptions to border restrictions was that '[t]here are no exemptions to border restrictions for compassionate reasons, such as visiting a critically ill loved one or attending a funeral' (Government of Canada, 2020f, 5). Early on, however, the government declared an exemption for immediate family members (intimate partners and dependent children) of citizens and permanent residents. These foreign nationals could be admitted as visitors if it was 'for an essential purpose'.

Over the course of several months, media accounts abounded of foreign national spouses denied entry to attend the birth of their child, adult children unable to visit or care for their ailing elderly parents, and long-term long-distance couples refused permission to see one another (Bureau, 2020a, b). Other states wrestled with the same issue (Dutch News, 2020). In each of the Canadian cases, CBSA officers determined that the foreign national did not qualify as an immediate family member or the purpose of travel was inessential or both. In some cases, CBSA officers threatened to issue a one-year ban if the foreign national did not surrender their attempt to enter Canada (Harris, 2020).

Ad-hoc advocacy sprung up across Canada to press for a wider definition of immediate family and for recognition of family reunification as intrinsically essential. The 'Faces for Advocacy' group set up a social media presence under the slogan 'Family Reunification, Not Open Borders', and engaged in a media campaign and government lobbying (Faces of Advocacy, 2020). In a subsequent order under the *Quarantine Act*, 'immediate family' was broadened to include parents as well as step-parents and adult children of citizens and permanent residents (Government of Canada, 2020f). The government also removed the requirement for foreign national family members to establish the essential purpose of their travel, thereby reducing border officials' negative discretion; in effect, family reunification as such was

deemed essential for those who fell within the definition of family; who were reuniting in Canada with a citizen or permanent resident; and who would be staying beyond the mandatory 14-day quarantine period (Government of Canada, 2020a, b, d). Immediate family members of temporary residents were required to obtain an advance authorization letter from Immigration, Refugees and Citizenship Canada, which they would present at the port of entry. CBSA border officials retained residual discretion to reject them at the port of entry, even with the letter. An indirect indication of how CBSA border officials had been wielding their discretion is provided by a policy guideline clarifying that non-discretionary or non-optional travel could indeed include a ‘foreign national coming for the birth of their own child to another foreign national with temporary resident status’ (Government of Canada, 2020a).

While the Canadian government recognized admission of some family members as *politically essential* from the outset, successful advocacy reconfigured family reunification as intrinsically essential so that family members did not have to demonstrate why reunification was essential. It also expanded the ambit of who counted as ‘family’ in the pandemic. Importantly, media attention appeared to play an important role and many profiles of separated family members featured people who were not habitually the subject of restrictive and arbitrary border enforcement or politically active on migration issues.

2.7 Seasonal Agricultural Workers

Canada operates a Seasonal Agricultural Worker Program (SAWP) via bilateral agreements between the governments of Canada as destination state and Mexico and Jamaica as sending states. Through this programme, the Canadian government subsidises the agricultural employers’ labour costs by furnishing migrant workers who work in greenhouses, orchards, and other industrial agriculture operations for wages and working conditions below what Canadians will accept. Privatised variations on this model supply Canadian agricultural businesses with temporary migrant workers from Guatemala, Philippines, Indonesia, and elsewhere. Most return year after year on work permits that tie them to specific employers for a stipulated duration of up to 10 months. The workers can never transition to permanent residence and must perform the annual ritual of returning ‘home’ for some period of time in order to affirm their designation as merely temporary.

The work requires long hours of hard physical labour and is poorly paid. Respect for occupational health, safety, and employment standards by employers is uneven, and exploitative practices by unscrupulous employers are endemic and well-documented. The demand for the labour may or may not be temporary, but the visa is restricted in duration in order to keep the workers temporary. Because of their precarious immigration status (accompanied by the ubiquitous threat of deportation), they experience wage-theft, overwork, unhealthy and dangerous working conditions, overcrowded and inadequate shelter, poor sanitation, and restricted access to food, healthcare, and liberty (MWAC, 2020).

In the initial iteration of the pandemic travel restrictions, temporary workers who did not previously reside in Canada were barred from entry. This encompassed seasonal agricultural workers because, as noted above, the requirement to return home annually meant that each entry would be based on a new temporary work permit and so they could not claim to reside in Canada. Their exclusion because of Covid-19 rekindled a familiar discussion about migrant labour. Although frequently denigrated as ‘unskilled’ and thus undeserving of permanent residence, employers now emphasised the skill, experience, and efficiency of seasonal agricultural workers. They reiterated the refrain that Canadians – even in the face of unprecedented unemployment rates – could not and would not do the arduous work. And so, to sustain the food supply in Canada, the entry of seasonal agricultural workers was facilitated as an exception because their admission was *economically essential* to Canada.

But upgrading the work to essential did not make the workers essential. Rather, it exposed the extent to which migrant agricultural labour is essential *because* the workers themselves are dispensable. This is not a paradox: slave labour is essential to a slave economy but, and because, enslaved people have no intrinsic worth in that economy.

Arriving workers were screened for Covid-19 before departure and employers pledged to honour the 14-day quarantine period, ensure housing and working conditions that respected social distancing requirements, and to otherwise respect and protect workers’ health. The Jamaican government, recognising the remittances by seasonal agricultural workers as economically essential, required Canada-bound Jamaican workers to sign a waiver of any liability for contracting Covid-19 while employed in Canada (Mojtehedzadeh, 2020). The dependence of sending states on remittances, their competitive relationship with other sending states, and their weakness relative to destination states often result in tepid protection and advocacy by sending states for overseas workers.

Consistent with pre-coronavirus patterns of employer misconduct, many Canadian employers did not respect the quarantine period, coerced employees into working immediately alongside local workers (who did not live on site and circulated freely), did not provide them with adequate housing, personal protective equipment or means of social distancing. After travelling thousand of kilometres across international borders, they were, in some cases, physically confined to the employer’s property. Non-compliant workers were threatened with repatriation. Government inspectors – who refrained from entering workplaces because of the risk – conducted virtual inspections in which they relied on employer reports.

Covid-19 outbreaks on farms and greenhouse operations erupted almost immediately. In surrounding communities and commercial establishments, migrant workers were stigmatised and even refused service (Hennebry et al., 2020). For the first six months of the pandemic, the agricultural industry (including meat packing plants) and privately-operated long-term care facilities were responsible for the overwhelming majority of positive cases and deaths in Canada. In each sphere, the common denominator was a work force that was disproportionately racialised, low-paid, and populated by migrants lacking secure migration status. A key finding of a

study of the differential impact of Covid-19 on non-citizen and racialised people in Ontario (Canada's largest province) found that, as of June 2020, 'Although immigrants, refugees and other newcomers make up just over 25% of the Ontario population, they accounted for 43.5% of all Covid-19 cases' (Guttmann et al., 2020). The study did not include seasonal agricultural workers, which would have significantly increased the proportion of non-citizen Covid-19 cases.

Civil society organisations focused on migrant and refugee rights have been documenting conditions faced by precarious migrants and refugees during the pandemic, using mainstream and social media as well as public protests to advance long-standing demands to issue migrant workers (across a range of occupations) access to permanent resident status (MWAC, 2020). In one well-publicised case, a migrant farm worker was fired for speaking to media after he tested positive and a roommate died from Covid-19. The agri-business employed hundreds of workers under Canada's seasonable agricultural programme. The employer failed to provide safe, clean, and well-provisioned accommodation for workers; by June 2020, over 190 workers tested positive. With support from a migrant rights organisation, the farm worker was able to resist the employer's attempt to summarily deport him, and he filed a complaint against the employer for engaging in reprisal against him. In early November 2020, the Ontario Labour Relations Board ruled in favour of the worker, awarding him lost wages and damages (Gabriel-Flores, 2020).

Migrant worker organisations drew attention to the essential services these workers provide to a Canadian economy in crisis, and the heightened risk of infection, illness, and death they faced because of the nature of the work they perform. Their vulnerability was compounded by disregard of their health and safety by employers who exploit their precarious immigration status. The government largely deflected the issue and, instead, provided tens of millions of dollars to employers to encourage them to implement the protective measures they had already pledged and failed to provide.

2.8 Asylum Seekers and Refugees

At the bottom of all hierarchies of legal migration are refugees and asylum seekers. Admission of asylum seekers is not politically or economically essential to Canada. Refugee resettlement is not legally required, and Canada halted resettlement in March 2020. It resumed slowly in late August, but Canada did not meet its resettlement targets for 2020.

Canada's obligations toward asylum seekers qualify their admission as legally essential under a proper interpretation of Canada's obligations under the UN Refugee Convention (United Nations High Commissioner for Refugees, 2020), but it is undeniable that Canada (like most other states) seeks to evade those obligations. Elsewhere, Sean Rehaag et al. (2020) describe how Canada leveraged the pandemic to advance its goal of preventing asylum seekers from reaching Canada and seeking refugee protection. In a depressing and distinctive display of Canadian-ness, the

government classified the entry of NHL hockey teams (and their entourages) as essential, but not the entry of asylum seekers (*ibid.*; Mohammed, 2020).

In July 2020, the Federal Court of Canada ruled that the Canada-US Safe Third Country Agreement (STCA) violates the Canadian Charter of Rights and Freedoms, based on the treatment to which asylum seekers are subject when returned to the US under the STCA (Canadian Council for Refugees, 2020). The government appealed the decision, and the Federal Court of Appeal overturned the decision in April 2021 (Canadian Council for Refugees, 2021). The applicants have applied for leave to appeal to the Supreme Court of Canada. Meanwhile, the border remains closed to refugee claimants who do not fall within STCA exceptions. Those who are apprehended while crossing irregularly are pushed back to the US.

2.9 Pandemic Pathways to Permanent Residence

Against this generally dismal landscape for migrants and refugees, two developments stand out. When the pandemic measures began, refugee and migration advocates launched a campaign to urge the federal government to provide access to permanent residence for front-line ‘essential workers’ with precarious immigration status, including seasonal agricultural workers, other migrant workers, and refugee claimants. The Black Lives Matter uprising amplified the racialised character of the migrant worker population and the pandemic’s impact on expressions of racism and xenophobia. Activists’ calls to action were backed by evidence about the treatment of seasonal agricultural workers and temporary workers in meat packing plants. Frontline workers in long-term care facilities also received considerable attention, especially in Quebec. Many among them were Haitian and African refugee claimants who had entered Canada irregularly from the US post-2016 (because the aforementioned STCA precluded them from entering through regular means) at a Quebec location known as Roxham Road. They had long been vilified as ‘illegal’ immigrants from various quarters, including the Quebec provincial government, which had promoted a number of anti-Muslim and anti-immigrant policies since its election. But here they were, risking their health by providing services in nursing, security, janitorial work, and food preparation.

In mid-August 2020, the federal government announced that refugee claimants working in the health sector in direct contact with patients would be granted direct access to permanent resident status (Canada, 2020g) The federal immigration minister praised these refugee claimants as demonstrating ‘a uniquely Canadian quality in that they were looking out for others’ (Canadian Press, 2020; Kestler-D’Amours, 2020). There was, of course, a certain irony to rewarding refugee claimants for performing their ‘Canadian-ness’ by doing work that Canadians would not do. But more significant was the exclusion of other services that were also deemed essential, which also exposed workers to heightened risk of infection, but which did not involve direct contact with the sick or elderly. Inside healthcare facilities, these included security, cleaning, and food preparation. Workers in other sectors,

especially in agriculture, also faced heightened risks that were not inherent to the work (unlike healthcare), but largely attributable to employer failure to ensure safe working and living conditions. Additionally, precarious migrant workers who were not refugee claimants remained ineligible. Soon after the programme's announcement, it emerged that while the federal government and other provinces were open to a wider scope of eligibility, at least for refugee claimants in the health sector, the Quebec government strongly opposed it (Gruda, 2020).

This exceptional initiative for refugee claimants appealed to the logic of deservingness and 'earned' citizenship: non-citizens may be put on a path to citizenship as a reward for extraordinary sacrifice to the nation. A similar premise underwrote US President Barack Obama's DACA programme, whereby prosecution for irregular presence was deferred for people without legal status who served in the US military or attended post-secondary education. The Canadian programme's limitation to direct provision of healthcare and the ineligibility of precarious workers who were not refugee claimants both invite deeper reflection about the particular confluence of forces and discourses that produced it. This unprecedented offer of permanent resident status for refugee claimants was both welcomed for those it included and contested as arbitrarily restrictive for those it excluded. In December 2020, four months after the initial announcement, the government opened the application process. The scope of the program was confined to a tiny subset of eligible refugee claimants who claimed refugee protection before 13 March 2020, who possess valid work permits, and have accumulated a minimum number of hours of employment in direct provision of health care (Pilon-Larose, 2020). A journalist estimated that the proposed measure would probably benefit no more than a thousand refugee claimants (Gruda, 2020).

While the 'pandemic pathways' program was restricted to asylum seekers in front-line health care, another program introduced in April 2021 offered access to permanent resident residence for up to 90,000 migrant workers and international students – but excludes refugee claimants (Government of Canada, 2021a). The program opened in May 2021 with a six-month deadline for application. The impact of the pandemic on transnational movement meant that Canada could not approach its annual target for permanent immigration except by pivoting to temporary migrants (workers and international graduates) already in Canada. The program sets aside 20,000 spaces for health care workers, 30,000 for essential non-health care workers, and 40,000 for recent graduates from Canadian institutions. As of 1 June 2021, however only 13,000 workers applied for 50,000 spaces, whereas the 40,000 maximum for international graduates applications was reached (Government of Canada, 2021b). The explanation for undersubscription by workers is not a lack of eligible candidates. While the program is open to workers designated as 'low skill,' the complexity of the application process itself, the lack of digital literacy and language fluency among many foreign workers (the application must be submitted online), the onerous documentary requirements, the expense of obtaining private language testing, and the cost of legal assistance in completing the application have made the program inaccessible to eligible workers.

These temporary programs illustrate the capacity of the government to depart from entrenched ideas about who is worthy of admission to permanent residence. The most optimistic view is that this lesson will survive the pandemic and create momentum for establishing a standing policy of prioritizing permanent immigration and facilitating access to permanent residence for all temporary workers. The pessimistic view is that these initiatives will become another example of short-term, ad-hoc policies that sustain Canada's reputation as a generous and welcoming country, while conferring material benefits on very few. To put these pandemic pathways in perspective, as of December 2020, there were over 80,000 refugee claimants in Canada and over a million people on temporary work permits. (Goldring & Landolt, 2021).

2.10 Concluding Remarks

The global migration of Covid-19 not only disrupted transborder movement; in many (perhaps most) states, stasis and closure became the default norm at and within borders. It is too early to predict or theorise the future of mobility as free (versus permitted) movement in an era of surveillance, internal borders, and lockdowns.

With respect to transborder movement, pandemic restrictions have in turn, generated exceptions organised around a conception of 'essential' that was produced, revised, and represented through the interaction of pandemic-driven exigencies and nationally-specific articulations of the legal, political, and economic constraints in play. It would be imprudent to suggest that these have altered conventional migration and citizenship hierarchies, but perhaps the pandemic has temporarily jostled conventional hierarchies of who (or whose labour) enough to expose those privileges and stereotypes to greater critical scrutiny by a wider public.

To understand how the admission of certain people to Canada was accepted as legally, economically, and/or politically essential, one must take account of Canada's character as a 'country of immigration', and its particular impact on expanding grounds for admission of family members. Canada's economic integration with the US explains its preferential treatment of entry from that country (despite the hazards posed by US governance of the pandemic). The exposure of Canada's dependence on migrant workers to subsidise food production and to deliver critical services counters the settler-society tendency to promote permanent immigration and settlement. It has also dampened anti-immigrant sentiment, as Canadians recognise the vital contribution of those admitted on a temporary basis.

If one describes Canadian policy on Covid-19 admissions as a circle of inclusion, the government drew the circle around citizens, permanent residents, and foreign nationals who could demonstrate prior physical presence of some duration in Canada. In other words, the circle was drawn around functional rather than formal residence. Normally, formal temporary status prevails over functional residence under immigration law. One can reside in Canada continuously for years and yet

remain permanently ‘temporary’ because one holds only a temporary visa. During the public health emergency, the ethical significance of the fact that a student or worker actually lives in Canada – even if their status is ‘temporary’ – was validated in a way that it normally is not. The labour performed by temporary foreign workers, so often devalued as ‘unskilled’ or misrepresented as ‘seasonal’, was newly valorised during the pandemic. The acknowledgement that the definition of family (basically intimate partners, parents and children,) used for ordinary immigration purposes was too narrow to address the urgent need for family members to connect with those residing in Canada was also noteworthy. Refugees, however, were mostly left behind.

Every autumn, the Minister of Immigration, Refugees and Citizenship announces projected levels of immigration for the next year. On 30 October 2020, the federal government announced its plan to increase admissions over the next three years to compensate for the shortfall caused by the pandemic and to facilitate economic recovery and future growth (Canada, 2020i). The messaging was positive about immigration at a moment when many states have doubled down on xenophobia and exclusion – and that is remarkable in itself. The critical question is whether the insights gained because of Covid-19, which carry with them profound potential for transforming migration policy, can survive the pandemic.

Each state has its own set of factors that combine to determine whose entry and what kind of labour was legally, economically, and politically essential during the pandemic. But beyond these pragmatic considerations lie conceptions of the nation and identity, and broader attitudes toward immigration society surely matter. These may best be revealed and appreciated through comparative analysis. By offering Canada as a case study, I hope to open up the possibility for generative comparison.

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Chapter 3

Territorial and Digital Borders and Migrant Vulnerability Under a Pandemic Crisis



Petra Molnar

3.1 Introduction: The Harmful Ecosystem of Migration Management Technologies

We are Black and the border guards hate us. Their computers hate us too. – Adissu, living without immigration status in Brussels, Belgium¹

Tucked away on a quiet street minutes from a major train station in Brussels, a house is at first indistinguishable from its nondescript neighbours. However, inside this ‘squat’ lives a bustling community. Made up of climate justice organisers, self-described anarchists, and social justice advocates, L’Autre Caserne provides shelter, food, and support to undocumented people who find themselves living in the Belgian capital. With a massive cardboard clock that reads ‘Revolution Time’ and ‘No One is Illegal’ stickers everywhere, the bright three-story building has skylight windows and even a salsa dance room, contrasting with the ever-present threat of eviction and arrest. On a sunny Sunday afternoon, over 30 undocumented people gathered together to share snacks and stories of their migration journeys, while sheltering in place during the Covid-19 pandemic.² Most people present were from Eritrea or

¹ Interviews collected in spring and summer of 2020. All names and identifying features have been changed to protect the people who generously shared their stories with us as they appear in Molnar (2020). For additional discussion of methodology, see also Benvenisti (2018).

² These interviews form a part of a year-long study since October 2019 to interrogate the effects of migration management technologies on the lives and rights of people on the move and to foreground the lived experiences of these communities. However, the pandemic shifted the mode of engagement due to the difficulty of safely conducting on-the-ground research and interviews with affected groups. As such, in addition to in-person research which only became possible in the summer of 2020, this report provides initial analysis and reflections on the need to employ a human rights-oriented harm-focused approach to the development, deployment, and regulation of migra-

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Ethiopia, as the previous group of Syrians vacated their rooms a few weeks back, moving on and trying their luck with the elusive passage to the UK – a Promised Land that seems simultaneously full of opportunity yet unattainable except for a lucky few. The UK remains difficult to reach during the coronavirus pandemic, where irregular passage on a boat across the English Channel or on the back of a lorry all come with the risk of increased surveillance (Meaker, 2020) and potential indefinite detention, if apprehended.

Since the coronavirus lockdown started, this community in central Brussels has been sheltering in place together for nearly three months but many said they were itching to try their luck elsewhere, no matter the cost.

‘I am tired’, says Negasi, a young man in his twenties from Ethiopia. ‘I am tired and I want to go to the UK’. Negasi has been in Belgium for two years without papers and in Nuremberg, Germany, for five years before that. But this is not Negasi’s first time in Belgium: he was deported to Germany once before, after being apprehended by the Belgian police for sleeping in a park when he was homeless. His fingerprints set off a notification in the EURODAC system (the European Asylum Dactyloscopy Database which records and matches people’s fingerprints across the EU) since he had previously filed for asylum in Germany. He said the biometric collection process was invasive, but he did not know what to do: ‘How can I say no when the police handcuffed me, brought me to the station, and forced me to give them my fingerprints?’ He knows of a few friends who even went as far as to burn their fingerprints off to avoid detection but Negasi thinks ‘this don’t solve the problem’, as lack of identification usually will mean longer detention. As a young Black man, Negasi remembers his interactions with the Belgian police vividly during his 30 days in jail before being deported to Germany. ‘They hit and kicked me and said “if you’re not happy with this life, go back to your fucking country.” They really have no respect for us, not today and not ever’.

Negasi, like many others in the community has had a complicated journey to Belgium. When he left Ethiopia, he made his way to Sudan, Chad, and Libya, before taking a boat across the Mediterranean in 2014. His journey echoes a similar path that brought Amari to Brussels. In his forties and serving as the community’s Amharic interpreter, Amari doesn’t remember how long he has been in Belgium exactly; he entered Europe through Italy and tried to join his sister in Sweden but was returned and made his way to Belgium.

According to Amari, the general feeling is that ‘people think they have better chances if they go upwards’, into western and northern Europe. Many try to forget the horrors they experienced on their way. Amari was jailed for a year and a half in

tion management technologies and forms the starting point of a broader multi-year project on these issues. The resulting report, ‘Technological Testing Grounds: Migration Management Experiments from the Ground Up’ (Molnar 2020), reflects interviews with over 40 refugees, asylum seekers, migrants without status, and people on the move that were conducted in Brussels, Belgium, and various locations in Greece over the summer and early fall of 2020. Additionally, 35 meetings and interviews with civil society organisations, government and private sector representatives, and academics were conducted, alongside extensive desk research.

an underground Libyan bunker because he did not have enough money to pay the smugglers to take him across the Mediterranean (Mannocchi, 2019). He eventually escaped and joined a friend who was able to secure them both a passage to Italy. His face changed immediately when recalling his time in Libya and it was clear that the scars of that time remain: 'It's incredibly difficult to live in this world right now'. To cope, he is helping the 'squat' organisers make a 3D model of the detention facility from memory, both to document what happened to him and to perhaps help with his asylum claim, if he ever has a chance to file one. For now, Amari remains stuck in Belgium but has his eye on the UK or 'whatever country takes me'. He was planning to try and catch a lorry to the UK sometime during the following week, aware of the risks but unwilling to remain in stasis any longer because of the coronavirus. Amari has experienced torture in a Libyan jail yet says 'living without papers in a racist country is another torture. I only need papers to live. I want to study now. I want to have a reason to live'.

At multiple points in their journey that landed them in Brussels, this community interacted with surveillance technology and biometrics. Kaleb, a married man in his thirties who 'misses [his] beloved wife Liya everyday' reflected on how violent and impersonal the immigration and asylum system is. Twirling his wedding ring during the entire time we spoke, Kaleb reflected on feeling 'like a piece of meat without a life, just fingerprints and eye scans'. As Kaleb spoke, the others in the circle nodded: 'It is the human touch that keeps us warm – now all around us it's cold as fuck'. Kaleb has not seen his wife in four years.

The group was disturbed by the coldness and dehumanisation of technology. As Eshe, a young woman who did not stay long at our meeting put it, 'their computers are making decisions for us'. The use of drones in the Mediterranean and the English Channel prompted many people to shake their heads, with Amari making others laugh: 'now we have flying shit instead of more help'. When discussing the use of tools like AI lie detectors at the border or drones patrolling the Mediterranean, the group discussion got heated: 'We are Black and the police [border guards] hate us. Their computers hate us too'. The threat of police presence and increased surveillance is ever-present in an occupied building full of undocumented people – in fact, the police have been coming to the squat repeatedly over the last few weeks as the coronavirus lockdowns eased, once to investigate a death from an overdose of a young Moroccan man without papers and a few other times because the neighbours made a noise complaint.

Many in the community were not aware of what exact technologies they may have come in contact with over the course of the many months – and in some cases years – of travel. But Kaleb reflected on how he found it 'weird' that new tools were being used to control migration when instead 'the world government should work on the main problem, like fighting and wars' – problems that force people to seek a better life in the first place.³

³Sadly, at the time of writing in the fall of 2020, L'Autre Caserne community has been evicted and the entire community displaced.

3.2 Real World Impacts of Technological Experiments in Pandemic Times

Adissu, Kaleb, and Eshe's stories highlight the far-reaching individual impacts of migration surveillance technologies, exacerbated in the securitised and bio-surveilled world of Covid-19. Their reflections show just how little engagement there has been with the experiences of communities at the sharp edges of these unregulated technological developments. Each individual perspective is also firmly situated in broader ecosystems of migration management and border surveillance technologies, encouraging zones of experimentation with little oversight and accountability.

People on the move like Adissu are stuck in an ever-growing panopticon of technological experiments increasingly making their way into migration management. A whole host of actors and players operate in the development and deployment of migration control technologies, obscuring responsibility and liability, exacerbating racism and discrimination, and obfuscating meaningful mechanisms of redress. Communities made under-resourced and marginalised such as non-citizens, refugees, and people on the move often have access to less robust human rights protections and fewer resources with which to defend those rights and thus become technological testing grounds.

Now, as governments move toward increasing biosurveillance (Cliffe, 2020) to contain Covid-19's spread, we are seeing a growth in tracking projects and automated surveillance technology, justified by the need to control the virus (Lewis & Mok, 2020). However, if previous use of technology is any indication, refugees and people crossing borders will be disproportionately targeted and negatively affected. Various proposed tools sound quite far-fetched, such as virus-targeting robots (The Current, 2020), cellphone tracking (Romm, 2020), and AI-based thermal cameras (Cox, 2020). However, given the robust migration management technology ecosystem that already exists, these Covid-specific tools can all easily be used against people crossing borders, with far-reaching human rights impacts. This use of technology to manage and control migration is also shielded from scrutiny because of its emergency nature. The basic protections that exist for more politically powerful groups that have access to mechanisms of redress and oversight are often not available to people crossing borders. The current global digital rights space also does not sufficiently engage with migration issues, at best only tokenising the involvement from both migrants and groups working with this community.

Ultimately, the primary purpose of the technologies used in migration management is to track, identify, and control those crossing borders. The issues around emerging technologies in the management of migration are not just about the inherent use of technology but rather about how it is used and by whom, with states and private actors setting the stage for what is possible and which priorities matter. The data-gathering inherent in the development of these technologies also includes the expansion of existing mass-scale databases underpinning these practices to sensitive data, especially biometrics. Such data and technology systems provide an

enabling infrastructure for many automated decision-making projects with potentially harmful implications. The development and deployment of migration management is ultimately about decision-making by powerful actors on communities with few resources and mechanisms of redress.

The introduction of new technologies impacts both the processes and outcomes associated with decisions that would otherwise be made by administrative tribunals, immigration officers, border agents, legal analysts, and other officials responsible for the administration of immigration and refugee systems, border enforcement, and refugee response management. Border enforcement and immigration and refugee decision-making sit at an uncomfortable legal nexus: the impact on the rights and interests of individuals is often very significant, even where the degree of deference is high and the procedural safeguards are weak. There is also a serious lack of clarity surrounding how courts will interpret administrative law principles like natural justice, procedural fairness, and standard of review where an automated decision system is concerned or where an opaque use of technology operates. As such, it is concerning that we are already seeing a rise in Covid-specific technologies aimed at strengthening border security, aiding in data gathering, and automatic discretionary processes and decision-making with little oversight and accountability.

The political economy in which this technological development and deployment occurs also cannot be ignored. The unequal distribution of benefits from technological development privileges the private sector as the primary actor in charge of development, with states and governments wishing to control the flows of migrant populations benefiting from these technological experiments. Governments and large organisations are the primary agents who benefit from data collection (Okediji, 2018) and affected groups remain the subject, relegated to the margins. It is therefore not surprising that the regulatory and legal space around the use of these technologies remains murky and underdeveloped, full of discretionary decision-making, privatised development, and uncertain legal ramifications.

This chapter draws on data collected during a year-long study with European Digital Rights (EDRi) to interrogate the effects of migration management technologies on the lives and rights of people on the move and to foreground the lived experiences of these communities (see Molnar, 2020). This chapter reflects some of the interviews with over 40 refugees, asylum seekers, migrants without status, and people on the move conducted in Brussels, Belgium, and various locations in Greece over the summer and early fall of 2020.⁴ The first section canvases some of the human rights ramifications of migration- and Covid-tech, followed by an analysis of some of the private sector drivers behind this turn to biosurveillance and migration management technologies, arguing that this pandemic emergency provides the perfect foil to fast-track problematic surveillance and automated digital technologies

⁴All interviews adhered to strict Covid-19 social distancing protocols and negative testing as necessary before entering Lesbos and other areas in Greece; 35 meetings and interviews with civil society organisations, government and private sector representatives, and academics were also conducted, alongside extensive desk research.

without taking into account their impacts on the rights and lives of people on the move.

3.3 Human Rights Ramifications of Migration- and Covid-Tech

Like a piece of meat without a life, just fingerprints and eye scans. – Kaleb, living without immigration status in Brussels, Belgium

Technologies such as automated decision-making, biometrics, and unpiloted drones are increasingly controlling migration and affecting millions of people on the move. This allure of using technological interventions at and around the border highlights the very real impacts on people's rights and lives, exacerbated by a lack of meaningful governance and oversight mechanisms of these technological experiments.

Even before the pandemic, surveillance and automated decision-making technologies had been increasingly used in securing border spaces, infringing on people's life and liberty and their freedom of movement. For example, Frontex, the European Border and Coast Guard Agency, announced an expanded border strategy bolstered by a new regulation (Frontex, 2019) which relies on increased staff and new technology. An EU-funded project, ROBORDER (n.d.), explicitly 'aims to create a fully functional autonomous border surveillance system with unmanned mobile robots including aerial, water surface, underwater and ground vehicles'. The EU borders are not the only site of drone technology. In the US, politicians have presented similar 'smart-border' technologies as a more 'humane' alternative to the Trump Administration's calls for a physical wall. Most recently, this includes a partnership between the US Customs and Border Protection, Google Cloud AI, and Anduril Industries to create a new 'virtual' wall of surveillance towers and drones, a move that has been endorsed by the Biden Administration (Fang & Biddle, 2020; also Bernd, 2021). However, these technologies can have drastic results. For example, border control policies that use new surveillance technologies along the US-Mexico border have actually doubled migrant deaths (Boyce et al., 2019) and pushed migration routes towards more dangerous terrain through the Arizona desert, creating what anthropologist Jason De Leon calls a 'land of open graves' (De Leon & Wells, 2015). With similar surveillance technology increasingly used on the shores of Europe to facilitate interceptions and pushbacks of boats (Forensic Architecture, 2020; Heller & Jones, 2014; Keady-Tabbal & Mann, 2020), a similar increase of watery graves will likely occur (see Border Violence Monitoring Network, n.d.). Given that the International Organization for Migration (IOM) has reported that due to recent shipwrecks, over 20,000 people have died trying to cross the Mediterranean since 2014 (Black, 2020), we can only imagine how many more bodies will wash upon the shores of Europe as the situation worsens along the EU's borders. The use of these technologies by border enforcement is only likely to

increase in the ‘militarised technological regime’ (Csernaton, 2018) of border spaces, without appropriate public consultation, accountability frameworks, and oversight mechanisms. This increased reliance on border securitisation and surveillance through new technologies, as clearly underscored by the EU’s New Migration Pact (European Commission, 2020) and its focus on border enforcement and deterrence, also works to send a clear message that human lives are expendable to protect Europe’s borders.

We should not underestimate the far-reaching impacts of new technologies on the lives and rights of people on the move. The right to life and the right liberty, the right to be free from discrimination, the right to privacy, and a host of other fundamental internationally protected rights are highly relevant to technological experimentation in migration and refugee contexts.⁵ For example, aspects of training data which are mere coincidences in reality may be treated as relevant patterns by a machine-learning system, leading to arbitrary, incorrect, or discriminatory outcomes.⁶ Given the problematic track record that automated technologies already have on race and gender, similar issues likely occur in migration surveillance and decision-making. Proxies for discrimination, such as country of origin, can be used to make problematic inferences leading to discriminatory outcomes.

Algorithms are vulnerable to the same decision-making concerns that plague human decision-makers: transparency, accountability, discrimination, bias, and error (Tufekci, 2015). The opaque nature of immigration and refugee decision-making creates an environment ripe for algorithmic discrimination. Decisions in this system – from whether a refugee’s life story is ‘truthful’ to whether a prospective immigrant’s marriage is ‘genuine’ – are highly discretionary, and often hinge on assessment of a person’s credibility (Satzewich, 2015). To the extent that these technologies will be used to assess ‘red flags’, ‘risk’ and ‘fraud’, they also raise definitional issues, as it remains unclear what the parameters of these markers will be.

These risks are not merely speculative. Biases at the border have far-reaching results if they are embedded in the emerging technologies being used experimentally in migration. For example, in airports in Hungary, Latvia, and Greece, a new pilot project by a consortium called iBorderCtrl introduced AI-powered lie detectors at border checkpoints (Picheta, 2018).⁷ The project claimed that passengers’ faces would be monitored for signs of lying, and if the system became more ‘sceptical’ through a series of increasingly complicated questions, the person would be selected for further screening by a human officer. Canada and Romania have also

⁵For a fulsome analysis of the applicability of international human rights law and the variety of rights engaged in migration management technologies, see Petra Molnar (2019).

⁶This is one reason why the EU’s General Data Protection Regulation (GDPR) requires the ability to demonstrate that the correlations applied in algorithmic decision-making are ‘legitimate justifications for the automated decisions. See for example Lokke Moerel and Marijn Storm (2018).

⁷With Hungary and Greece being some of the crucial entry points for refugee claimants into mainland Europe, it is perhaps no accident that these locations were chosen as the site of experimentation.

experimented with a similar border-screening ‘emotion-recognition’ project called AVATAR (Daniels, 2018; Kendrick, 2019).⁸

However, it is unclear how these systems will be able to handle cultural differences in communication or account for trauma and its effects on memory, such as when dealing with a traumatised refugee claimant unable to answer questions clearly.⁹ Refugee claims and immigration applications are filled with nuance and complexity, qualities that may be lost on automated technologies, leading to serious breaches of internationally and domestically protected human rights in the form of bias, discrimination, privacy breaches, and due process and procedural fairness issues, among others. It remains unclear how the right to a fair and impartial decision-maker and the right to appeal a decision will be upheld during the use of automated decision-making systems.¹⁰

The complexity of human migration is not easily reducible to an algorithm. Yet states are willing to experiment with these new unregulated technologies in the space of migration precisely because it is a discretionary space of opaque decision-making. The development and deployment of technologies also reinforce the North–South power asymmetries and concretise which locations are seen as innovation centres, while spaces like conflict zones and refugee camps become sites of experimentation under the guise of ‘humanitarianism’ and ‘empowerment of migrants’ through innovation.¹¹ Technological innovations exude the promises of increased fairness and efficiency. Moreover, much of migration management is also enacted by international organisations such as the UNHCR and IOM. As non-state actors operating under various legal and quasi-legal authorities and regulations globally, international organisations are ‘arenas for acting out power relationships’ (Evans & Wilson, 1992) without being beholden to the responsibilities that states have to protect human rights. States that operate through international organisations can also ‘launder’ their legal responsibility for acts or omissions that are attributed to the organisation (Benvenisti, 2018). With the proliferation of migration control technologies, international organisations are overly empowered to administer technology without having to abide by rights-protecting laws and principles, resulting in problems with compliance (See, for example, Raustiala & Slaughter, 2002).

⁸Various other pilot projects to introduce facial recognition at the border across the world have been explored in a recent report by CIPPIC (see Israel 2020).

⁹These issues also of course exist with human decision-makers, and there are increasingly cogent critiques about officers misunderstanding how the psychological effects of repeated trauma can impact person’s ability to testify and appear ‘truthful.’ See for example the work of Hilary Evans Cameron, *Refugee Law’s Fact-Finding Crisis: Truth, Risk, and the Wrong Mistake* (Cambridge University Press, Cambridge 2018).

¹⁰There has been much opposition to the iBorderCTRL project, with a number of civil society organisations speaking out. For example, in November 2018, Homo Digitalis filed a petition to the Greek Parliament regarding the pilot implementation of the iBorderCtrl project (see Chelioudakis 2018).

¹¹See, for example, initiatives such as ‘Techfugees: Empowering the Displaced Through Technology’ <https://techfugees.com/>, accessed 17 March 2019.

The appetite for these advances also reveals the fissures of imbalanced power relations in society. Technological development does not occur in a vacuum but replicates existing power hierarchies and differentials. Technology is not inherently democratic, and issues of informed consent and right of refusal are particularly salient in humanitarian and forced migration contexts when, for example, refugees in Jordan have their irises scanned in order to receive their weekly rations under the justification of efficiency, while not being able to refuse biometric registration (Staton, 2016). Technologies of migration management also operate in an inherently global context. They reinforce institutions, cultures, policies, and laws, and exacerbate the gap between the public and the private sector, where the power to design and deploy innovation comes at the expense of oversight and accountability.

Unfortunately, an exceptional crisis moment like a global pandemic seems to be accelerating the development of technological interventions in and around the border without appropriate safeguards and oversights. This push to render people on the move as viable testing communities for further surveillance opens up spaces for greater justifications for border enforcement and securitisation, particularly in frontier zones with little oversight and accountability, rife for the private sector to foreground profit-making as the priority agenda.

3.4 Politics, Pandemics, and Privatisation of Migratory Spaces

Their computers are making decisions for us. – Eshé, living without status in Brussels, Belgium

Pandemic responses are political (Khatin, 2020; also, Arundhati, 2020). Refugees have long been tied to tropes of bringing disease and illness (The World, 2019), underscored by growing xenophobia and racism (UNHCR, 2020). Not only are these formulations inaccurate; they also legitimise incursions on human rights (Herrera, 2019). If previous use of technology is any indication, refugees and people crossing borders will be disproportionately targeted and Covid-tracking technology can be easily co-opted to impact communities made marginalised (Lukacs, 2020). Making people on the move more trackable and detectable justifies the use of more technology and data collection in the name of public health and national security.

Most importantly, technological solutions do not address the root causes of displacement, forced migration, and economic inequality, all of which exacerbate the spread of global pandemics like Covid-19 (Molnar & Naranjo, 2020). Coupled with extraordinary state powers, the incursion of the private sector's solutions presented to manage both migration and the pandemic leaves open the possibility of grave human rights abuses and far-reaching effects on civil liberties, particularly for communities on the margins.

3.5 Pandemics at the Frontier: Greek Refugee Camps in the Age of Surveillance

Certain places serve as the perfect testing grounds for new technologies, places where regulation is limited and where an ‘anything goes’ frontier attitude informs the development and deployment of surveillance at the expense of humanity. Greece is one of these places, a surveillance sandbox at the frontiers of Europe.

Moria, Europe’s largest refugee camp, burned to the ground on 9 September 2020. I visited Lesbos in the aftermath to document the building of a new containment centre and begin mapping out how this locale fits into broader narratives of technological experimentation. After the fire, thousands of people were sequestered on a barren stretch of road (Lavella, 2020) without food or water, tear-gassed (BBC News, 2020), and then herded into a new camp hastily built on the grounds of an old shooting range on a windswept peninsula (Solomon, 2020). This rocky outcropping is the newest site of containment on Europe’s borders, one housing over 9000 people displaced during a global pandemic, with no idea when or how they will be able to leave.

However, instead of opening the island camps and coming up with a meaningful plan for years of inaction, the EU’s new Migration Pact explicitly doubles down on containment and border security, opening the door to increasingly draconian tools of surveillance using new technologies – including the use of facial recognition – not just on adults but also on minors (European Commission, 2020). More and more, violent uses of technology work to push European borders farther afield (Howden et al., 2019), contributing to policies of border externalisation (Hernández, 2020), making Europe’s migration issues someone else’s problem. These policies have direct and dire consequences – drownings in the Mediterranean (Trilling, 2020), pushbacks to Libya (Kingsley, 2020) and Turkey, including using floating tents (Keady-Tabbal & Mann, 2020), and years-long detention in decrepit camps like Moria and other sites on islands like Samos, Chios, and Kos.

Frontier countries like Greece, ‘Europe’s Shield’ (Jamieson et al., 2020), act as testing grounds for new technologies and surveillance mechanisms. In October 2019, new legal rules were adopted as regards the deployment of drones by the Hellenic Police (Presidential Decree 98/2019), including the use of drones to monitor migration in border regions. Groups like Homo Digitalis in Greece claim that the new rules do not address the challenges arising from the applicable data protection legislation and have filed an open letter to the Ministry of Citizen Protection requesting more information about the deployment of drones by the Hellenic Police (Homo Digitalis, 2020). Drones, along with cameras and various other surveillance technologies are also being used and tested along the Evros land border with Turkey, in an increasing push to militarise migration management (Human Rights 360, 2020; also, Kalafatis, 2020; also Gatopoulos & Kantouris, 2021).

In September 2020, Frontex also announced that it was piloting a new aerostat maritime surveillance system (Frontex, 2020b), using Greece as a testing ground. The current pandemic conditions must also not be discounted, as they will likely

expedite and exacerbate the turn to technological solutions at the border. We are already seeing the border industry pushing for increased adoption of ‘contactless biometrics’ for ‘regular’ travellers as a way of stopping contagion (PR Newswire, 2020). Frontex in particular has been clear in its messaging to position itself as an agency apt at both controlling migration as well as the spread of Covid-19. According to a May 2020 press release, ‘if we cannot control the external borders, we cannot control the spread of pandemics in Europe. Frontex plays a key role in ensuring effective protection of the external borders of the European Union not only against cross-border crime but also against health threats’ (Frontex, 2020a). The EU continues to make its priorities clear: containment, surveillance, and technosolutionism at the expense of human rights (Molnar, 2021).

The appetite for migration management technologies remains present in Greece, with the Hellenic Ministry of Migration and Asylum co-hosting and supporting the World Border Security Congress in the fall of 2021, a gathering of public and private actors eager to address ‘threats’ such as ‘ISIS threatens to send 500,000 migrants to Europe’ and ‘Migrants and refugees streaming into Europe from Africa, the Middle East, and South Asia’.¹² And as recently as December 2020, tech giant Palantir proudly announced a partnership with the Greek government, stating: ‘Our partnership with the Greek government was borne out of necessity once the pandemic began, and we look forward to broadening it for years to come’ (Business Wire, 2020). It is currently unclear what exactly this partnership entails but it bears to remember that Palantir is the same company that has been facilitating ICE detentions and deportations at the US-Mexico border (Frenkel, 2018) and has been implicated in a host of other human rights abuses (Hemmadi, 2019; O’Brien, 2020).

The use of technology is never neutral – it reinscribes the way that powerful actors make decisions that affect thousands of people. Along with Big Tech, big money is also involved in the management of borders, with private security companies making major inroads (Privacy International, n.d.) with lucrative contracts procured by governments for shiny new tech experiments presented as a way to strengthen border security. These technological experiments also play up the ‘us’ vs ‘them’ mentality at the centre of migration management policy. Instead of long-term viable redistribution of resources across the EU and timely processing of people’s asylum, turning to techno-solutionism (Molnar & Naranjo, 2020) and migration surveillance will only exacerbate deterrence mechanisms already so deeply embedded in the EU’s migration strategy.

Various people in our interviews on Lesvos were concerned about proposed screening and surveillance mechanisms to keep people contained, tracked, and managed and the normalisation of surveillance in the aftermath of the Moria fire. Yet no one was clear on exactly how the next few months would shape up, particularly regarding increasingly technological incursions, data collection, and surveillance. However, the planned rollout in 2021 of so-called Multi-Purpose Reception and Identification Centres (MPRICs) on the islands of Lesvos, Samos, Leros, Chios,

¹² See provisional programme at <https://world-border-congress.com/>

and Kos all seem to indicate a turn to both containment and surveillance, creating what are essentially closed prison camps complemented by ‘camera surveillance with motion analysis algorithms monitoring the behaviour and movement of centre residents’ (Europe Must Act, 2021; Petridi, 2021). Clearly, migration management through technology is firmly on the agenda.

Given the far-reaching and high-risk nature of these technological experiments, the unique context of migration should be the central consideration when analysing which human rights should be taken into consideration when exploring new technologies, given the very real risks to life, liberty, and security, as well as heightened privacy considerations, particularly during an unprecedented global pandemic. Yet states can justify technological experiments in migration control precisely because migrants are not able to exercise the same rights as citizens and because they are seen as a useful tool through which to exercise powers of sovereignty in an increasingly destabilised world.

3.6 Big Tech and Big Profit in the Privatisation of Migration Management

Ultimately, the primary purpose of the technologies used in migration management is to track, identify, and control those crossing borders – and now doing so in the middle of a global health crisis. The issues around emerging technologies in the management of migration are not just about the inherent use of technology but rather about how it is used and by whom, with states and private actors setting the stage for what is possible and which priorities matter. The data-gathering inherent in the development of these technologies also includes the expansion of existing mass-scale databases that underpin these practices to sensitive data, especially biometrics. Such data and technology systems provide an enabling infrastructure for many automated decision-making projects with potentially harmful implications. The development and deployment of migration surveillance technologies is ultimately about decision-making by powerful actors on communities with few resources and mechanisms of redress, which becomes justified by the state of emergency such as a global pandemic.

Politics also cannot be discounted, as migration management is inherently a political exercise. Migration data is already being politicised to support greater interventions in defence of threatened national sovereignty (Scheel & Ustek-Spilda, 2018), reinforcing politics of exclusion. The state’s ultimate power to decide who may enter and under what conditions (*ibid.*) is bolstered by ongoing beliefs in technological impartiality. However, there is an inherent tension between the claimed prerogative of nation-states over sovereignty and the malleable nature of technology. In its fluidity, technology is inherently oppositional to borders, and by extension sovereignty. Indeed, oftentimes it impinges on the very definition of ‘humanness’ in the digital era (Zureik & Hindle, 2004). Ultimately, the primary purpose of the

technologies used in migration management is to track, identify, and control those crossing borders. The unequal distribution of benefits that accrue in technological development work to create monopolies of knowledge and consolidate power and authority vested in the sovereign state. These monopolies exist because there is no unified global regulatory regime governing the use of new technologies, creating laboratories for high-risk experiments with profound impacts on people's lives.

Even before the pandemic, the human body itself increasingly became the embodiment of progressively violent and discriminatory border regimes. For example, in March 2020, the US announced that it would begin collecting DNA samples from hundreds of thousands of migrants apprehended along the US-Mexico border (Hauslohner, 2020). This practice will dramatically expand a federal database of individual genetic information used by law enforcement.¹³ Migrant rights groups in Mexico have also reported the use of digital technologies to spread misinformation that stigmatises migrants as criminals or carriers of diseases (Cadena, 2020), including Covid-19. The stigmatisation that coordinated digital misinformation campaigns spurred hostility towards migrants, including the risk of violence against them. There are increasing reports of harassment against migrant rights defenders and journalists covering migrant caravans in Central America, Mexico, and the US, including digital threats, searches of digital devices¹⁴ and even electronic surveillance by authorities in the US and Mexico (Jones et al., 2019).

Growing anti-migrant xenophobic sentiment, justification of surveillance and online media monitoring under the guise of security and public health, and the rise of extreme right and neo-fascist groups or political organisations globally impacts how migration management technologies function. From the Proud Boys in the US to the autocratic administration of Victor Orban in Hungary to the Maduro regime in Venezuela, people on the move and migrants have been linked to threats to national sovereignty (The World, 2019) that must be stopped at all costs – and most recently explicitly connected to the spread of the Covid-19 virus and characterised as ‘vermin’ and ‘biological weapons’ (Cohen, 2018).¹⁵ Far-right groups have been engaged in violence against migrants around the world, including in the US, mainland Europe, and Canada. In border frontiers such as Greece, far-right extremism and anti-migrant sentiments reached boiling point, with the island of Lesbos becoming an epicentre for extreme right groups across the EU (Fallon, 2020). Most recently, ties have been discovered between far-right extremists and companies like Clearview

¹³ See Privacy International's legal submissions, <https://privacyinternational.org/legal-action/submissions>.

¹⁴ See Frontline Defenders, Red TDT, LIS-Justicia en Movimiento & PRAMI-Universidad Iberoamericana. Defenders beyond borders: migrant rights defenders under attack in Central America, Mexico and the United States. September 2019. Available at: https://www.frontlinedefenders.org/sites/default/files/frontline_defenders_mexico_english_v2.pdf and also Privacy International submissions.

¹⁵ Europe has also been exporting technology to China to aid in the repression of the Uighurs and to assist with surveillance in the Chinese concentration camps in Xingang province (see Manancourt 2020).

AI and Palantir, which are responsible for the development and deployment of facial recognition technologies and algorithmic decision-making tools used for the detention and deportation of migrants (O'Brien, 2020). These groups have also been blatantly calling for the establishment of so-called 'deportation squads' using algorithms to identify potential targets (ibid.). The implications of Big Tech giants and corporate interests in these dangerous anti-migrant narratives is a very troubling development, all the more so because public-private partnerships lie at the heart of the development and deployment of migration management technologies.

The lack of adequate technical capacity within government and the public sector can lead to potentially inappropriate over-reliance on the private sector. Adopting emerging and experimental tools without in-house talent capable of understanding, evaluating, and managing these technologies is irresponsible and downright dangerous, as the companies and corporations hold the balance of power when determining what technology is developed and deployed, and subsequently procured by governments. Private sector actors have an independent responsibility to make sure technologies that they develop do not violate international human rights and domestic legislation. Yet much of technological development occurs in so-called black boxes, where intellectual property laws and proprietary considerations shield the public from fully understanding how the technology operates. Powerful actors can easily hide behind intellectual property legislation or various other corporate shields to launder their responsibility and create a vacuum of accountability.

These practices also give rise to the Border Industrial Complex (Miller, 2018) – the confluence of border policing, militarisation, and financial interest. States are seeking to leave people on the move, refugees, and undocumented people in particular beyond the duties and responsibilities enshrined in law through an overreliance on the private sector to ensure technological experimentation occurs outside of sovereign responsibility.¹⁶ The growing role of the private sector in the governance of new technologies highlights the movement away from state responsibility to create governance structures in accordance with domestic and international principles under guise of proprietary technology, private interests, and discretion.

Increasingly, private companies are setting the migration control agenda. Whether through the automation of immigration and refugee applications, AI-powered 'lie detectors' at borders, or drone surveillance of refugee boats, the private sector is an integral player in the management of migration. States and government departments over-rely on private actors to develop and deploy technologies used to control migration. As a result, government liability and accountability are watered down and shifted to the private sector, where the legally-enforceable rights that allow individuals to challenge governments may not exist (see Statewatch,

¹⁶ See for example the Canadian Government's procurement for a so-called 'Artificial Intelligence Solution,' for various immigration processes, directly calling on the private sector to be the driver of migration management technologies: Public Works and Government Services Canada, 'Artificial Intelligence Solution (B8607-180311/A),' Tender Notice (13 April 2018, amended 23 May 2018) <https://buyandsell.gc.ca/procurement-data/tender-notice/PW-EE-017-33462>, accessed 25 July 2019; also Molnar and Gill (2018).

2020). People on the move get caught in the middle, leading to grave human rights abuses and infringements on fundamental freedoms. The opaque, private technologies deployed at border zones to control migration desperately need to be regulated. Yet, the creation of legal black holes in migration management technologies is very deliberate to allow for the creation of opaque zones of technological experimentation that would not be allowed to occur in other spaces (among others, Molnar & Naranjo, 2020). While we are able to imagine mobilising around extreme issues such as the banning of killer robots in armed conflict, the grey spaces of migration management technology remain largely uncontested.

3.7 Concluding Remarks: Surveillance Panacea or Safety and Health for All?

They really have no respect for us, not today and not ever. – Negasi, living without status in Brussels, Belgium

While technology can offer the promise of novel solutions for an unprecedented global crisis, Covid-led innovation should not unfairly target refugees and people on the move, racialised communities, Indigenous communities, and other marginalised groups, or make discriminatory inferences that can lead to detention, family separation, and other irreparable harms. While often presented with a lot of promise, too often technological tools easily become tools of oppression and surveillance, denying people agency and dignity, and contributing to a global climate that is increasingly more hostile to people on the move. The pandemic is already being used to curtail access to people living in informal settlements or securitised refugee camps on Greek islands and detention centres for undocumented populations across Europe and throughout the world. However, instead of increased tracking and surveillance, a redistribution of resources, dignified living conditions, and access to medical care are paramount to stopping the spread of the pandemic.

As this chapter has highlighted, drawing on conversations with people on the move in Belgium and Greece, affected communities must be directly involved in technological development and discussions around proposed interventions, shaping and driving the conversation, not consulted as an afterthought or in a tokenising extractive way. While conversations around the ethics of AI are taking place, ethics do not go far enough. What is needed is a sharper focus on oversight mechanisms grounded in fundamental human rights and context-specific accountability that recognises the particular lived experiences of people on the move and their experiences in the time of exception that is a global pandemic in an increasingly securitised and surveilled world.

Yet there is also a hopeful promise in the proliferation of new technologies in migration management. Policymakers, academia, and the public are being forced to reckon with fundamental normative ideas around what constitutes intelligence, how to manage and regulate new systems of cognition, and who should be at the table

when designing and deploying new tools that can be used to either dismantle or reinforce the status quo. Culture, politics, institutions, and technology all iteratively shape one another. Ultimately, technology is a social construct (Franklin, 1990), a mirror to reflect the positives and negatives inherent in our societies, forcing us to rethink ideas of privilege and power in the current global crisis that is reshaping our world at every level. It remains to be seen whether the current global push towards fervent technological innovation will result in robust global governance, centred on the experiences of people on the move, or whether it will further dehumanise people on the move as they are increasingly having to contend with the sharp edges of harmful technological development in the time of a global health crisis.

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Chapter 4

Vulnerability and Resilience in the Covid-19 Crisis: Race, Gender, and Belonging



Eileen Boris

4.1 Introduction

In the midst of surging sickness in Spring 2020, a typical newspaper headline read, “‘We’re Ignored Completely.’ Amid the Pandemic, Undocumented Immigrants are Essential But Exposed” (Villa, 2020). Migrants who travelled to the United States to pick crops, scrub floors, stock warehouses, and tend to elders became ‘heroes’ for performing necessary labour – unless they were surplus bodies crammed into prison-like detention waystations before being deported for the crime of arriving without proper papers. They were not alone. From detention centres to refugee camps, from fields to homes, migrant workers worldwide faced deadly vulnerability during the Covid-19 crisis, made more virulent through racism and anti-immigrant nationalisms. Countries sought to close their borders to keep out disease. The pandemic intensified states of precarity, especially for undocumented, transgender, and gender non-conforming individuals and those from racially-othered groups. Women among them found new difficulties in meeting double obligations: to earn a living and care for households, both for family requiring daily tending and for those dependent on remittances sent back to countries of origin. Especially among those labelled as ‘essential workers’, the lack of protective equipment and labour rights put them on the frontline of exposure. But domestic and home care workers, meat-packers, fieldhands, and others in the US stepped out of the shadows to demand inclusion in social assistance, occupational health and safety laws, and other state benefits. They could not rely on the state even as they called for recognition and rights. So they developed mutual aid and coalitional activism to advance their dignity and improve living as well as working conditions.

With a focus on the US, for over two centuries a major destination for migrants, this chapter historicises the recent hardships and the organising of (im)migrant

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workers. The Covid-19 spring is not the first time that state and society blamed immigrants for public health or economic crisis: these nativist outbreaks include anti-Asian uprisings on the West coast in the late nineteenth century, Mexican deportations in the early 1930s, immigrant exclusion from the New Deal welfare state, and periodic onslaughts since. A historical perspective shows that the policies of Donald J. Trump were not an aberration, but part of a national pattern of racial differentiation with gendered inflections. Vulnerability, however, is only part of the story. Workers remained resilient in the face of the hidden enemy of Covid-19 and the all too present assaults by employers and agents of the state, the latter who would exploit, detain and/or deport rather than protect those who grow our food and assist other people in their activities of daily life. Vulnerability takes on a new meaning with the recognition that we are all in this together.

4.2 Blaming Migrants: The Vulnerable Past

Understandings of whiteness, that designated only Northern Europeans and their descendants as fully ‘white,’ led to classifying most migrants as alien, especially if they also were poor. In speaking of the ‘Chinese virus’ and the ‘Kung-flu’, President Trump set the tone for hate speech toward Asians in the US, against which there were over 2100 reported incidents – including physical assaults and workplace discrimination – between March and July 2020. Asian American citizens were not exempt; they heard shouts of ‘Take your disease that’s ruining our country and go home’ (Donaghue, 2020). The nation also listened to the President blame migrants for a June 2020 spike in cases in the US along the border shared with Mexico – despite lowered numbers of crossings (Farley, 2020). Other officials followed, like Florida’s Republican Governor Ron DeSantis, pointing to ‘Hispanic’ farmworkers as the culprit for the surge in Covid-19 in the Sunshine state (De Loera-Brust, 2020). This association of non-whites with disease, the Chinese with a killer virus, and Mexicans with viral spread, derived from linking citizenship to whiteness, in which even citizens from designated ethnic or racial groups appeared as foreign. In 1944, the federal government gained the power to reject on the basis of ‘public health threats’ any individual who sought to come into the country. Nearly 80 years later the administration would attempt to weaponise that tool against asylum seekers, temporary migrants, and long-time denizens alike (Chishti & Pierce, 2020).

In early America, migrant workers disproportionately suffered from cholera and other airborne killers. Nativists accused the Irish in the 1830s of bringing infection into the US along with themselves. During the first great wave of immigration after the Civil War, when 23.5 million people arrived between 1880 and the 1920s, the medicalisation of control classified them as spreaders rather than victims of pathogens. When their numbers soared at the end of the nineteenth century, Jews were cast as carriers of ‘the tailor’s disease’ or tuberculosis. Italians, it was charged, sparked a polio outbreak in New York City because of family gatherings and sick-bed practices (Kraut, 2010; Moloney, 2012, 105–133). Racism and fear of

economic competition came together in frenzies of anti-immigrant actions among public officials as well as among workingmen fearful of losing their jobs to lower-waged ‘coolie’ labour (Mink, 1990; Saxton, 1971). As a North Carolina health official testified before Congress in 1914, ‘Asia was the “fountain” of the “most destructive pestilence” in recorded history’ (Shah, 2001, 258) – a persistent ‘yellow peril’ that the Covid-19 outbreak in Wuhan seemed to confirm.

Indeed, the new pandemic was not the first time that the public feared the transport of disease; the idea that plague came from other countries, brought by commercial ships and trains or by people carried by such transport, has a long genealogy (Molina, 2006, 86). Authorities claimed that an especially deadly smallpox arrived from China; local officials instituted quarantines of passenger ships much like was found with cruise liners during the discovery and spread of Covid-19 (Shah, 2001, 86; Robles, 2020). Embarking at Ellis Island, Southern and Eastern Europeans, considered at the time as not quite white, feared being sent back; medical inspectors scrutinised their bodies for signs of trachoma as well as tuberculosis – the concern was that they would become a public charge, dependent on state support, as well as a host for microbes (Kraut, 1994). New York’s public health investigators were not alone; those in cities worldwide saw in racial difference a vector for infection. A tendency toward disease among colonised peoples, European governors contended, interfered with imperial projects to modernise those presumed backward and impose Western notions of gender, the work ethic, and civic order (Anderson, 2006; Shah, 2001, 21; Kaplan, 1998; Rafael, 1995).

The deadly 1918 ‘Spanish’ flu brought a rush to judgment. Denver officials, for example, blamed the culture of Italians for spreading illness. They charged that Italians not only ignored public health pronouncements but continued to visit indisposed relatives rather than maintain separation – an allegation lobbed against Latino/as a century later. Disproportionate deaths from the 1918–1919 flu were among those immigrants living in crowded conditions who had to go out to work. These individuals were already malnourished and, as former peasants, had less previous exposure to similar viruses. Many were young adults, the demographic profile of the majority who died (Kraut, 2010; Reyes-Velarde, 2020).

Similar discourses framed newly-freed Black men and women as germ transmitters to white homes in the South and during the Great Migration to other regions of the country. The domestic servant, the belief went, would contaminate the white home, especially from syphilis (Hunter, 1997; May, 2011, 165–172; Urban, 2017). This unease with the intimate labour of the servant, whether Black women or Chinese ‘houseboys’, denied the dangers awaiting the worker who entered domestic workplaces where she or he could be exposed to sickness (Urban, 2017). Instead, the public fixated on the hazards from racial others: it envisioned laundries as super-spreaders of tuberculosis and other airborne ailments from the supposed ‘practice of Chinese workers preparing clothes for ironing by spraying water from their mouths onto the clothes’ (Shah, 2001, 98). Images of sweatshop labour conveying germs to unwitting consumers of tenement-made goods encompassed Eastern European immigrants, especially Jews, in New York City, no less than Chinese, Filipino/a, and other Asian workers on the West coast and, a century later, women in the Global

South at the bottom of commodity supply chains who sewed cheap fashion for wealthier markets (Shah, 2001, 232–233; Boris, 1994).

Historians Nayan Shah and Natalia Molina have illuminated the late nineteenth and early twentieth century designation of Chinatowns and barrios as ‘rotten spot[s]’ that, as a Los Angeles’s health officer put it, poison ‘the air we breathe and...the water we drink’ (Molina, 2006, 1). Doctors and journalists crafted voyeuristic accounts of Chinatown as exotic, dissipated, and unnatural. They dwelled on the sights and smells, including cloaks and queues of men judged as unmanly. They compared those residing in basements and other darkened areas to animals, carriers of disease like rats and pigs. Like migrant workers elsewhere crammed into single-sex housing, including present-day employer-provided barracks, Chinese men suffered from poor ventilation and inadequate sanitation (Fernandez, 2020; Shah, 2001; White, 2014). Justification for public health intervention came from assessment of environmental conditions that sensationalised ‘dormitory pens’ without adequate ventilation or waste disposal as a product of ‘the moral degradation of opium smoking, gambling, and prostitution’ rather than the results of discriminatory housing (Shah, 2001, 52–53). Solutions focused on the worker rather than the conditions they found themselves subject to. Thus, an 1854 investigation in San Francisco recommended ‘removing from our midst the germs of pestilence’ by eliminating Chinese labourers (Shah, 2001, 41). Along with most cities, San Francisco had not yet developed an adequate infrastructure for population growth, which had much to do with the overflowing of waste (Shah, 2001, 73–76).

Migrants defied norms of respectability. Such understandings hinged on being part of heteronormative families. Most Chinese men were ‘bachelors’, lacking the wealth to bring a wife into the country to compensate for a scarcity of available marriage partners following barriers enacted by the Chinese Exclusion Act of 1882. They practiced what Shah calls queer domesticities, arrangements that included all male living groups but also female-headed households networked together (Shah, 2001, 110). The turn to commercialized sex or same-sex relations brought opprobrium and fear of further contagion, including venereal disease and leprosy to be passed to white families by domestic servants as well as prostitutes.

Powerful racial labelling encouraged unequal treatment of those castigated as health risks. There was a discrimination loop, with health policy based on stereotypical distinctions reinforcing racial difference. Los Angeles passed ordinances to contain street vending, a means of Chinese livelihood. Other measures forced laundrerers to petition for remaining in newly-zoned residential areas. Only intervention from the Chinese Council and the merchant-run Chinese Six Companies led to a temporary reprieve from this burdensome regulation (Molina, 2006, 31–43). In seeking office, politicians weaponised ‘discourses of racial hygiene’, as Shah puts it. Particularly effective were the xenophobic rants of the Workingmen’s Party of California in the period right before Chinese Exclusion (Shah, 2001, 55; Saxton, 1971).

Economic health and public health thus became intertwined with the expansion of cities. That the Chinese threatened the health of white city dwellers justified levelling Chinatown; that white business interests owned the property that Chinese

inhabited meant that Chinatown remained standing as a potent symbol of pestilence which the powerful could rely on to foster economic and social discrimination. During epidemics, business had multiple interests, acting in contradictory ways; some quickly reduced hours while others, like in 2020, resisted shutdowns (Webster, 2020). The actuality was always far more complex than the rhetoric. Removal meant hospitalisation outside of the city. Rather than pay for treating Chinese in public hospitals by using a state tax on port arrivals passed for such purposes, those who fell ill had to rely on the philanthropy of 'respectable' co-ethnics – the kind of mutual aid still compensating for exclusion from public help (Shah, 2001, 43–44).

By the turn of the century, the San Francisco Board of Health began to eliminate substandard housing in Chinatown by expanding surveillance to rid the city of 'nuisances' (Shah, 2001, 96–97). Then it was hit with a bout of bubonic plague in 1900. The city quarantined the entire Chinese section of the city, targeting those deemed most likely to become infected rather than eliminating rodent carriers of the disease. Resembling the reaction of the Trump administration, businessmen and politicians worried about the economic consequences of this partial 'shut-down' rather than about trampling the rights of the Chinese, who in turn resisted inoculation with an unproven vaccine and rejected the diagnosis of plague. Recent migrants and settled immigrants alike were suspicious of public health pronouncements, believing that the authorities were out to poison them through vaccination. The courts sided with Chinese merchant plaintiffs in determining that such a district-wide quarantine overstepped the police powers of the state, but deaths continued until new elected officials undertook effective sanitary management, including demolition of condemned buildings, that then led to renewed business confidence. It took 4 years to quell the epidemic. By the next one, scientists understood the causes more fully as they exhorted the general public to clean their environs to get rid of rats that carried this scourge. Nonetheless, the association of disease with the Chinese immigrant worker persisted (Shah, 2001, 162–209).

The Chinese Exclusion Act reminds us that racialised immigrant restrictions developed to curtail populations, while allowing those with assets, such as merchants, their wives, and children, to enter (Lee, 2003). It further prohibited naturalisation or the obtaining of citizenship among those already in the US. The Chinese were not the only targets of immigration restriction. From the first naturalisation act in 1790 that limited potential citizenship to whites only, US immigration policy embedded racialised gendered assumptions. Treatment of the Chinese illustrates how these measures interfered with family formation, as with the 1875 Page Law that excluded Asian women 'imported' for prostitution and the Exclusion Act that made exceptions for elites. With the 1917 literacy act and the quota acts of the 1920s, lawmakers sought to lessen, if not end, the entry of Eastern and Southern Europeans, like Italians and Russian Jews – though loopholes existed for citizens to bring in domestic servants. While 1920s national quota acts disproportionately admitted Northern Europeans, there was no explicit bar to Mexicans or other migrants from the Americas. It was believed that they would return home after earning dollars after a season's labour (Gardner, 2005; Luibhéid, 2002).

Like the Chinese, Mexican immigrants, often disproportionately male, faced blame for deadly outbreaks due to crowded and filthy living conditions. Declared one New Orleans doctor, '[E]very individual hailing from Mexico should be regarded as potentially pathogenic' (Molina, 2006, 63). Thought to be temporary sojourners even though some families dated their presence to before the annexation of California, Mexicans had become a primary labour force in Los Angeles by the second decade of the twentieth century. No laws restricted their arrival in contrast to Chinese exclusion and the 1907 Gentleman's Agreement with Japan. California 'Cubic Air Acts' and bars on Japanese land ownership further curtailed Asian migration (Molina, 2006, 9, 55). Mexicans, it was believed, were not the economic threat posed by 'entrepreneurial' Japanese farmers, who crossed gender norms by sending their women into the fields. Racial science designated Mexicans as physiologically suited for stoop labour.

Biopolitics could cut more than one way. On the one hand, authorities attempted to improve Mexican health for the benefit of the white community. Border crossing at El Paso, Texas, subjected second-class travellers to delousing and vaccination (Molina, 2006, 60). Typhus cases near Los Angeles in 1916 led the local health department to 'campaign against filth and lack of personal hygiene' in Mexican 'villages' and railroad worker camps (Molina, 2006, 61–62). Officials sought to 'enforce bodily cleanliness', including delousing Mexican school children (Molina, 2006, 64). Despite evidence of substandard workplace housing, the Board of Health would fix the behaviour of those subject to company housing, forcing them to undergo disinfectant baths under a military-like supervision. New hires had to be quarantined to curtail any outbreaks. All of this intervention was to protect the larger, white community. While not subject to policing, with Covid-19 exposed workers were to self-quarantine for the benefit of the dominant society.

A complaint conveyed to the Mexican consul prefigures worker protest a century later. Newly arrived railworkers explained, 'This wage they set is not enough for the nourishment of one person. Health comes from this and these precautions are the basis for achieving sanitation...What we need is liberty and the opportunity to achieve it. We need a bathroom in each section of camp and that the toilets that are now next to the sleeping quarters be moved'. They added, 'The Mexican race is not different from the American race and one should not think that disease takes hold in only our bodies. We are all human and they should not apply this procedure [delousing baths] only to Mexicans' (Molina, 2006, 67). The racialisation of epidemics, however, led to selective intervention, so that the porousness of the border tightened by using mandatory health inspections. Subsequent 'clean-up' campaigns served as projects in Americanisation to maintain a low-waged workforce (Molina, 2006, 71–73). Other quarantines, as against bubonic and pneumonic plague in 1924, sealed off neighbourhoods inhabited by Mexicans but let industrial workers leave for jobs outside the cordoned area (Molina, 2006, 85).

Los Angeles Anglos began to recognise, as would their counterparts during Covid-19, that immigrant workers 'are here to say...but whether we are to let them live here in unhealthy conditions and ruin the appearance of our cities depends on [us]' (Molina, 2006, 75). Nonetheless, urban health centres established to improve

Mexican health focused not on prevention of illness but rather on lowering infant mortality. Compensating for a supposed inadequacy of Mexican women proved easier than raising wages or providing healthful workspaces and homes. But the lack of quality services tended to reinforce existing inequalities through differential treatment much as the rail workers earlier had complained. Available services at best encompassed urban areas and rarely covered waste disposal and water availability on the periphery or outside of the city. Social workers labelled Mexicans, as sociologist Cybelle Fox has documented, 'an especially dependent and undeserving group' (Fox, 2012, 73).

Such thinking that Mexicans as non-citizens deserved no public relief set the stage for mass deportation during the early 1930s. Congress had authorised the Border Patrol in 1924 to enforce the National Origins Act of that year (Hernandez, 2010). When the Great Depression hit, Mexicans turned into undesirable surplus people. Of some 2.5 million in 1932, it was estimated that 2 million lacked work (Molina, 2006, 126). They became a 'brown peril' not only because of their culture but also due to perceptions of their biology. Eugenic thinking led officials to seek to rid them from the body politic. Despite growth in communicable disease, previously available public health clinics were to refuse treatment without payment. Officials rejected public aid because it was thought to merely subsidise big agriculture and other employers – and because Mexicans were undeserving 'diseased' others (Molina, 2006, 118–126, 129; Fox, 2012, 80). Molina concludes, 'severe financial constraints and widely accepted constructions of Mexicans as a large, diseased, charity-seeking population combined to make deportations and so-called voluntary repatriations a cornerstone of immigration policy' (Molina, 2006, 136). Los Angeles's charity hospital turned into a site for capture as it cooperated with deportation agents, reinforcing the reluctance of immigrants to seek medical attention that appeared again during the 2020 pandemic when undocumented workers stayed away from doctors (Chishti & Pierce, 2020).

Public health and other government agents skirted the law, manoeuvring around the formal federal hearings that were to be used against those determined to have become a public charge within 5 years of arrival. Los Angeles went straight to deportation (Fox, 2010, 124–135). The cities of Detroit, Michigan, and Gary, Indiana, also sponsored removal, abetted by local social workers, when the auto factories and steel mills laid off workers. Nationally, of the 54,000 people deported between 1930–1932, 44% were Mexicans, while another 44,000 voluntarily exited, euphemistically called repatriation. By 1935, up to 40% of the Mexican population had left (Fox, 2010, 127, 182–187). The combination of racial stigmatisation and economic crisis pushed migrant workers out of the country even as the numbers seeking entrance plummeted, a pattern similar to declines during Trump's presidency with its active discouragement of immigration and ending of asylum for those stuck at the Mexican border (Chishti & Pierce, 2020; Friedman, 2020).

Rather than assist migrant workers, the New Deal built into its overhaul of social provision and nationalising of labour standards distinctions between citizens and non-citizens, men and women, whites and other racialised groups, and the old and young. The vast majority of African American, Mexican American, and immigrant

women could neither rely on their men's access or their own labour histories to be covered by unemployment insurance or pensions and found themselves forced to accept either low-waged jobs or try to qualify for public assistance. There was no mandate to provide any aid to those not citizens in the first place. Citizen migrant workers, who moved from state to state, could access New Deal programmes through special camps for transients, but after 1935 state residency requirements restricted eligibility. Some landowners relied on government relief programmes to carry over hirelings until the next season; in this regard they prefigured the behaviour of some employers in 2020 who wished to maintain their workforce. Still, during the Great Depression, local elites discriminated against Blacks and Mexicans in distributing relief. Landlords also replaced Anglo white tenants with African Americans and Mexicans, whom they forced to sign away government payments as a condition of employment. Such labour practices intensified the racialisation of farm labour and lowered standards of living, fanning anti-immigration and anti-Black sentiments among white and Anglo workers in the South and Southwest (Boris, 2008).

To meet agricultural labour shortages during World War II, the Bracero Program emerged as a foreign guestworker programme facilitated through cooperation with Mexico. Through its auspices, local landowners would contract fieldhands. It brought Mexican nationals to California, Arizona, and southwestern fields and Caribbean migrants to the East Coast, including Florida (Hahamovitch, 1997, 2011). At border stations men underwent invasive screenings; one former 'bracero', as they were designated, recalled, 'Supposedly we were flea-bitten and germ-ridden'. As historian Deborah Cohen concludes, 'they crossed at a time when parasites signified dirt, disease, and a life without access to running water...they were flagged as potential carriers of disease and, in the process, linked to racialized poverty' (Cohen, 2011, 99). After reauthorisation in 1946, Congress removed such guestworkers from social assistance and state protection by privatising their living arrangements. The 'bracero' without a contract became a 'wetback' vulnerable to deportation for speaking up, striking, or malingering on the job. When skipping out of contracts, they lost the protection of Mexican consuls. These officials served as their bargaining agents until 1954 amendments to the Migrant Labor Agreement undercut any Mexican control over labour supply and, hence, working conditions. Only after a coalition of liberals and trade unions won the end of the programme in 1964 were agricultural workers able to gain inclusion under the nation's wage and hour law (Boris, 2008).

Other migrants were not as lucky. Household workers remained outside of labour laws into the twenty-first century, including the 1970 Occupational Safety and Health Act. Home care aides only gained wage and hour protections during the Obama administration. Private household workers still have no right to collective bargaining (Boris, 2019). The Personal Responsibility and Work Opportunity Act of 1996, which reformed 'welfare', left to the states whether to extend Temporary Aid to Needy Families to immigrants, but again barred new arrivals from receiving monies for 5 years (Mink, 1998, 62–63, 150n28). The accompanying Illegal Immigration Reform and Immigrant Responsibility Act of 1996 incorporated two significant

practices: it required applicants for visas to provide proof of vaccination for communicable diseases and mandated that family sponsors certify their ability to support the entrant lest they become a burden on local governments (Fragomen Jr, 1997; Fujiwara, 2008). The racialised politics of exclusion persisted when it came to placing migrants under protective laws.

4.3 Cruel Treatments: Detained Migrants and Essential Workers

In keeping with its white nationalism, the Trump administration initially sought to seal the nation's borders from the pandemic as if only non-citizens and visitors could carry the virus from abroad. Beginning in late January through March 2020, it banned entry of non-citizens from China, then Iran, and finally Europe. It used the virus as an opportunity to intensify its anti-immigration stance by ending Temporary Protected Status for Haitians, El Salvadorans, and others who had fled to the US in the midst of civil unrest in their countries decades before, while it halted granting asylum to new seekers. Drawing on the Tariff Act of 1930, the US Customs and Border Control closed the border with Canada as well as the one with Mexico, particularly impacting Central Americans left waiting in Mexico. Announced the Director of the Centers for Disease Control and Prevention (CDC): 'The danger to the public health that results from the introduction of such persons into congregate settings at or near the borders' justified closure'. The US, however, was hardly alone, with nearly 200 other countries imposing restrictions at that time and the UN High Commissioner for Refugees suspending resettlement of refugees (Chishti & Pierce, 2020). In deporting Guatemalans and other Central Americans, through some 180 flights from virus 'hotspots' in Texas, Arizona, California, and Florida, the US exported Covid-19. Eleven of 15 countries from the Americas reported deportees arrived testing positive. In moving detainees, it also spread Covid-19 within the country between detention facilities (Kerwin, 2020, 4–5; International Rescue Committee, 2020; Albaladejo, 2020).

US Immigration and Customs Enforcement (ICE) continued to detain undocumented immigrants, terrorising neighbourhoods through randomised raids even after prioritising the round-up of criminals and 'safety' risks. As during the Great Depression, the government sought to target undesirable immigrants by using health services and benefits to identify them. A new public-charge rule made use of public benefits a reason to deny immigrants the green card that allows them to legally work (Chishti & Pierce, 2020). Treatment for Covid-19 was to be an exemption, but the new rule increased the precarity of immigrants who feared to take advantage of health and other benefits for children, like the Supplemental Nutrition Assistance Program (SNAP). Moreover, relief measures in Spring and early Summer 2020 excluded from tax rebates, unemployment supplements, or other aid some four million immigrant workers without legal status but who had individual taxpayer

identification numbers (Chishti & Pierce, 2020; Covid-19 Conference Call, 2020). They paid into a system without receiving any relief.

The numbers in detention camps grew in contrast to other countries. The United Kingdom released one-third of its detainees out of recognition that close quarters turned such facilities into petri dishes for viral spread. Italy, Switzerland, and Zambia reduced numbers of migrant detainees (Kerwin, 2020, 25–26). The crowded and under-resourced US holding stations and detention jails, sometimes packing 100 men into a room, had few medical personnel. They already had proven congenial for outbreaks of other contagious conditions, like flu and measles. Covid-19 appeared in them as well, ranging from a public New Jersey ICE detention centre to privately-run Texas ones (Chishti & Pierce, 2020; International Rescue Committee, 2020). ICE delayed testing. It only made available partial results. Yet even these showed that half of those tested between April and early June were positive. Since facilities only tested symptomatic people, the actual numbers could have been 15 times greater. While over Spring 2020 numbers of detained individuals in 200 centres dropped from 29,675 to 24,713, positive tests plateaued and then climbed over the summer (Jawetz & Svajlenka, 2020; Kerwin, 2020).

During local surges, detainees remained ‘sitting ducks’, as the American Civil Liberties Union referred to them (La Gorce, 2020). By August 2020, ICE counted nearly 4000 cases, with one-quarter of those infected still in custody (International Rescue Committee, 2020). In August, fuelled by transfers from Florida and Arizona, the Farmville, Virginia Detention Center run by the private Immigration Centers of America had a 90% infection rate among its nearly 300-person population (Schwenk, 2020). The Eloy Detention Center in Arizona, for another example, saw a ‘tenfold’ rise in cases in a three-week period in June. Not only was social distancing impossible, but sanitiser and soap were in short supply and access to showers irregular. Agents went about maskless. Detainees at the La Palma Correctional Center, also in Arizona, complained of being ‘forced to clean medical wards and common areas without enough protective gear’. Reported a transgender migrant, a group considered ‘medically vulnerable’ (Castro, 2020) and susceptible to violence at home, during migration, and in detention: ‘They have told us that if we feel bad, they will send us to a doctor that moment...but it’s a lie...I always feel like I’m between life and death’ (Reznick, 2020).

In these circumstances, staff become infected, bringing the virus into surrounding communities and to other facilities during inmate transfers. The for-profit LaSalle Corporation, with eight centres in southern states, faced charges of withholding ‘personal protective equipment [PPE] from staff and detainees, dismissed positive Covid-19 tests results, and ignored symptoms’ (Olivares & Washington, 2020). Yet ICE kept no records of private prison staff, even though in Texas nine out of ten centres operated by contractors had cases by early May (Reznick, 2020; Kerwin, 2020, 5–7).

A whistleblower complaint from a former employee lodged against a particularly notorious centre in Irwin, Georgia, claimed that Spanish-speaking women received without their consent hysterectomies from a local gynaecologist, an action likened to ‘an Experimental Concentration Camp’. Migrant women subject to forced

sterilisation evoked past eugenic practices as well as a gendered punishment for daring to cross the border. With 57 women claiming pressure to undergo unnecessary treatment or actually suffering such abuse, advocates wanted 'accountability for ICE and the private prison corporation because these are the entities that are holding these women' without concern for their health or safety. With the pandemic, their previously ignored mistreatment had a hearing. It came to symbolise abuse of human rights and women's bodily autonomy, a gendered harm previously associated with other authoritarian confinements (Shen, 2020; Washington & Olivares, 2020).

Despite shortage of PPE, desperately needed by medical workers at detention camps as well as hospitals and nursing homes, the Trump administration was reluctant to invoke the Defense Production Act of 1950. This Korean War measure authorised the President 'to direct private companies to prioritize orders from the federal government' (Siripurapu, 2020). He would issue some weak executive orders relating to hoarding and the production of essential ventilators and N95 masks, made after companies like GM already announced such production. In contrast, Trump most publicly deployed this authority 'to order meat processing plants to stay open' despite major outbreaks of Covid-19 in an industry where immigrant workers had found a niche (Gangitano, 2020). He would sustain the food supply for meat eaters despite risks to its workforce. When Trump acted in late April 2020, at least 20 workers had died and 5000 had been exposed, though the actual numbers were in the thousands (Trumka, 2020). Absenteeism had reached 50% in North Carolina, Kansas, and Nebraska plants (Grabell & Yeung, 2020). According to the CDC, the credibility of which suffered under Trump administration political interference, meat processing outbreaks by early July in facilities reporting cases occurred in 23 states and 239 plants, amounting to over 16,000 infections, 9% of the workforce, with a death rate of .5% (general death rates include more elderly people and thus were slightly higher at six times that of the flu). Nearly 90% of the infected were racial or ethnic minorities, the vast majority of the workforce to begin with (Tate, 2020; Waltenburg et al., 2020).

Indeed, the racial division of labour led to Covid-19's disproportionate impact on African Americans, Latina/o/xs, and immigrants. The resulting shutdown forced immigrants out of work in large numbers: in California, immigrants had held one out of four lost jobs, with undocumented women doing 'non-essential' service labour accounting for one out of three of the unemployed (Flores et al., 2020). They laboured in sectors hard hit by the virus. Immigrants composed some 17% of health-care workers, while those without work permits crowded into related frontline jobs. One 2018 estimate from census data found almost 40% of health support workers to be undocumented: 'from nursing assistants and home health aides to housekeepers, receptionists, janitors, and cooks'. Filipino/as made up 30% of immigrant nurses and suffered from a disproportionate 'toll' from Covid-19 in Canada and Britain as well (Tungohan, 2020). At the height of the epidemic in New York City, Corona, Queens, a hugely immigrant neighbourhood, generated the greatest number of known cases; 'Hispanic immigrants' made up 34% of deaths even though they were only 29% of the population; Blacks, at 22% of the population, constituted 28% of

the deaths (Persaud, 2020). Percentages from Iowa, Oregon, Florida, and California were similar or worse (Jordan & Opiel Jr, 2020). Like a century ago, ‘close-knit...family ties’ were blamed for spreading the infection – along with overcrowded and poor housing conditions, especially among California’s Latina/o/x poor (Cimni & Botts, 2020; Reyes-Velarde, 2020).

Immigrants and refugees for years had composed the packinghouse workforce: Bhutanese, Mayans, various Latina/o/x, North Africans, Burmese, Cubans, Romanians, and Chinese (Grabell, 2017). They had become essential workers, called ‘critical’, but as an undocumented Guatemalan toiling at Koch Foods in Mississippi queried, ‘if they have a big need for all of the workers, ... why aren’t they worried about us?’ Like many other essential workers, meatpackers could not practice social distancing. The very organisation of the labour process for maximum efficiency got in the way. They worked ‘shoulder to shoulder’ at a fast pace to keep the line moving. On top of that, despite the protests of unions weakened by the labour law and growth in non-union operations, workers lacked health insurance and sick pay, so they went to work sick. To do otherwise risked being fired (Grabell, 2020).

Migrant farmworkers faced similar circumstances, especially those packing fruit in warehouses. About 50% of hired agricultural workers were undocumented (Schloredt, 2020). For the rest, growers had begun to rely on bringing in hands through use of H-2A visas. These temporary cards were tied to specific employers much like the Bracero Program of old, deployed to mitigate labour shortages with guestworkers. The processing of such visas went on ‘as a national security priority’ after a short hiatus in March (Jarvis, 2020). Under this system, employers were responsible for housing and transporting workers, while paying at least the minimum wage. In fact, recruiters still charged migrants for travel. Workers thus fell into debt; their dependency made it more difficult to protest unsafe conditions and wage theft, leading some to refer to the H-2A visa as a ‘modern system of indentured servitude’ (ibid.).

Social distancing again was impossible. Packed vans delivered workers, mostly men, to the fields. Tents and shared housing kept labourers close to each other. While Oregon banned bunk beds, growers housed larger cohorts of labourers together than allowed under state regulations (ibid.). In Pennsylvania, with over 4000 seasonal guestworkers, even farm labour camps with permits were overcrowded; the state issued only recommendations rather than promulgate requirements with penalties. The state Occupational Safety and Health Administration (OSHA) had stopped doing inspections (Fernandez, 2020). Farmworkers, some 3% of the population, accounted for 20% of the cases in Washington state, which had no ban on bunkhouses (Jarvis, 2020). In Florida, the area surrounding Immokalee turned into a virus epicentre, with a 36% positivity rate by early June when the state was just under 6%; its Latino/a/x and Haitian workforce would follow the crops up the coast, and few were tested beforehand. Reported a volunteer physician, ‘Workers have to get their own masks, so maybe three out of 20 people have masks on and there’s pressure not to wear them – it’s not a “tough” thing to do’. Neither did testers inquire about contacts or provide instructions on self-isolation, a difficult task when

nine people of various ages, some strangers to each other, crowded into a trailer built for lower occupancy (Reiley, 2020).

Imprecise record-keeping, that noted place of death but not origin of infection, compounded the problem of faraway hospitals, lack of health care, and pressure to continue working. The local health department offered exposed workers full accommodations: free lodging, with bathrooms and kitchenettes and necessities like hand sanitiser and groceries. But it unsurprisingly noted, ‘We can’t pay them or supplement their income...we know people want to provide for their families, often sending money back to support people where they are from’. Pressure from growers added to the reluctance of migrants to leave the fields even if they tested positive (Reiley, 2020).

Domestic workers faced their own set of pressures during the pandemic. Disproportionately immigrants and women of colour compared to other occupations, some worked legally but resided within mixed-status households, with family and roommates undocumented. They needed the income to live here but also to send remittances to relatives abroad. Few employers, whether for private residences or nursing homes, provided PPE. Not wanting to leave their clients without care, some both grappled with possible exposure to pathogens and feared carrying the virus between households or from nursing homes which housed their ‘consumer’. ‘I care for the elderly because I consider this a noble profession, and not everyone can be a caregiver’, explained a 60-year-old migrant from the Philippines who had been in the US for about a decade. Yet she worried about infecting the 90-year-old woman in her charge. ‘I take a bus to and from work, which is risky in terms of spreading germs, but I cannot afford to take Uber’, she confessed (Bapat, 2020).

Other workers, like a 39-year-old Mexican immigrant in northern California, found themselves fired. ‘I understand that my clients don’t want me to come to their homes because they are worried about being in contact with another human being... I am worried about the same thing’, she told a reporter in April 2020 (*ibid.*). After a nanny in New York City from Antigua verbalised fear about catching the virus in March, she lost her job with ‘no severance pay or nothing’ and was without work 3 months later. Indeed, in early April 2020 the National Domestic Worker Alliance found two-thirds of respondents could not count on clients hiring them back; by May the unemployed had risen to 70% (Brooks, 2020; Wolfe, 2020). The same percentage of domestic workers in Latin American and the Caribbean, many of whom were from Indigenous groups, also suffered from government measures to contain the outbreak. Similar to the US, ‘In addition to the spectre of unemployment, informality, low social protection coverage and the lack of written contracts – in many cases – prevent them from accessing the aid established by Governments’, reported the International Labour Organization (United Nations, 2020). For those in Argentina, Afghanistan, Indonesia, and worldwide, no work also meant no pay. As the International Domestic Workers Federation noted, ‘the logic of the quarantine assumes the availability of accommodation, means of sustenance, and safety of households’, conditions unobtainable by domestic workers, especially migrants (IDWF, 2020; Lewis et al., 2020).

4.4 Resiliency

Despite exclusion from state-sponsored relief during the pandemic, migrant workers – whether labouring in homes, fields, warehouses, or medical facilities – continued to organise. They confronted their circumstances through strikes, mutual aid, and demands on the state as well as employers. Like immigrant workers more than a century ago, they banded together to seek recognition and rights, dignity and justice. Unlike the past, they had new tools of social media to spread grievances and publicise protests.

Lack of safety for grocery clerks, bus and truck drivers, fast-food servers, Instacart and other delivery app gig workers, sanitation employees, Amazon distribution warehouse packers, and the entire agricultural food chain sparked wildcat strikes among US-born and migrant workers alike – but with more peril for those here as guestworkers (Brecher, 2020) Fruit packers and pickers struck. In the Yakima Valley of Washington State, hundreds of mostly Mexican labourers walked off the job demanding hazard pay and safer workplaces. Those at Roche Fruit Company won \$100 per week extra, what the company called ‘gratitude pay’ in a mystification that defined the increase as temporary. These strikes, however, were as much about protecting ‘ourselves and our families’. According to Familias Unidas por la Justicia, women led these multigenerational and multiracial strikes (Bacon, 2020).

Immigrant communities turned to mutual aid and organised private relief, as the San Francisco Chinese had done over a century before. With undocumented workers in restaurants and other service industries especially hard hit by shutdowns and cut off from government monies, they depended on local fund drives. Despite the best of efforts, these proved inadequate, but so did public monies. The 805 Undocufund in Santa Barbara and Ventura counties, California, first developed to aid immigrant workers during wildfires; it started up again during the pandemic when layoffs grew. Despite contributions from citizen workers, some of whom donated government stimulus checks as ‘acts of solidarity’, 7000 people were on a waitlist by late May 2020. The \$75 million appropriated by California’s Governor to relieve undocumented people would only reach about one-quarter of them, who collectively paid \$3 billion in taxes, advocates noted (Osgood, 2020).

Mutual aid reflected the belief that domestic workers should be able to stay home when sick or when their family needs them. In the Bay area, Los Angeles, and San Diego, various Philippine workers centres distributed ‘care boxes’ full of food and other items to help members get by. Other workers centres, like CASA in Maryland, Virginia, and Pennsylvania, provided food, raised a solidarity fund, and campaigned around rent cancellation (Covid-19 Conference Call, 2020). The National Domestic Workers Alliance established a Coronavirus Care fund, with a goal to raise \$4 million dollars, to distribute emergency assistance of \$400. The group administered the monies through Alia, its online platform through which employers could contribute the equivalent of benefits for paid time off and other uses (Poo, 2020).

Activists in solidarity with migrants called for state protection. Over a hundred organizations petitioned Maryland’s Republican Governor Larry Hogan to issue

emergency orders for mandatory PPE for farmworkers, poultry and seafood workers in June 2020 and continued to pressure for action into the Fall (Marylanders for Food & Farm Worker Protection, 2020; Migrant Clinicians Network, 2020). Other states, notably Virginia, enacted emergency standards for such vulnerable frontline workers, mostly migrants from the Americas. As its Democratic Governor Ralph Northam announced, 'In the face of federal inaction, Virginia has stepped up to protect workers from Covid-19, creating the nation's first enforceable workplace safety requirements' (Berkowitz, 2020; Garcia-Navarro & Silva, 2020). Domestic Workers mobilised in California to remove the exclusion of domestic workers from the state's occupational health and safety regulations, which was modelled after the federal law. Allen, from the Los Angeles Pilipino Worker Center, testified, 'caregivers like me...are on the frontlines, in close contact with people who are most vulnerable'. While those employed by nursing homes and hospitals 'have the right to protective equipment, training and information,' home care workers had no such guarantees. Cal/OSHA operates by the exception that individual employers who pay for domestic and household tasks in their own dwellings do not have to abide by its regulations. These workers not only faced infection, but they lacked protection from the smoke and soot from wildfires, damage from which their employers expected them to clean up (CDWC, 2020). In vetoing a bill to rectify the exclusion, passed overwhelmingly by the legislature in the midst of wildfires and the pandemic, Governor Gavin Newsom, a Democrat, ignored the establishment of a stakeholder commission to develop regulations for the sector and the educative role of Cal/OSHA. Instead he relied on old canards by claiming that the home was not like other workplaces and that its inhabitants lacked the 'expertise to comply' (Newsom, 2020). Domestic workers vowed to continue their struggle for health and safety on the job; they gained an amended bill to establish voluntary guidelines in September 2021.

4.5 Concluding Remarks

Migrants to the US, whether undocumented or permitted, found themselves particularly vilified after Donald Trump became president. However, these years were not unique in the long history of a country that once referred to itself as 'a nation of nations' (Marzio, 1976). To generate a genealogy of racialised vulnerability, this chapter has explored a set of major responses to migrant workers in the past. It has shown that the association of the non-citizen with the racial other and both with epidemic infection led to public policies, in the local as well as national realm, that reinforced discrimination and enhanced precarity. A century later the nation was relying on similar measures of quarantine and exclusion. In the face of new viruses, it remained easier to target migrants and undocumented immigrants than force citizens to take public health precautions.

Driving the racialisation of public health were the forces central to the US political economy. A nation founded on settler colonialism and racial capitalism, the US sorted people by race and then justified inequality through affixing justifying

attributes. Dirt and disease adhered to those deemed as racial others, with whiteness associated with cleanliness and thus healthfulness. Low wages, crowded housing, and economic, political, and social discrimination often led to poorer health outcomes, which in turn rationalised blaming migrants – and their race/ethnicity or national origins – instead of these precipitating living and working conditions that led to bodily harms.

In response to Covid-19, government actions – and inactions – illuminate the making of pandemics as a social and not merely biological or scientific phenomenon. Despite the odds, migrant workers attempted to refocus the discourse by speaking out and walking off. They engaged in self-help when the government refused support. In demanding basic health and safety, along with sustainable wages and decent working and living conditions, they insisted on recognition and respect. In puncturing the hypocrisy behind rhetorics of essential workers as heroes, they demanded protection that belonged to all people and not only citizens.

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Chapter 5

Sanctuary Cities and Covid-19: The Case of Canada



Mireille Paquet, Noémie Benoit, Idil Atak, Meghan Joy, Graham Hudson, and John Shields

5.1 Introduction

Amidst record migration numbers, a growing displacement crisis, and rapid changes in national immigration programmes, non-status individuals and those with precarious immigration status are in growing number globally. As with administrative immigration categories, states vary when it comes to the labels used to identify these populations and in their practices of counting them. In Canada, governments do not publish official approximations of the size of this population. Indeed, the International Organization for Migration concludes that ‘Canada [...] has a significant number of irregular migrants, although estimates vary widely, and accurate numbers are difficult to establish’ (International Organization for Migration, 2019, 112). This population includes irregular migrants, individuals who overstayed their visa, committed offences affecting their status, or refused refugee claimants as well as individuals who lost status due to changes in government policies or actions by

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their sponsors (e.g. spouses, family members, employers). Despite Canada's heavily controlled immigration regime, policy changes and current outcomes – including an increased reliance on temporary work permits, a quicker pace in policy reforms, and growing delays in the treatment of refugee protection claims – also generated more precarity when it comes to immigration status (Goldring et al., 2009; Goldring & Landolt, 2013; Hari, 2014; Paquet & Larios, 2018; Tungohan et al., 2015).

As with other migrants, non-status migrants and those living with precarious status (e.g. students, those on temporary visas and individuals who are depending on employers or relatives to keep their status) tend to settle in urban centres. As a result, cities have become spaces of policy innovation on how to address the needs of these populations. City services are increasingly called upon to function as first responders for migrants' well-being and play a key part in how migrants settle and integrate into society (Provine & Varsanyi, 2012; Varsanyi et al., 2012). Sanctuary policies are one of these innovative responses (Bauder, 2017). Highly variegated across countries and cities, these policies generally aim at providing services to individuals without accounting for immigration status and at limiting cooperation with immigration enforcement agencies. In Canada, seven municipalities have enacted such policies since 2013: Toronto, Hamilton, Vancouver, Ajax, Montreal, Edmonton, and London. These relatively novel policies emerged as a result of activism and government social learning.

Urban centres have been especially hit by the Covid-19 pandemic and this public health crisis has generated particular risks for non-status and precarious migrants (Bauder & Godoy, 2020). What are the risks faced by these populations and have they been addressed by sanctuary policies? More broadly, is there a future for Canadian sanctuary policies in the post-Covid-19 recovery? Using existing research on the topic and content-related evidence, we highlight the complex position of cities in responding to public health emergencies in multi-level settings, while pointing again to the limited capacities of Canadian cities in providing true sanctuary for immigrants without status. We show that the non-status and precarious migrants in Canada faced specific risks during the pandemic and that current municipal sanctuary policies should be boosted to respond to the particular vulnerabilities of these populations. More broadly, this chapter identifies the obstacles and opportunities for the maintenance and expansion of rights for all by Canadian city governments during and after periods of 'crisis', such as this pandemic.

5.2 Sanctuary Cities

Globally, sanctuary city policies are an expression of municipalities' claim for an extended responsibility in how migrants are received and treated. They also build on the activism of a diverse sanctuary movement aimed at creating cultures of hospitality, at empowering non-status migrants (Moffette & Ridgley, 2018; Ridgley, 2008), and at challenging the legitimacy of national borders as well as associated immigration enforcement. Central to both sanctuary policies and activism is the idea that, as

a matter of justice and for the greater good of the city, all residents should have access to fundamental rights and services, regardless of their immigration status. They advance the principle that the mere fact of *residing* in a city entitles inhabitants to certain rights and services.

The ‘sanctuary city’ concept refers to different policies and practices and focuses on variable populations in different national contexts (Bauder, 2017). Sanctuary cities in Canada and the United States seek to protect specifically non-status migrants by allowing them to access some municipal programmes and services without fear of being arrested, detained, and removed from the country.¹ To do so, these policies usually include a ‘don’t ask, don’t tell’ approach whereby the city does not require government workers to ask about an individual’s immigration status and commits not to share any personal information pertaining to immigration status with other agencies (Paquet, 2017). As part of these policies, cities also experiment with the issuance of identification documents – such as municipal IDs – that allow individuals to engage with local public institutions (e.g. libraries or transit authorities) and to facilitate the conduct of daily activities such as banking or signing a lease (de Grauw, 2014). Sanctuary policies, especially in the US include official commitment of non-cooperation with immigration enforcement authorities. In this case, police forces and municipal bodies refuse to enter into formal agreements that devolve enforcement to them, resist political pressure to engage in indirect migration control practices, and strongly limit the sharing of information on residents with enforcement agencies (Hershkowitz et al., 2020; Ridgley, 2008).

Sanctuary policies are not only occurring in the US. Other similar policies are found in European cities; however, these cities possess far less autonomy on policing matters, limiting their potential regarding law enforcement (Morris, 2020). Urban sanctuary initiatives in the United Kingdom, for instance, do not seek to create legal shelters from authorities, but rather to transform the public discourse on refugees. The goals of British legal sanctuary policies are therefore more discursive, attempting to disrupt the distinction between guests and hosts, to foster a culture of hospitality, and to consequently encourage undocumented migrants to participate as active citizens in their urban community (Bauder, 2017). In other European countries, however, the term ‘sanctuary’ is rarely used due to its religious connotation (Bauder & Gonzalez, 2018). Nevertheless, other solidarity-based policies emerged, named otherwise, such as the Barcelona Refugee City Plan in 2015, which reacted to the Spanish government’s restrictive policies towards refugees by channelling urban solidarity and coordinating to offer programmes of support (Agustín & Jørgensen, 2019). Moreover, in the Netherlands, the Amsterdam-Zuid Oost policy allows for victims and witnesses of crimes without status to enter police stations

¹In most European countries, cities of sanctuary involve a general commitment to welcoming asylum seekers and refugees. For instance, the UK-based City of Sanctuary movement that emerged with the support of the City Council and local organizations in Sheffield in 2007 aims to exemplify hospitality toward an empowerment of asylum seekers and more precisely to ‘influence policy-makers and public attitudes throughout the country’ in order ‘to build a culture of hospitality for people seeking sanctuary’ (Bagelman, 2013, 49).

under the assurance that they will be able to leave without facing arrest (Morris, 2020). Berlin, on its part, provides an anonymous health-insurance card, while Zurich dispenses legal identity cards to all its citizens regardless of status (Bauder & Weisser, 2019).

Research on sanctuary cities has made a strong normative case and demonstrated empirically that these policies have effects on identity formation, leading to migrants developing feelings of belonging and new forms of urban citizenship (e.g. Nyers, 2010; Young, 2011, 2012). According to Nail et al., for instance, Canadian sanctuary cities ‘disrupt the distinctions caused by federal status categories’ to ‘forge a unifying identity among all residents of the city’ (2010, 151). In political science and urban studies, research has also verified the claims, made by politicians, that sanctuary policies could lead to decreased policing and rises in criminality in urban areas. While no such study has been conducted in Canada, American studies have confirmed that municipal sanctuary policies have either no impact on crime or, in some cases, decrease crime (Martínez et al., 2018; O’Brien et al., 2019; Wong, 2017). In addition, these policies contribute to efforts by local governments to challenge national policies that affect their residing immigrant populations. In its simplest form, this challenge is symbolic: while these residents have not received explicit consent from the nation-state to enter and remain within the state, they *are* receiving consent to remain in the cities which are enacting these local policies (Varsanyi, 2006, 240). Increasingly, however, legal challenges associated with sanctuary policies provide opportunities to test the jurisdictional space and legal capacities of cities.

5.3 Sanctuary Cities in Canada

Like in many American states and cities, the sanctuary practices in Canada involved churches and communities harbouring in a physical shelter migrants at risk of detention and deportation (Lippert, 2004). These early sanctuary practices denounced federal decisions deemed unfair toward precarious migrants. They were adopted in a context where local anti-poverty advocates identified immigration status barriers as a rising concern for addressing poverty (Atak, 2019; Hudson et al., 2017). McDonald (2009, 67) explains how, from 1994 to 1998, these movements led the government to regularise several thousand failed refugee claimants from moratorium countries, such as China, Iran, and Algeria who were generally stuck in limbo. However, despite these early successes, there have not been any such regularisation programmes since 2004. In Toronto, as Bauder notes, ‘the campaign to become a sanctuary city was spearheaded by the Solidarity City Network, which included a range of community organizations and advocacy groups’ (Hannan & Bauder, 2015, 10). In Montreal, self-organised ‘action committees’ of non-status migrants and refugees have emerged and asserted themselves as political by organising against detentions and deportations (Atak, *forthcoming*; Nyers, 2010). Solidarity Across Borders and other groups organised public campaigns against

detentions and deportations of non-status migrants. Organisations have been working to build a support network amongst them. They have pressured the Federal government to regularise non-status migrants (Lowry & Nyers, 2013). Debates on access to education and healthcare have helped to frame the topic as a social justice issue and sensitise the public and authorities to the plight of this population.

Around the 2010s, some local governments in Canada started to take action in the face of unfair treatment and socioeconomic marginalisation of non-status residents. In 2013, Toronto became the first ‘sanctuary city’ in Canada to enable *all* residents to access municipal services. As Table 5.1 lists, other Canadian cities followed suit. By 2019, seven Canadian cities had official sanctuary or access without fear policies. These cities are located in different regions of Canada and are of very different sizes. These cities diverge when it comes to their total immigrant population and the rate of arrivals of newcomers.

Canadian sanctuary policies vary in their scope but have three important characteristics in common. First, they share the objective of providing that all residents have access to municipal services (Paquet et al., 2019). In Toronto, the policy is justified as a tool to ‘Ensur[e] that Torontonians, regardless of immigration status, have access to City services without fear of being asked for proof of status’ (Toronto, 2015). The City of London similarly states that ‘The purpose of [its] policy is to enable London residents with uncertain or no immigration status to access City services without fear that the City will ask for and provide information on the immigration status of individuals to other public institutions or orders of government’ (City of London, 2018). These services are numerous and rest on the specific responsibilities of cities in the Canadian jurisdictional architecture. Generally, Canadian cities – which include municipal governments and special purpose bodies governing a service funded by municipal governments – have responsibility over the built environment, including urban planning, roads, public transit, and waste

Table 5.1 Canadian local sanctuary policies

City	Province	Year	Policy name	Total population (2019)
Toronto	Ontario	2013	Access Toronto	6,471,850
Hamilton	Ontario	2014	Access to services for undocumented individuals	794,716
Vancouver	British Columbia	2016	Access to city services without fear for residents with uncertain or no immigration status	2,691,351
Ajax	Ontario	2017	<i>No official title</i>	N.D. ^a
Montreal	Québec	2018	Montréal, ville inclusive	4,318,505
Edmonton	Alberta	2018	Access to municipal services without fear	1,447,143
London	Ontario	2018	Free of fear services for all policy	545,441

Source: (Canada, 2020)

^aAccording to the 2016 census, the total population of Ajax was 119,677 (Statistics Canada, 2017). Official population data for 2019 has yet to be released

collection and processing. Cities usually also provide a variety of cultural and recreational facilities and services, including libraries, community centres, and parks. Some cities, and especially those that are larger, have been devolved some responsibility over health and social services, such as social housing and shelter provision, ambulances and long-term care, public health services, and immigration settlement services.

Second, these policies support state actions heavily geared toward providing information to potentially affected populations as well as informing and training city workers of the policy (Paquet et al., 2019). These policies also aim at clarifying – for the purpose of the administration and to the benefit of residents – the identification requirements for access to municipal services. Beyond explicit calls to remove barriers, several cities aim to realise this commitment through information campaigns and public awareness strategies. In some cases, such as Edmonton and Vancouver, policies also commit to reinforce existing policies on privacy and information collection. Toronto and Montreal stand as exception to this trend as they also provide funding to immigrant service groups to develop new interventions as part of their policies. Canadian sanctuary cities do not provide residents with municipal IDs or other forms of documentation. In general, thus, the implementation of sanctuary policies in Canada focuses more on clarifying access and procedures and less on the deployment of new services for residents.

Third, Canadian sanctuary policies do not apply to municipal and regional police forces or immigration enforcement activities (Hershkowitz et al., 2020; Hudson et al., 2017). This reflects the limited jurisdiction and powers of Canadian cities within the country's federal system, as compared to other levels of governments. Immigration enforcement is solely the responsibility of the federal government, whereas policing is enabled and regulated by provincial and federal authorities. Even when they have municipal police forces, Canadian cities have a finite capacity to control policing as legislation is provincial and municipalities cannot interfere in criminal investigations; though as funders of police services, they may have more room to intervene in policy-oriented issues (Sancton, 2015). As a result, cities cannot coerce police forces to change their policies or actions, including their decisions to enquire about immigration status. Similarly, Canadian sanctuary policies offer little or no guarantees that collaboration or communication on migration control matters between the police and federal enforcement authorities, such as the Canada Border Services Agency (CBSA), will stop on cities' territories. The rare research on police practices since the enactment of these policies shows no changes to police and enforcements practices of interagency information sharing about immigration status (Hershkowitz et al., 2020; Hudson et al., 2017; Moffette & Gardner, 2015). Moreover, in the majority of Canadian sanctuary cities, police services have not issued a formal response to the access without fear policies. As such, Canadian sanctuary policies sadly offer limited protection from immigration enforcement to their residents.

The particularities of Canadian sanctuary policies demonstrate the importance of taking into account national differences when comparing these state activities. Canadian policies go beyond symbolic gesture and expand the realm of local

government action to all residents, as opposed to all citizens. Yet, they are distinct from American policies that also include the delivery of identification documents and real changes to on-the-ground enforcement practices. Despite their limitations, however, these policies still offer support to non-status and precarious status residents by ensuring that they can have access to government services. As well, welcoming and non-criminalising local narratives are symbolically powerful for all city residents. In periods of heightened vulnerability and risks – such as the Covid-19 pandemic – these services can make a world of difference.

5.4 Pandemic Risks for Non-status and Precarious Migrants in Canada

The most visible risks faced by non-status and precarious migrants in Canada during the pandemic are related to access to healthcare. Public Health Insurance is free and available to Canadian citizens, permanent residents, and some temporary residents. Others must rely on expensive private insurance or, more often, live without insurance and pay out-of-pocket for treatment.² Three provinces opened up access to at least Covid-19-related healthcare, regardless of immigration status: Ontario, Quebec, and British Columbia. These three jurisdictions are home to the three largest and most diverse cities in the country, which are all sanctuary cities: Toronto, Montreal, and Vancouver. At the time of writing (December 2020), British Columbia has withdrawn access to healthcare for all, while Quebec's policy is confined to Covid-19-related testing and care; any other healthcare, including medically necessary or life-threatening care, is not covered through the provincial health plan. Ontario remains the only province which has a policy of access to healthcare for all, regardless of immigration status. On 20 March 2020, the Ontario Ministry of Health announced it would cover the costs of 'all medically necessary' hospital services for uninsured clients, not limited to Covid-19 treatment (Hudson et al., 2020).³

Racial disparities among the Covid-19 infected population have been widely highlighted by both the recent body of literature and mass media, increasingly concerned by the disproportionate toll of the epidemic on communities of colour (Carrion et al., 2020; Chowkwanyun & Reed, 2020) Canada makes no exception. Aggregated data released by local health authorities outline the spatial

²If one cannot pay up front, they will most of the time not be able to receive medical services, except in case of emergency (especially if a situation is deemed immediately life-threatening), even though the patient would be billed afterwards. There are some reports of non-status persons being detained and/or reported to the Canadian Border Service Agency while seeking healthcare (Gastaldo et al., 2012; Toronto, 2015). There are a handful of walk-in clinics in major cities like Toronto and Montreal that provide free primary care to uninsured migrants, but these count as a small fraction of clinics, and care does not include specialist care or diagnostics.

³The Ontario government also waived the three-month waiting period for returning Canadians and new immigrants so they could access provincial public health insurance immediately.

concentrations of positive cases in low-income, racialised, and migrant-heavy areas of Canadian cities. Notably, Ontario's Public Health authority, exposed that its most ethno-culturally diverse neighbourhoods, located primarily in urban areas, are experiencing disproportionately higher rates of Covid-19 and related deaths (Public Health Ontario, 2020). More precisely, in Toronto, a correlation was found between high coronavirus rates and low income, low levels of education, and racialised populations, consequently hitting hardest the section of the town with larger Black populations (Bowden & Cain, 2020). Similar findings were reported in Quebec, as Montréal-Nord, a prevailing neighbourhood for asylum seekers, became one of the crisis's epicentres (Shields & Alrob, 2020) with the highest number of confirmed cases reported in the city, as well as the highest mortality rate as of September 2020 (Santé Montréal, 2020).

It comes to light that it isn't the density in terms of population in the affected neighbourhoods that influenced the case rate, but rather the density inside households. Housing overcrowding and consequent proximity has indeed proven to correlate with high Covid-19 infection rates (Almagro et al., 2020). With the increasingly high rents in Canadian urban areas, non-status migrants are among the most vulnerable to homelessness since their lack of status hinders their access to employment or alternative government support. They are often left with no choice but to settle for unsuitable housing without enough bedrooms for the occupants or rely on their social networks to obtain informal and, often, overcrowded housing (Paradis et al., 2008). Strikingly, it has been noted that immigrants and refugees tend to be under-represented in the Canadian emergency shelter system. This was found especially true for non-status migrants who worried about arrests and deportation if they accessed such organisations. Yet, the households providing hospitality significantly proved to do so while living in critical precarious situations themselves (Hiebert et al., 2005) As one would expect, these living situations make it impossible to socially distance or isolate, even from at-risk members of the household (Greenaway et al., 2020).

Another important factor leading to high pandemic vulnerability for these populations lies in mobility-based risk. Migrants were indeed highly represented in the low-paying essential service jobs which continued their activities during lockdowns, often in hazardous and crowded conditions (Flood et al., 2020; Greenaway et al., 2020). Notably, in Quebec, asylum seekers stood out during the crisis, as they volunteered to work on the frontlines in the Residential and Long-term Care Centres, (CHSLDs) where 92% of the Covid-related deaths were found (Dalexis & Cénat, 2020). In the case of Toronto, the hardest-hit neighbourhoods were those where at least one-third of working residents commute to other wards and municipalities, including York region (which includes the lower-tier municipalities of Vaughan, Markham, Richmond Hill, Newmarket, and others). Thus, forced to commute to work while higher-income citizens experienced the privilege of remote occupations, non-status migrants exposed themselves to greater risk of infection, which they then brought back to overcrowded environments. Even when some essential workers were laid off, Covid-19 continued to spread due to the increased interactions in the households (Almagro et al., 2020).

Non-status migrants and most precarious migrants are ineligible for income support programmes created in response to the pandemic, such as the Canadian Emergency Response Benefit (CERB) and for general government worker support. As a result, they have to continue working. The conditions in which non-status and precarious status migrants work is an important factor of risk to Covid-19 (Hennebry et al., 2020; Migrant Workers Alliance for Change, 2020). In Quebec, a survey of asylum seekers working in essential services such as hospitals, long-term care centres and the food service during the first Covid-19 wave, most of them living in Montreal, reported high infection rates, considerable issues accessing healthcare, and problems with employers' management of sick leave (Table de concertation des organismes au service des personnes réfugiées et immigrantes, 2020). Despite Montréal being a sanctuary city, these asylum seekers also reported having trouble accessing immigrant services and lacking information about supports offered by different governments (ibid.). It should be noted that when non-status migrants didn't occupy essential at-risk jobs, they were most likely to work in informal sectors of the economy (e.g. Norwegian Refugee Council, 2020) without any safety net when these were brought to a halt due to the pandemic.

However, the exacerbated risks non-status and precarious status migrants face during the sanitary crisis are not limited to the infection contingency. For instance, the closure of municipal and non-municipal services during the lockdown had considerable impact on the most vulnerable populations. First, research has drawn attention to the importance of libraries as a formal and informal information platform for migrants, acting as a meeting point (Caidi et al., 2010) and a community builder (Scott, 2011) as well as a provider of workshops, books, and computers (Aery & Cheff, 2018). Libraries are often the only internet access available (Hall & Wang, 2017), which is crucial for finding employment and housing or conducting regularisation processes. Other formal organisations, such as settlement agencies, community centres, ethno-cultural (Caidi et al., 2010) and non-profit organisations (Shields & Alrob, 2020) also play an important role in migrants' lives. The crisis put these vital but already unstable and precariously-funded sectors under further strain. As their public-facing offices were forced to close and many had to reorient towards offering an online service, internet inaccessibility turned out to be a major obstacle to their use. The lockdown therefore compromised ingrained essential strategies, resources, and social networks for non-status migrants.

Raising awareness and imparting knowledge to the population on how to prevent the spread of Covid-19 was among the prioritised strategies in crisis mitigation. However, access to information was severely restricted for non-status migrants by the closures previously mentioned, but also by language barriers and unavailable adequate translations (Kluge et al., 2020). Undocumented migrants therefore could miss out on basic information about the pandemic and remain unaware of their eligibility to receive Covid-19 testing and treatment despite their lack of status.

As has been shown, the Covid-19 pandemic has highlighted and reinforced pre-existing inequalities. An active government response was thus needed to ensure the protection of the most vulnerable populations throughout the public health crisis. In that sense, it could have been expected from sanctuary cities policies – given the

nature of their objectives – to act as this required a safety net for migrants without status. Current evidence, however, is limited on the actual impact of these policies during the first waves of the pandemic. Part of this is due to the reality that Canadian cities' potential capacity to address the crisis was restricted by the scope of their jurisdictions and the scarce resources dedicated to their objectives. Indeed, while public health authorities have offices dedicated to specific cities, these are not typically part of municipal jurisdiction. In Canada, the healthcare system remains the provincial governments' responsibility and public health is co-managed by the federal and provincial governments. Only some cities, and to a limited extent, have authority over health and social services. In such cases, further investment in city-run shelters and in the immigration settlements services' digitalisation could be undertaken. Fortunately, as mentioned above, some provinces – namely Ontario, Quebec, and British Columbia – have responded accordingly by extending the modalities of their healthcare to accommodate those without status for the duration of the crisis.

While there is no indication that the principles of sanctuary cities have been transgressed during the crisis, it goes without saying that policies ensuring access to municipal services have been rendered unenforceable by the lockdown. Sanctuary cities should take on the role of conveying vital information about the crisis to marginalised communities in appropriate translations, ensuring at the same time that non-status migrants are aware of provincial policies allowing them to be tested and treated without fear of deportation. Replacing urgent needs normally provided by municipal services, such as the internet connection offered by libraries, should also be among priorities.

Measures such as those described are possible avenues to mitigate pandemic risks faced by non-status migrants in Canadian cities. However, at the time of writing (December 2020), data are insufficient to confirm that any such particular initiatives were actually taken by Canadian sanctuary cities during the crisis. Other broader measures implemented by municipal governments, such as providing child-care for essential workers' children or reducing public transit fares, had, of course, a positive impact on non-status migrants by extension, but it appears that very little was systematically organised to meet their unique needs. Communities' agencies would have thus been left on their own to respond to emergency issues.

The Covid-19 pandemic poses acute risks for non-status and precarious migrants in Canada, like elsewhere in the world. At this point, the most impactful responses have come from provincial governments, in the form of policies providing improved access to health insurance and care. Canadian cities have implemented policies to support their residents in response to these events, but sanctuary policies have not been explicitly linked to these efforts. At the same time, despite operational and financial pressures, cities have not abolished their sanctuary policies. This means that sanctuary policies have the potential to expand in Canada but also highlights the need to provide cities with more capacities and resources in order to see this potential come to fruition.

5.5 Canadian Sanctuary Cities After COVID-19

The aggravated risks implied for illegalised migrants during the sanitary crisis entail the urgent necessity of specific support from authorities. In that sense, one could expect sanctuary cities, particularly, to be responsive to their current needs. However, while urban initiatives have been implemented around the world to address the various vulnerabilities exacerbated by the pandemic, some specifically targeting the issues experienced by undocumented migrants, it is not known to date how many emergency initiatives were specifically related to sanctuary policies. In the US, Chicago notably, which identifies as a Sanctuary City, created an emergency fund, offering 1000\$US per household excluded from the federal coronavirus relief payments, including undocumented residents (NBC Chicago, 2020). New Haven, which prohibited municipal officers from inquiring immigration status in 2006, reinforced their sanctuary policy during the pandemic, extending this prohibition to all city employees (McFadden, 2020). Other American disaster relief funds dedicated to undocumented migrants were rather attributed by States, such as California (Ho, 2020) and Washington State (Shapiro, 2020). Conversely, as one may anticipate, the crisis, also detrimentally affected sanctuary initiatives. For instance, the Canadian city of New Westminster suspended their work on the implementation of a new Sanctuary City policy in order to redirect the associated staff to an affordable-housing project (Mcmanus, 2020). While it didn't materialise, the then-President of the United States, Donald Trump, also threatened to condition coronavirus relief funds on compliance to federal immigration law (Burns, 2020). Both events raise concerns regarding the fragility of sanctuary policies, especially in times of crisis, when they are most needed.

The emergence of sanctuary policies in Canada was the result of years of activism, of social learning by city governments, and of strategic engagement with policy windows (Jeffries & Ridgley, 2020; Moffette & Ridgley, 2018). The large-scale social, political, and economic impacts of Covid-19 will generate new opportunities for Canadian cities' involvement in immigration-related matters while also potentially eroding the foundations of sanctuary policies. There is cause for concern that budding sanctuary policy development in Canada will be kyboshed if there is a return to austerity policy post-pandemic. At the same time, Covid-19 and its intersection with deep socio-economic divides have acted as a political disrupter challenging the neoliberal status quo. There is thus a policy window available for the pursuit of progressive change in the direction aligned with sanctuary cities. The importance of advocacy rises to the fore in the post-pandemic period. There will be struggles regarding the shape of the future. This will require migrant rights groups, settlement agencies and their umbrella support organisations, and other progressive forces to fight for a solidarity-based, more deeply institutionalised and scaled-up sanctuary movement directed at all levels of government in the future. This must be aligned with vigorous public advocacy for policies and programmes that support open multicultural societies, anti-racism, protection of the most vulnerable migrants, and robust social programmes that address structural inequality. This should be

aligned with advocacy for improved municipal finance and more stable investment for the non-profit sector.

There is a need for sanctuary city activists to imagine what an ideal sanctuary city policy and administrative programme could look like in the Canadian context. Given provincial legislation that leaves local governments Canada-wide with different political systems and policy responsibilities as well as the great diversity of Canadian urban environments and populations, this will need to be a flexible policy agenda. Local governments across the board are in a difficult position in the Canadian landscape. They are closest to the population in the delivery of many frontline community and emergency services, often filling gaps or working with non-profit agencies to fill gaps. Yet, when these gaps become cavernous, local governments cannot cope with the demand because they have the least resources and jurisdictional responsibilities. Municipal finance has become additionally precarious during the pandemic as citizens without work struggle with property tax payments and user fees for services such as public transit have declined considerably. Supports for non-status residents become particularly at risk of falling by the wayside in this context. Municipal governments require additional resources from the provinces and the federal government to deliver crucial services. At the same time, the outrage over police brutality against Black, Indigenous, and people of colour (BIPOC) communities in cities has caused public interest in how municipalities are spending the limited tax dollars they have. Municipalities need a much better handle on by-law enforcement and policing and the practices of targeting BIPOC individuals and communities. These are policy issues that must be dealt with by the municipal council and in public.

The public scrutiny over municipal finance that has come from the call to defund the police is an important development away from an enforcement state and creates a policy window to fight for a retooled local government that properly invests in allocative programmes such as public transit, social housing, public health, and ample library and community programmes that meet the unique needs of different residents, including non-status migrants. Regarding non-status migrants' access to services, the pandemic has illustrated that the creation of municipal ID cards should be considered and that any closure of services should be done carefully with a plan for how the most vulnerable populations can continue to access crucial services. Municipal and non-profit frontline workers understand the important nature of their work for the populations they serve, who are often vulnerable. Local government should have assured a way to replace the services shut down by the pandemic. Emergency protocols to get services to vulnerable populations are needed in the future. Particular attention should have been paid to the transmission of information, including accessible translations and targeted locations.

Local governments need, in their urban planning, to understand the service and support needs of distinct population groups in different neighbourhoods. In other words, cities need to undertake social planning much more diligently and systematically so that neighbourhoods, apartment buildings, and populations with vulnerable residents can receive targeted supports and outreach. This relates to how local governments need to have a better handle on the nature and practice of precarious work

and the lives and needs of those workers in terms of how they move around and live in the city and of their health risks and needs. While they were not without status, temporary farmworkers and other essential workers have been hit very hard by the pandemic. The conditions of work should have been inspected to assure their protection, extra measures should have been put in place to prevent their exploitation, and they should have been prioritised to receive proper testing and treatment. This speaks to the growing and important role of local governments in public health information and provision. Local governments require extra public health support and funding for prevention and to address crises based on the characters of their populations. Furthermore, the crisis has illustrated that local governments need to invest in better city-run shelters and in the coordination of these shelters in emergency scenarios. Extra measures should have been taken to address homelessness and precarious housing, and local governments need more money to invest in the provision of social housing.

We can see from the above pandemic reflections that sanctuary city policies must be widespread to include all local government departments and agencies working together. These programmes must be institutionalised across departments and agencies, through perhaps a central office that is staffed and funded and situated within the city managers' office, as well as incorporating dedicated staff and funding lines in each department and agency. Sanctuary policies must be consistently monitored and evaluated and should include emergency protocols for public health and climate crises. There is a need for a better collaboration between the provinces, municipalities, and the federal government regarding policy alignment and funding on the provision of status, healthcare, income support, social and emergency housing, public transit investment, and employment supports.

Moreover, the state needs to work (in an equitable fashion) with other actors in society, and in particular with non-profit sector service providers who provide the reach into communities where need is greatest. The states, including sanctuary cities, are dependent upon the non-profit sector to provide core services and supports to the public, including vulnerable migrant populations. Non-profits have in fact become even more important in recent decades as the neoliberal state has retreated from social welfare supports and turned to the non-profit sector to do ever more with less state financial assistance (Lowe et al., 2017). Non-profits act as less expensive, lean third social support systems and as 'society's shock absorbers when a crisis hits' (Speer & Dijkema, 2020). Non-profit service organisations are needed more than ever to address human needs, but non-profit providers are themselves in crisis due to capacity challenges, declining donations and volunteer labour, revenue loss, and instability intensified by the pandemic (The Philanthropist, 2020). They may be so weakened and under-supported that they will not be in a position to provide the necessary levels of support going into the future.

A case in point are food banks as organisations that provide a lifeline to the most marginalised in society. The pandemic resulted in enormous increases in demand for their services just as their capacity was diminished by the crisis (Fox, 2020). The non-profit settlement service sector has also been central in offering supports for vulnerable migrants, including housing and legal assistance, language instruction,

employment supports, and counselling, among others, generally offered with the funding support of government, including sanctuary cities (Praznik & Shields, 2018). As community-centred organisations, settlement agencies have been built as hands-on public-facing agencies. A large share of settlement workers are immigrants and direct contact with clients is an important part of the settlement service model (Praznik & Shields, 2018). The pandemic has profoundly affected the ability of the settlement sector to deliver such services, pushing the settlement sector to be resilient and shapeshift into at-distance digital modes as public-facing offices were forced to close. The shuttering of most settlement agency offices during the pandemic was particularly difficult for the most vulnerable as they were the least able to access digital services.

5.6 Concluding Remarks

In this chapter, we have explored whether and how city sanctuary policies have responded to the Covid-19-related risks faced by non-status and precarious migrants. In doing so, we have described the specificities and limitations of sanctuary policies in Canada; as opposed to American sanctuary policies, Canadian policies are focused on access to existing services and information. They also have limited impact on immigration enforcement and offer no direct protection to non-status and precarious migrants besides assurance that municipal governments will not collect or store information about immigration status. These specificities are not the result of particular ideologies of city governments but instead reflect the particular position of Canadian cities in Canada's federal regime and their limited resources for action.

In Canada, non-status and precarious migrants have faced particular risks and have experienced increased vulnerabilities during the pandemic. These include access to healthcare, unsafe working conditions, economic insecurity, inadequate housing, and limited information. While cities have implemented policies for all of their residents, none of the Canadian sanctuary cities have explicitly enacted policies responding to Covid-19 linked to sanctuary. Moreover, the most impactful responses for these populations have, to date, been deployed by provincial governments.

Within the jurisdictional spaces of Canadian cities, more can be done to support non-status and precarious migrants to face pandemic risks. Cities can start to achieve this by: ensuring continued access to the infrastructure that helps migrants gain access to information; working on housing through inspections and temporary support; providing services in multiple language and supporting immigrant-serving organisations. Looking into the future, this chapter points to the importance of maintaining pressure and momentum to ensure that Canadian sanctuary cities remain in place in the post-pandemic recovery but also gain increased capacities. Ultimately, the Covid-19 pandemic should serve to reinforce the primary role of local governments in attenuating risks for the most vulnerable populations (Bauder

& Godoy, 2020; Patuzzi, 2020). And, as with local governments elsewhere in the world, this crisis further highlights how these governments can innovate with limited resources and despite constraining jurisdictional structures.

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Part II
Pandemics and ‘Essential’ Migrants

Chapter 6

Migrant Care Labour, Covid-19, and the Long-Term Care Crisis: Achieving Solidarity for Care Providers and Recipients



Lena Gahwi and Margaret Walton-Roberts

6.1 Introduction

The coronavirus pandemic has exacerbated and accentuated an ongoing crisis of care. An historic lack of investment in care, especially in areas of elder care, has resulted in long-term care (LTC) facilities being the epicentre of the pandemic in various nations. This chapter provides some context regarding the care crisis in LTC facilities in Ontario, Canada, particularly its relationship with the type and skill mix of labour, including the degree to which immigrant workers are represented in this sector. Combined with persistent staff shortages, the sustainability of long-term care was an international issue of concern prior to the pandemic. Half the nations belonging to the Organisation for Economic Co-operation and Development (OECD) have seen population ageing exceed growth in the number of LTC workers (OECD and European Union, 2013). When the pandemic arrived, the conditions of those working and living in LTC facilities became a key issue of public concern in many countries as Covid-19 infection and mortality rates increased. For example, one-third of all coronavirus deaths in France and 75% in Canada (as of November 2020) have been in care homes (Walsh & Semeniuk, 2020; National Institute of Ageing, n.d.). As with other epidemics, the coronavirus exposed how poor working conditions undermine infection control protocols and make workers and residents vulnerable to infection. Covid-19 has reinforced arguments about the need to invest in the care provided in LTC facilities by also improving conditions of work and enhancing the skills composition of workers.

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We begin this chapter with some conceptual reflections on elder care as a matter of social justice and ethics in terms of those needing and providing care. We review how these ethical and social justice concerns take on a specific global dimension because of the transnationalisation of care, or the care provisioning function of global care chains. Next, we examine some international comparisons regarding the LTC funding models for contextual reference to understand the structural conditions within which this globally-sourced workforce is positioned. We then highlight two significant contributing factors to the current LTC crisis using Ontario, Canada, as an example: first, the role of the private sector and the unsustainable extraction of profits from this service and, second, the gendered and racialised devaluing of migrant labour so essential to the sector.

6.2 Long-Term Care as a Social Justice Matter

Policy failures in the provision of quality long-term care and the devaluing of the labour of those providing care are, at their root, ethical social justice issues. This was clearly articulated in a 2002 World Health Organisation-sponsored panel to consider ‘ethical choices in long term care: what does Justice require?’ In light of the coronavirus pandemic’s impact, it is helpful to revisit that document and its argument that ‘[a]ny societal commitment of resources to build institutions needs to be accompanied by a commitment to the basic human dignity of those who will use them’ (WHO, 2002, ix). The WHO report’s summary observed that the limits of how care was being organised were already being reached at that time. The report encouraged states to consider ‘alternatives that do not depend on care based exclusively on either affection or market principles’ (ibid., 10). To review the issue, the WHO commissioned philosophy and political theorist Martha Nussbaum to consider the ethics underlying long-term care, arguing that ‘the problem of care is a complicated logistical problem for any society. It is also, most emphatically, an ethical problem...’ (ibid., 34).

Nussbaum’s recommendations included building a universal framework to underpin the ethics of care that moves away from the social contract model of justice, since this model assumes all actors are rational bargainers and have the necessary competencies to bargain equally. Her suggested way forward is to first include care as a primary good – a basic need that all humans require at some stage of their life – and change the idea of primary goods to that of capabilities, as this allows for a more accurate comparison of quality of life across diverse contexts. Nussbaum argues that such a model results in a process whereby people’s ‘asymmetrical needs are treated as part of their human dignity, rather than as large social costs to be borne’ (ibid., 63). This echoes Martha Albertson Fineman’s (2008) work on vulnerability and the human condition, in that vulnerability is recognised as a universal constant of the human condition, one that necessitates models of state responsibility and responsiveness.

An interesting aspect of the 2002 WHO report on the ethics of care reveals an early recognition of the significance of what Yeates (2011) later termed the transnationalisation of care, or the global organisation of care-giving: 'Much of the care-giving in wealthy and developed countries is being provided by care workers, nursing professionals, and others who have migrated from impoverished and developing countries. While these workers may experience economic benefit, they also create gaps in their own families and communities. Arguably, wealthy nations incur a debt in this exchange that somehow needs to be repaid. Likewise, it is reasonable to ask if the multinational corporations that depend on the natural and human resources in developing countries have a responsibility to fill the gaps in caregiving they help to create' (WHO, 2002, x).

The WHO report acknowledged the consequences of this global provisioning of care in terms of the problems sending nations face in servicing it, and more importantly, the responsibilities that should be incurred on the part of receiving nations who benefit from it. The reality today is that health and long-term care provision have become transnationalised as care (especially elder care) is effectively outsourced by wealthy countries through the incorporation of migrant workers whose rights and benefits are often constrained through state and labour market restrictions (Ormond & Toyota, 2018).

6.3 Global Care Chains and the Transnationalisation of Care Work

The reality of this transnationalisation of care has been explored through the idea of Global Care Chains: a series of global connections, or a chain, based on the paid and unpaid work of caring (Hochschild, 2015; Yeates, 2011). These chains allow for the extraction of care based on the exploitation of multiple divisions including gender, ethnicity, class, and uneven development. The devaluing of feminised skills is a key feature of these global migration processes under these conditions of globalising care (Kofman, 2014; Yeates, 2009). Aligned to this, the sovereign practice of granting or limiting rights (through state and non-state mechanisms) has the effect of further stratifying feminised care workers into low-paid precarious positions by governing their mobility through various filtering processes (Mezzadra & Neilson, 2013). High-income nations have seen women move into the workforce without states providing social welfare systems to care for children and the elderly (that is, the unpaid labour that women traditionally provided) (Browne & Braun, 2008). In these wealthier nations, care work has effectively been outsourced: from being the responsibility of women within the household, it is now racialised women from developing nations who leave their own families to care for others. This care labour is both commoditised and devalued, with compensation far below the actual value of the care provided. This process has been captured through the concept of 'global care chains'.

The WHO has referred to migrant women care workers as ‘a cushion for states that lack adequate public provision for long-term care, childcare and care for the sick’ (WHO, 2017, 9). It identifies a ‘care paradox’, wherein migrant women work to fulfil the growing need for care workers in high-income and middle-income nations and strengthen weak health systems, while lacking health services themselves (Hennebry & Walton-Roberts, 2019). This paradox is highlighted in the challenging role visible minority and migrant women play as care providers and care aides in LTC homes, typically working in low-paid positions deemed ‘low-skilled’ while actually performing complex and essential services for vulnerable dependent populations (Browne & Braun, 2008).

Internationally, the number of migrant care workers in LTC in core nations is growing. In the United States, as of 2011, one in four care workers in LTC were migrants – a 5% increase from 2005 (Browne & Braun, 2008; OECD, 2015). In the United Kingdom, the number of migrant care workers more than doubled between 2001 and 2009, from 7% to 18% (Shutes, 2011). Currently, the UK’s social care sector faces significant challenges in a post-Brexit context since under the new immigration policy rules care workers do not earn enough to qualify for immigration, yet the sector already relies on over 350,000 migrant workers with 8% of vacancies unfilled (Economist, 2020). A similar trend can be found in Canada, with research suggesting migrant workers represent up to 50% of LTC caregivers in certain provinces (Estabrooks et al., 2014). According to the 2016 census, visible minority workers are overrepresented as nursing home employees across all Canadian provinces (Multicultural Meanderings, 2019; Turcotte & Savage, 2020).

The demographic shift in who performs care labour in high-income nations is evident, and racial as well as gendered intersectional prejudice cannot be disassociated from the crisis of care in LTC homes and facilities. In OECD nations, 90% of LTC workers are women and approximately 45% of them work part-time (OECD, 2019). What is consistent across the literature is that care work is socially regarded as work to which women are naturally predisposed; it is thus essentialised as feminine labour and considered unskilled, which facilitates its devaluation (Browne & Braun, 2008; Horton, 2019). Employers can naturalise this labour market segmentation by reproducing ideas about certain racial and cultural backgrounds making migrant workers better at caring for older populations and less likely to complain about strenuous or difficult work conditions (Atanackovic & Bourgeault, 2013). Employers often believe that migrant workers are more likely to be willing to work longer hours and are more flexible with shifts (Ruhs & Anderson, 2013). Immigration and employment policies, alongside structural forms of gendered and racial discrimination, create precarious employment conditions for immigrant workers in this sector (Robillard et al., 2018). Restrictive immigration status combines with these labour market contexts to make it easier to retain immigrants in jobs with working conditions non-migrants would not tolerate. Additionally, immigrants might be attractive as ‘high-quality workers for low-skilled jobs’, especially in non-regulated occupations where skills can be determined by the employer and reflect their interests, including what they want to pay and how they want people to behave (Ruhs & Anderson, 2013). These preconceptions can lead to problematic relationships

between employers and workers, with employers limiting workers' options to access greater rights (ibid.). Employers can leverage the precarious status of immigrant caregivers to pay lower wages and maintain poor working conditions (Goldring & Landolt, 2013). Central to this issue of ethics, then, is assessing and appreciating how the role of migrant caregivers within core nations' systems of elder care provision might be shaped by the organisation and financing of this sector. We begin with consideration of the policy dimensions of LTC and how various states have attempted to fund and provide it.

6.4 Financing Long-Term Care and the Rise of Privatisation

Part of the larger debate about the crisis of elder care in high-income nations is how LTC should be financed. What is consistent across different nations is the sheer cost of LTC. In the next 30 to 40 years, high-income states will need to double their spending in the LTC sector to keep up with ageing populations. High-income nations face ageing populations in need of care, yet they often lack the necessary workforce to fulfil their needs. In France, for example, the number of individuals over 65 is set to rise by 40% by the year 2030 (Chevreul & Berg Brigham, 2013). In Canada, those over 65 make up 15.6% of the population, and this demographic is set to grow to 23% by 2030 (Government of Canada, 2014). The European Commission estimates that the EU will need to increase spending on LTC from 1.8% of GDP to 3.6% by 2060 (Glinskaya & Feng, 2018).

There are different political interests and approaches to the financing of LTC. In Canada, the US, and the UK, there has been growth in private ownership and operation of LTC facilities. In Alberta, for example, there has been a recent push toward selling two publicly-owned LTC homes to cut costs, increase revenues, and open up more beds (Vernon, 2020). According to the Ontario Long-Term Care Association, 59% of LTC facilities in Ontario are privately owned, 25% are non-profit, and 16% are public (OLTCA, n.d.). International comparative research has also shown how privatisation pressures in the LTC sector have increased across several high-income nations as well as revealed the resulting negative influence privatisation has on the quality of work and care in the sector (Armstrong & Armstrong, 2019).

Despite the various approaches to funding LTC across the globe, these are generally unsustainable as the world population continues to age. For example, a recent special report on dementia in *The Economist* used the tagline: 'Nowhere in the world is ready to cope with the global explosion of dementia' (Economist, 2020, 3). Table 6.1 demonstrates the different types of LTC financing being used by various states. In Germany, Japan, and South Korea, citizens must 'opt in' to mandatory insurance schemes to help finance their stay in LTC (The Federal Ministry of Health, Germany, 2017). In the case of Germany, insurance covers part of the costs for long-term living, the rest is paid for through out-of-pocket (OOP) expenditures and sometimes another social program (ibid.). In the German case, LTC is not specifically publicly funded and therefore is not means-tested (Nadash et al., 2011).

Table 6.1 Global approaches to funding LTC

	Ontario	Germany	Japan	South Korea	France	UK
Publicly funded/subsidised	✓	✗	✓	✓	✓	✓
Mandatory insurance	✗	✓	✓	✓	✗	✗
Means-tested^a	✓	✗	✓	✗	✗	✗
Out-of-pocket expenses	✓	✓	✓	✓	✓	✓

^ai.e., access based on need or only the desire to go into a long term-care facility

Sources: based on information from Glinskaya and Feng (2018), Chevreul and Brigham (2013) and OECD and European Union (2013)

In Japan, LTC is funded by the national government; the insurance premiums paid by citizens and access to LTC in Japan are means-tested and dependent on age and ability (Glinskaya & Feng, 2018). Similarly, in Korea the system is financed through government subsidies, mandatory premium payments by the general population that accounts for 60–65% of the cost, and OOP spending by those using the facilities. Due to the programme being partially publicly funded, however, it is not means-tested and universally covers citizens over 65 (ibid.). In France, LTC is publicly funded through taxation and has achieved around 70% coverage. The levels of coverage for the French programme are heavily income-adjusted: those with the lowest income do not make any co-payments to receive access to the programme whereas those with higher incomes contribute up to 90% in co-payments (Chevreul & Berg Brigham, 2013). In the UK, LTC is also publicly funded, however, patients face means-testing and some are also required to contribute to co-payments for living in the facilities, with a lifetime cap of £72,000 (OECD and European Union, 2013).

In the UK, many LTC facilities are privately owned and managed. Small private companies often rely on banks to finance the LTC homes they own, and this type of funding is often stricter and more difficult to obtain. However, larger private organisations that own multiple LTC facilities have recently shifted to private equity firm investment which, compared to public markets or banks, is more tolerant of high levels of debt (Horton, 2019). As a result, private equity firms such as Blackstone or Alliance are investing money in poorly-managed and debt-encumbered LTC homes that would be deemed risky investments. This need for increased private investment is a result of government austerity measures and decreased public ownership and funding of LTC facilities. The private companies that own LTC facilities then choose to open branches that seek to serve poor and underserved communities to maintain their eligibility to receive available public funding (Horton, 2019). These private equity firms make a profit through the buying, selling, and investing in real estate assets not through the daily business of managing the facilities and the care of patients. LTC in the UK is regulated by the state through a quality assurance framework. Facilities are required to register with the Care Quality Commission and fulfil the requirements outlined by the commission (OECD and European Union, 2013). Thus both public and private facilities are expected to meet the same standards. However, the opposing interests of private financial interests and government

requirements make the operation of LTCs complex, and effective regulatory oversight and enforcement necessary, but often insufficient. Research suggests that non-profit providers offer higher-quality care than for-profit providers (Barron & West, 2017).

Similar LTC issues are faced in Ontario, and these have been further highlighted by the current Covid-19 crisis. LTC facilities are run by non-profit organizations, private companies, or public municipalities (OLTCA, n.d.). These facilities must be licensed and funded by the Ministry of Health and Long-Term Care. Facilities can be privately run and owned, but the fees of individual residents are publicly funded, with some out-of-pocket costs or co-pays (ibid.). Ontario's provincial government has failed to fund LTC appropriately. Between 2011 and 2018, there was a 0.8% increase in available beds in public facilities, while the waitlist for beds almost doubled in number (see Fig. 6.1) (Gibson, 2019).

Ontario's current Progressive Conservative government cut funding to LTC facilities before the Covid-19 crisis. On 21 April 2020, the Ontario Health Coalition published an update on the pandemic, stating that there had been outbreaks in 155 LTC homes, with 2687 confirmed cases and at least 341 deaths (Ontario Health Coalition, 2020a). A report published by the Ontario Health Coalition on 6 May 2020, showed that the rate of Covid-19 deaths in private care homes were double those in publicly-funded homes (see Fig. 6.2) (Ontario Health Coalition, 2020b). Pat Armstrong et al. (2020) assert that Ontario's push to privatise LTC is in direct contrast to evidence against increased private ownership of health services.

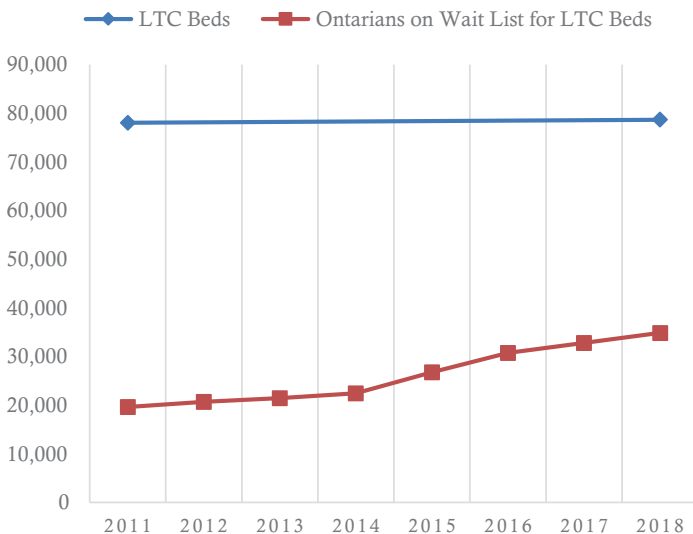


Fig. 6.1 Number of LTC beds in Ontario versus number of Ontarians on the wait list. (Source: Based on data from 'Long-Term Care Homes Program: A Review of the Plan to Create 15,000 New Long-Term Care Beds in Ontario', Financial Accountability Office of Ontario, 2019)

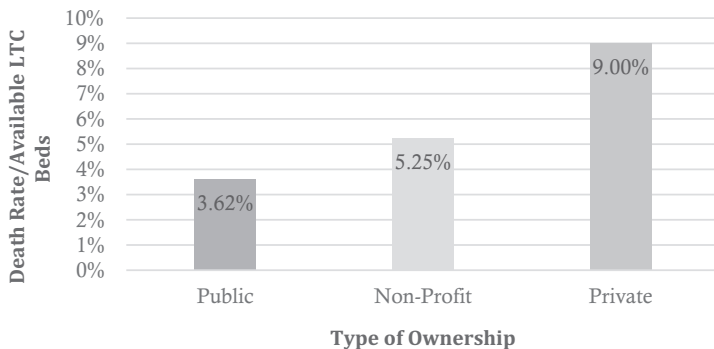


Fig. 6.2 Ontario death rates per total LTC beds available, by type of ownership. (Source: Based on OLTC data)

Careful analysis of the consequences of privatising LTC provision indicates the centrality of legislation that allows for the devaluing and marginalisation of workers in the sector. Evidence from Ponder et al. (2020) regarding early 2000s legislation by British Columbia’s Liberal government to increase private sector investment in LTC has shown that minimising labour costs is central to such measures, which allow for strategies like ‘contract flipping’ that resist unionisation and continually depress labour costs and restructure work conditions. This significance of labour ‘flexibility’ led Ponder et al. (2020, 9) to argue that ‘the ability granted to private sector actors by Bill 94 to reduce labour costs associated with participating in the sectoral bargaining model appears to have been crucial for motivating private investment in the nursing home sector’. Ponder et al. (ibid.) further highlight key consequences of these structural transformations for workers in the sector in terms of a degradation of management-worker relations, lower remuneration and loss of benefits, chronic changes in the working-care environment due to staff shortages and turnover (among other issues), and moral distress (in care workers’ inability to report their concerns about residents’ welfare).

6.5 ‘Conditions of Work are the Conditions of Care’: Ontario and the LTC Crisis During the Pandemic

The preconditions contributing to the crisis in LTC facilities during the coronavirus pandemic include a lack of investment in elder care (and, by extension, to the problematic dependence on the private sector), the underdevelopment of employee skills and training, and poor working conditions for those employed in the sector. An international research network focused on quality of care provided to those with complex medical cases highlighted five key areas for improvement in LTC facilities based on the weaknesses exposed by Covid-19 (Hirdes et al., 2020). First, the need to match clinical resources to the needs of LTC residents, who have increasingly

complex medical conditions but receive less nursing care than residents in hospitals and continuing care facilities. Second, the need for collaboration to improve quality of care and quality of life through common performance measures, knowledge exchange, and transparency in reporting and benchmarking. Third, the chaos and lack of information and preparedness in some facilities that emerged during the pandemic reveals the importance of improving the evidence base across the sector, which entails the use of standardised assessment instruments, real-time reporting systems, and better in-house analytical and assessment capacity. Fourth, LTC facilities need to be supported through better pandemic and emergency preparedness planning since in some countries (including Canada) LTC homes were not included in hospital pandemic planning protocols, procedures for infection control, or PPE stock requirements. Fifth, a recommendation to improve LTC employees' quality of work life since staffing is a key factor in some of the most adverse outcomes in LTC facilities because of the part-time, precarious, and insecure nature of employment for the majority of care workers. Clearly work conditions in the sector are seen as centrally important in the overall quality of care provided (Barken and Armstrong, 2017).

6.6 Migrant Care Labour in LTC: Status, Skill Mix, and Conditions of Work and Care

During the pandemic it became apparent that essential workers in the care sector disproportionality included more immigrants – especially women and often racialised workers. Turcotte and Savage (2020) show that between 1996 and 2016, the proportion of immigrants in the occupations of nurse aide, orderly, and patient service associate rose from 22 to 36%. Across Canada the share of immigrants in these occupational groups ranges provincially from 2.9% in Newfoundland and Labrador to 51.6% in Alberta, and is more concentrated in Canada's largest cities, ranging from 47.8% in Montreal to 78.7% in Toronto. In terms of gender, the majority (often around 80%) are women, with an overrepresentation of Black, Filipino, and South Asian ethno-national communities. Indicatively, Black women represent 26% of the care aide occupational group but less than 4% of all immigrant workers in other occupations. The sector also includes a rather highly educated group of workers, especially in the most recently arrived immigrant cohorts, with 45% of the most recent immigrants in these occupations having at least a Bachelor's degree. Of those recent immigrants with a university degree working in the sector, 44% had completed their studies in a health-related field; of these, two-thirds held nursing degrees. Turcotte and Savage (ibid.) report on immigrants in Canada (those granted citizenship or permanent residence) so there may, in fact, be a larger number of migrant workers in Canada's care sector when we consider the possible inclusion of temporary migrants – among them the more than 640,000 international students and 55,000 asylum claimants who are granted permission to work. For example, during

the pandemic it became evident that asylum seekers in Montreal were working as LTC care aides, and they have received public support and calls for their status to be converted to permanent residence (Seidle, 2020). In August 2020 the Federal government announced a temporary measure providing a pathway to permanent residency for asylum claimants who were working in the healthcare sector during the Covid-19 pandemic (Government of Canada, 2020).

Working conditions in Ontario LTC facilities are especially dire, with studies indicating insufficient training for caregivers, rigid hierarchies within facilities, understaffed homes, and poor levels of care (Barken & Armstrong, 2017). Pat Armstrong et al. (2020) contend that years of governments deprioritising the sector have rendered those in care much more vulnerable to Covid-19.

In Canada residential care for those in need of assistance with daily living includes a range of facilities, many of which are assessed and monitored using the Continuing Care Reporting System (Canadian Institute for Health Information, n.d.). The clinical data standard for CCRS uses a reporting system developed by interrai (n.d.), an international research network. There is a range of residential facilities, varying from short-term, post-acute care in skilled nursing facilities to long-term, chronic care and nursing home institutional settings (see Table 6.2). The degree of clinical care provided and the skill mix of workers differs across these institutions and can include physicians, nursing staff (registered nurses and registered practical nurses), other allied health professionals, and personal support workers (PSWs). The latter are unregulated care providers with no defined scope of practice, whose role has evolved to include functions formerly provided by regulated health professionals. As the intensity of care needs increases, the mix of workers includes more regulated professionals, but it is clear that PSWs are essential to most residential care facilities. Research has indicated that these factors, combined with the variation in PSW education and employment standards, has significant implications for patient safety and quality of care (Kelly & Bourgeault, 2015; Saari et al., 2018). PSWs in this sector are low-paid, overworked, mostly part-time, and often piece together two or more jobs across many facilities (Sproule, 2020). The pandemic has exposed how migrants, including asylum seekers, are working as PSWs in essential fields and how they have been at the forefront of the fight against Covid-19 in long-term residential care (LTRC) facilities (Seidle, 2020).

6.7 Bearing Witness to the Crisis in Pandemic Times

For Ontario the reality of the crisis in LTC became news in April 2020 when Canadian troops were deployed to five facilities in Greater Toronto to support staff and contain patient infection (Raymond, 2020). The Canadian Armed Forces Joint Task Force issued a fairly damning report on 20 May 2020 on the conditions found in LTC homes during their deployment. Staffing was consistently mentioned as a key issue at all five LTC facilities where the military intervened, with 60 mentions in the 15-page report; problems with management issues appeared almost as

Table 6.2 Types of care facilities, description of care, and workers employed

Type of care facility	Description of care provided	Mix of workers employed
Independent living communities	Housing communities for seniors who are able to care for themselves but wish to be around others of the same age. Does not necessarily include in-home assistance, but individuals can hire home-care workers to assist them if needed.	Do not employ medical workers or PSWs, but these can be hired separately by individuals.
Assisted living facilities	Facilities that provide daily assistance to seniors who require help with cooking, cleaning, eating or personal hygiene, but do not require intensive medical care. For individuals needing minimal assistance.	Employ PSWs to offer light support to seniors living in the facility.
Residential care facilities	Living facilities that also provide medical or personal assistance to seniors. For those needing moderate levels of assistance.	Employ PSWs and nurses. Doctors may be available but are not employed by every facility.
Continuing care communities	Communities that provide various levels of living assistance, from independent living to more intensive medical care and assistance with daily tasks. Seniors living in these communities can move between different levels of care as they become more dependent on others in their daily life.	Employ PSWs and nurses. Doctors may be available but are not employed by every facility.
Nursing homes	Facilities that provide intensive medical care and higher levels of assistance with eating, personal hygiene, etc. These are focused on providing care for very dependent patients and offer 24/7 assistance.	Employ PSWs and nurses. Doctors may be available but are not employed by every facility.

Source: Based on information from the National Caregivers Library and Barken and Armstrong (2018)

frequently (JTFC, 2020). Issues cited include the misuse of personal protective equipment (PPE) by staff due to the lack of PPE available; insufficient staff training; a general lack of staff at the facilities; a lack in staff autonomy and agency; a lack of clinical skills; and overall failure to make Covid-19 protocols clear to staff (ibid.). The report offers examples of facilities employing new workers without providing adequate training and leaving workers to fend for themselves within the workplace with inadequate ratios and staffing numbers. Employees were often uninformed about appropriate safety measures and could not locate PPE supplies within the facilities or access them at all (ibid.). Despite its focus on five LTC facilities, the report highlights trends that were likely evident across Ontario LTC facilities. None of this was news to researchers and labour activists who had long lobbied for improved conditions. The province also took over the management of certain long-term care facilities (LTCF) that have reached critical levels in curbing Covid-19 outbreaks (Ministry of Long-Term Care, 2020). For example, Humber River Hospital assumed the management of Villa Colombo, a LTCF in North York (ibid.). This was done this on a temporary basis as a result of the management's failure to control the spread of Covid-19.

These subsequent actions come as part of the government's response to Covid-19 outbreaks in LTCFs, including more funding to increase the number of LTC beds by 8000, temporary wage increases of between \$2 and \$3 an hour for over 147,000 PSWs, and mandating employees only work at one LTC facility to reduce the risk of the spread of infection (Ontario Government COVID-19 Action Plan, 2020). Although increasing the number of beds is positive, the Ford government had previously cut proposed funding and bed increases (D'Mello, 2020). Moreover, the PSW pay increases are only temporary and staff have reported a loss of income as a result of the mandatory order to work at only one facility. These decisions are a delayed response to previous attempts at reducing support and funding for elder care, which proved detrimental to the Covid-19 response at LTCFs in Ontario. These shortcomings have been known to researchers for some time, with studies indicating there 'has been a persistence, if not intensification, in job precarity; inadequate staffing levels coupled with heavy workloads; routinised, assembly-line types of work; and cost-cutting on supplies' (Lowndes & Struthers, 2017, 1). What is needed is a coherent plan to address understaffing (Ontario Health Coalition, 2020a, b). In a letter addressed to Ontario's LTC facilities, Deputy Minister of Long-Term Care Richard Steele writes, 'while we have all been focused on managing emerging crisis situations, as the course of the pandemic evolves, it is essential that there is a clear focus on returning all homes to a state of staffing stability' (CBC, 2020). However, the claim that LTC facilities in Ontario had staffing stability before this crisis carries little merit. Ontario's labour unions and activists have been reiterating the need to appropriately address the issues in LTC. Labour unions claimed the government's chronic underfunding of LTC has resulted in the current crisis and that in response '[t]he government must mandate a permanent standardisation of pay to the top wage rates in the sector, full time schedules, improved access to benefits and adequate paid leaves for personal support workers' (Ontario Federation of Labour, 2020). Similarly, a CBC news report cited the president of SEIU Healthcare, a healthcare workers union, as saying that if the provincial government fails to make LTC staffing a priority, this crisis will not end (Brown, 2020).

Covid-19 has highlighted the care crisis that already existed in Ontario, throughout Canada, and across high-income nations; a crisis exacerbated by lack of regulation and increased encroachment of private interests. The provision of elder care is an issue of social justice and ethics and speaks to basic human rights and needs we all have as members of society. Increasingly, core nations have managed this social care policy issue by globalising their labour sourcing and incorporating migrant women into the sector. Immigration policies that reduce migrants' rights and intensify their vulnerability, together with increased privatisation and financialisation of the long-term care sector that reduces salaries and benefits, undermines the working conditions of those in LTC and has created conditions that serve neither those in need of care, nor those who provide it. As Armstrong et al. (2020, 7) state 'the conditions of work are the conditions of care'. The increased involvement of private interests is detrimental to LTC. Private companies cut costs to improve their bottom line, and the biggest expense is labour. The squeeze on labour has contributed to the deterioration of care as fewer workers are employed to deal with complex care

needs, with less training and support. In this regard, we agree with Nancy Fraser's (2016, 99) contention that 'the "crisis of care" is best interpreted as a more or less acute expression of the social reproductive contradictions of financialised capitalism'. Furthermore, in terms of policy responses, we support and contribute to the arguments already made by scholars and activists, that in terms of LTC, the conditions of work are the conditions of care (Block & Dhunna, 2020). Any resolution of this social policy issue demands that we satisfy the needs of both the consumers of care (patients and their families) and the providers of care, who in many OECD nations are disproportionality women and immigrant women of colour.

Ai-Jen Poo (2020), the American labour activist and director of the National Domestic Workers Alliance, writes that historically, a zero-sum model has been utilised between families and care workers. The cost of care work has become inter-linked with the ability of families to afford care for their elderly family members and that '[I]owering costs for families' necessities depressing wages for workers. Raising wages for workers means cutting services for families' (ibid.). However, as Poo and other labour activists highlight, this should not be the case: government intervention is necessary to address the issue of LTC financing in a way that best supports workers and, as a consequence, clients.

The following recommendations, based on expert opinion and government-commissioned reports, address the issues of labour and funding in the LTC sector (Armstrong et al., 2020; Romanow, 2002). First, workers' compensation in LTC facilities must be better regulated, ensuring that workers make a living wage that is commensurate with the valuable, difficult, and labour-intensive work they perform. Second, LTC workers should be hired into permanent full-time positions to allow workers access to employee rights and benefits and minimise the number of care workers employed at two or more LTC facilities. Third, care workers who enter the country as temporary migrants should be regularised to allow them increased access to Canadian and provincial employee rights and minimise their vulnerabilities to employer exploitation. Finally, LTC should be deemed a medically necessary criteria under the Canada Health Act, in line with the recommendations proposed by the 2002 Commission on the Future of Health Care in Canada (Romanow Commission).

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Chapter 7

Pandemic Shock Absorbers: Domestic Workers' Activism at the Intersection of Immigrants' and Workers' Rights



Anna Rosińska and Elizabeth Pellerito

7.1 Introduction

This chapter tackles the variety of ways in which worker centres in the United States have been at the frontline of the response to domestic workers' needs, addressing a gap in mainstream and otherwise insufficient relief measures provided by the government. Because of these gaps and the sheer level of need faced by these workers and their families, these centres did what they were prepared to do: continue the service provision, education, organising, and advocacy efforts (Fine, 2006) while expanding their efforts in each of these areas of work.

Domestic work, which we understand as part of the larger umbrella of care work (building and maintaining human infrastructure) that remains within the household (Duffy et al., 2015) – including the work of nannies, personal care assistants, and cleaners – is a sector with a disproportionate presence of immigrants and workers of colour (Duffy, 2005, 2020). In the US there are more than 2.2 million people who are cleaners, personal caregivers including agency-based PCAs, and nannies (Wolfe et al., 2020): 91.5% of domestic workers in the US are women (predominantly nannies, 96.8%), while men are slightly more common in home care work, comprising

While working on this paper we had a chance to share the preliminary findings with the students of Elizabeth Pellerito's 'Introduction to Labor Studies' course that gave us one of the impulses to work on the topic. Members of the Socio-Cultural Research team at the Centre of Migration Research, University of Warsaw, Kamil Matuszczyk and Sabrina Marchetti have read the first draft and offered useful comments. We are grateful to Anna Triandafyllidou for the inspiring comments and all the editorial work on the volume.

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up to 13.9% in certain categories of home care aides (Wolfe et al., 2020). According to official data, around 17% of all workers in the US were born elsewhere – a proportion that exceeds 35% in the domestic sector. Specifically, 69.3% of house cleaners are foreign born and 50.8% of them do not have American citizenship (Wolfe et al., 2020). The proportion of immigrant workers is likely underestimated (Burnham & Theodore, 2012).

Black and Hispanic workers in the US are much more likely to work in the domestic sector than white non-Hispanic workers. White non-Hispanic workers comprise 63% of the general workforce, Black non-Hispanic 12%, Hispanic workers of any race 17%, and Asian American/Pacific Islanders 6.3%. However, in domestic work these proportions are inflated in the case of non-white and Hispanic populations, with white non-Hispanic workers accounting for 42% of domestic workers, Black non-Hispanic people 22%, Hispanic persons of any race 29%, and Asian American/Pacific Islanders 6.9% (Wolfe et al., 2020).

Accordingly, since many domestic workers are immigrants and people of colour, it is important to reframe the COVID-19 pandemic as a *syndemic*, meaning that it encompasses both biological and socioeconomic aspects (Horton, 2020). While the Covid-19 crisis has affected domestic workers severely on a global level (ILO, 2020b), in the US they were affected both as participants in a high-risk labour sector and as members of demographic groups particularly impacted by the pandemic. Due to structural inequities in access to healthcare and safe and healthy living and working conditions, members of ethnic and racial minority groups in the US have been disproportionately hit by the virus (Gellat, 2020). These socioeconomic inequities impact most domestic workers, who tend to have less access to healthcare yet find themselves labelled ‘essential workers’ and put on the frontlines of risk. While a small part of essential work is ‘teleworkable’, more worrisome are jobs that are often more at risk under the pandemic because of direct and bodily contact with other people, including domestic and care workers (Marchetti, 2020).

Historically, domestic workers have existed at the margins of the labour market and have been excluded from universal labour protections. Prior to the pandemic, domestic workers’ organisations had already been addressing the needs of this particular group of workers, advocating in a variety of ways for their inclusion in labour laws and for immigration reform. Because domestic workers in most US states lack the right to form unions, their rights have been taken up by worker centres operating at the intersection of their marginalisation both as workers and as immigrants. It is not enough to address them only as workers or only as immigrants – their intersectional marginalisation requires an intersectional approach (Marchetti et al., forthcoming). In this chapter, we examine both the ways in which domestic workers themselves acted as ‘shock absorbers’ for the immediate crises presented to their employers by the pandemic, as well as the ways in which domestic workers used their advocacy organizations in order to mitigate the impacts they themselves experienced. Workers’ organisations in the US have continued the work they were doing to support and advocate for these workers prior to the pandemic, while adapting to the specific challenges brought about by the pandemic to amplify the voice of care and domestic workers.

Despite the fact that only one-third of the American workforce has been able to work from home during the pandemic (BLS, 2019), people were ordered or encouraged to shelter in place and self-isolate. Homes thus became even more unusual and very 'sensitive' workplaces as the basic unit of quarantine. A cleaner, a nanny, or a care assistant is a foreign element in the home in non-pandemic times – often crossing class, ethnic, or race boundaries when entering the employer's household. During a period of state-mandated stay-at-home orders, these workers become intruders into the safe 'bubble' of the private home and another potential 'vector' of the disease. Accordingly, many employers who had the option of working from home (or were laid off) decided they did not need cleaning or care services for their children, thus making whole categories of workers expendable with little or no warning. It is another moment in the history of the ways in which 'contamination' and 'purity' have been written onto the bodies and work lives of immigrants more broadly (Boris, Chap. 4, this volume).

The pandemic created a new urgency in defining who is an 'essential' worker; like agricultural workers, healthcare workers, and delivery workers, domestic workers have found themselves at the centre of a debate about how and whether their labour is valued (cf. Marchetti, 2020). Not coincidentally, these groups have historically been, and continue to be, disproportionately recruited from immigrants and workers of colour. While migrant populations have been affected worldwide by sudden restrictions, it should be noted that the immigration situation in the US differs from the European context. The US immigrant population is more settled and permanent and has a larger number and proportion of undocumented (unauthorised) migrants who, by the nature of restrictions, are often less mobile. On the other hand, a large proportion of migrants in Europe are mobile within the Free Movement Area (Pew, 2019, 2020; IOM, 2019). In the US, despite being a permanent and indispensable part of the economy, large numbers of immigrants have been and still are structurally marginalised (Boris, Chap. 4, this volume).

In addition, the relief measures applied by governments have left out many domestic workers, their subcategories, and workers of certain backgrounds. In one study it turned out that more than half of the white US-born workers and less than one-fifth of all other workers reported receiving a stimulus check, the basic form of COVID-related relief in the US (Rosińska, 2021). This is true for many European countries – for instance live-in workers in Germany and self-employed workers in Austria have not been covered by Covid-related protections (Leiblfinger et al., 2020). Domestic workers in Italy and Spain did not have access to emergency income or special unemployment provisions but were included after grassroots pressure in both countries (Marchetti & Jokela, *forthcoming*). The situation of immigrants, especially those who are unauthorised, is the worst – as was the case in pre-pandemic times – with only a minority of countries, like Portugal, extending benefits such as healthcare to all residents irrespective of their status (*ibid.*). In France, frontline workers could be fast-tracked for citizenship. In the US, as in most countries, we did not see the 'effective membership' inclusion (cf. Triandafyllidou, Chap. 1, this volume), but rather a reinforcement of divisions and rebordering.

To understand and learn from the response of domestic workers' organisations to the crisis at hand, we will discuss the impact of the pandemic on domestic workers, including the relief measures that excluded or included them, and how these filtered through their demographic composition. We will present the history of legal exclusions in this sector and domestic workers' struggle for recognition and analyse how their activities during the pandemic are rooted in the long history of this activism. In particular, we analyse the worker centre as a site of activism for both domestic workers and immigrant workers. We examine how the strategies traditionally used by these organisations, including service provision, education, organising and advocacy (cf. Fine, 2006), have continued to be important, and have been adapted and amplified to address the needs of the workers during the pandemic in the short and long term (cf. Pleyers, 2020). We argue that worker centres skilfully engage the controversial terminology of 'essential' workers in order to reinvent the connections between immigrants' rights and general workers' rights to the advantage of domestic workers.

7.2 Methods

Drawing on an online ethnography of organisations and ongoing policy reviews, we analyse the multilevel response of domestic workers' organisations to address the crisis. This analysis is embedded in the authors' respective experiences of researching and collaborating with Massachusetts-based worker centres. Specifically, we draw on Anna Rosińska's study *Intersections of class and ethnicity in paid domestic and care work*¹ within her visiting research at the University of Massachusetts Lowell (2018–2020) and Elizabeth Pellerito's work as the Director of the Labor Education Program at the University of Massachusetts Lowell (an extension programme that provides education about workers' rights and organising skills to adult workers outside the university system) and as a member of the board of several organisations (including the Women's Institute for Leadership Development, WILD²).

To understand organisations' responses and measures affecting domestic workers, we engaged in online ethnography (Caliandro, 2018; Pink et al., 2016). This entailed ongoing online observation and participation in the period from March to November 2020, including attending around 20 online events aimed at training and supporting workers at various stages of the pandemic, as well as taking notes and documenting the meetings through screenshots. Anna Rosińska was modestly involved as a volunteer in distributing the NDWA funds by Matahari in Massachusetts; she has also met online with the Brazillian Women's Group, Dominican Development Centre, and Polish workers from Arise Chicago in the course of her research,

¹ This project has received funding from the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No 799195.

² <http://wildlabor.org/>

including during the pandemic. Elizabeth Pellerito co-organised events that were attended by members of the Brazilian Workers Center. We were also closely following and analysing new policy measures with the help of policy briefings and following experts who were guest speakers at the aforementioned events.

The online ethnography pertains primarily to Massachusetts-based organisations, and the policy review to federal level initiatives; however, in the chapter we will discuss selected cases from activism and policy measures at the national level as well as activism from several states other than Massachusetts.

7.3 Domestic Workers in the US at the Intersection of Race, Class, and Ethnicity

Historically, domestic workers in the US were first recruited from enslaved populations. After abolition, these roles were re-categorised as domestic servant positions and were still very distant from what we understand as gainfully-employed workers; they were often occupied by formerly enslaved women and eventually their descendants (Rollins, 1985; Nadasen, 2015; Boris, 2019; Boris & Nadasen, 2008). While New Deal-era labour laws brought a wide range of workers under the umbrella of the labour protections traditionally provided by unions, domestic work and other sectors largely populated by people of colour, African Americans in particular, and immigrants were excluded from the start (farm work, other service jobs). The lingering effects of this exclusion, or in many cases actual legal marginalisation of these occupations, forms a baseline condition for domestic workers also under the pandemic of Covid-19.

The 1935 National Labor Relations Act (NLRA) and the 1938 Fair Labor Standards Act (FLSA) excluded domestic and several other categories of workers. A 1974 amendment brought many (but not all) domestic workers under the umbrella of the law's protections. Under the FLSA, domestic workers who work at least 8 h per week are entitled to the standard federal minimum wage and overtime protections – unless they are employed 'on a casual basis' to provide babysitting or companionship services, in which case they may be exempted [§206(f) and §213(a) (15)], though the definition of 'companionship' was considerably narrowed in 2015.

Similarly, the Occupational Safety and Health Act (OSH Act, 1970) exempts employers with fewer than ten employees, employees in the public sector, or those who are 'self-employed', a designation that has been used as a loophole to exclude many categories of independent contractors from key recordkeeping requirements that help ensure enforcement. OSHA acts as a federal baseline; individual states may pass laws that meet and exceed these standards, including an application of these standards to state, county, and municipal employees and other employees in the public sector. At this time, 24 states fall solely under federal OSHA jurisdiction (OSHA, 2020).

Because federal law has been generally considered weak and difficult to enforce in private households, domestic workers have successfully turned to state-wide protections, increasingly in the form of Domestic Workers' Bills of Rights (DWBORs). As of February 2021, ten states (New York, Hawaii, California, Massachusetts, Connecticut, Illinois, Nevada, Oregon, New Mexico, Virginia) and two cities (Seattle and Philadelphia) have passed laws that in various ways include all or some domestic workers in the general labour regulations (Boris et al., 2015; Wolfe et al., 2020).³ While the laws are not uniform, they require employers to provide a written contract for domestic workers, protect against wage theft, enforce health and safety language for home workplaces including recordkeeping and the responsibility to post safety information, and perhaps most importantly, provide an avenue for civil litigation against employers. Despite the low likelihood of advancing federal standards under an administration that was hostile to labour but encouraged by the successes at the state level, the NDWA proposed the Domestic Workers Bill of Rights Act to Congress in 2019, a first attempt to not only include domestic workers under general labour regulations but to address the specificity of this sector at the federal level.

7.4 Being a Domestic Worker in the US Under the Pandemic: Impact on the Ground and the Relief Measures Excluding Domestic Workers

There are several dimensions of the pandemic's impact that affect domestic workers unevenly. First, Covid-19 is affecting workers as an illness. Because the pandemic is actually a *syndemic* (Horton, 2020) – or, in other words, comprised of concomitant pandemics of the virus, racism, and the economic crisis – workers disproportionately from racial and ethnic minorities and who work for the lowest wages are to be expected to be hit the hardest by the virus (OHCHR, 2020; Clark et al., 2020). No data is available on the incidence of the cases among domestic workers, but information on the disproportionate number of Hispanic and Black people getting sick and dying from Covid-19, and evidence of personal care givers contracting the virus and missing from work at large numbers, hint at the possible impact on the group (see also Gelatt, 2020).

Secondly, measures such as lockdowns and stay at home orders implemented to curb the spread cause, in and of themselves, many workers to lose their jobs. Government orders differentiating between essential and non-essential businesses, for example, make the work of self-employed cleaners 'illegal' for periods of time in some states (Wilson & Stimpson, 2020; Gelatt, 2020).

³The most recent bill was passed in Virginia in February 2021, <https://www.facebook.com/CareInActionUS/photos/a.1945630589063175/2546275405665354/>

Thirdly, there are measures designed to manage the economic impact of the disease and the lockdowns in the form of Covid-related relief policies. Domestic workers are excluded from some of these regulations as an occupational group, and sub-categories of workers are left out because of their status as undocumented immigrants, for example (Wilson & Stimpson, 2020). All three factors have a disparate impact on domestic workers.

Based on available reports and the analysis of our own data, we have identified a polarisation into two further variants of vulnerability under the pandemic: some workers are vulnerable because they are without a job and other domestic workers are vulnerable because they are still on the job.

'Vulnerable because out of work' is the type of impact that has been the most highlighted in media coverage of the pandemic and the available research data are the most alarming about it. The *Six months in crisis report* on Spanish-speaking domestic workers, most of them housecleaners, states: 'by late March, more than 90% of workers lost jobs due to Covid-19' and 70% were out of work in early May (López González & Anderson, 2020). The *Notes from the storm* report on Black immigrant workers identified that '[i]n all locations, 70% of the Black immigrant domestic workers surveyed have either lost their jobs (45%) or received reduced hours and pay (25%)' (IPS, 2020).

People who lost their jobs have struggled financially to cover basic expenses. According to our analysis, this scenario has been typical for cleaners and some nannies. They have struggled with rent payments and faced housing and food insecurity (López González & Anderson, 2020). Losing jobs or having hours cut is common among domestic workers, alongside housing insecurity and the lack of a safety net, also according to the IPS report (IPS, 2020).

Other workers found themselves in a situation where they were required to work, sometimes more, and in dangerous conditions and under a lot of stress. They are 'vulnerable because still on the job'. This was especially common in the situation of PCAs that, by the nature of their job, are usually in contact with multiple clients. Frontline workers including PCAs have reported not having access to personal protective equipment (PPE). Lack of PPE, lack of medical insurance, and exposure to Covid-19 were mentioned as the major threats to those still on the job (IPS, 2020; for more on the differentiated impact on domestic workers in various jobs, see Rosińska, 2021).

Within every job, particular vulnerability was experienced by undocumented workers. They were more likely to lose their jobs in two of the three locations studied by WeDiB (López González & Anderson, 2020). Domestic workers often do not have any formal safety net, whether due to their status as undocumented immigrants or as workers not recognised by employment regulations. Those immigrant workers who can travel to and from their country of origin often rely on healthcare and other services that are more affordable back home. This has been cut off due to the closing of borders (Wilson & Stimpson, 2020).

While domestic workers face increased vulnerability from the syndemic itself and the lockdown measures that jeopardise their employment, the federal relief measures passed early in the pandemic included some domestic workers under the

umbrella of workers in need of relief. The Families First Coronavirus Response Act (FFCRA) provided for increased food assistance and, at least in theory, provided for emergency paid medical leave for care of oneself or a family member through December 2020, to be paid by the employer (FFCRA, 2020). However, undocumented immigrants are largely excluded from food aid programmes like SNAP and WIC, are ineligible for federal stimulus checks, and may be less likely to seek assistance in the first place due to their vulnerable legal status, concern about the risk of deportation when applying, and the potential impact of applying for public support on current or future visa applications (see López González & Anderson, 2020; IPS, 2020). Emergency paid sick leave provisions are only available to full-time employees (US Code §5102).

The Essential Workers Bill of Rights, introduced in April 2020 by Senator Elizabeth Warren and Representative Ro Khanna, would rectify many of these exclusions by naming domestic and care workers under the umbrella of eligible workers. The policy would explicitly provide health and safety protections, premium pay, universal paid sick leave, childcare, and more, but also tackle broader labour issues such as the misclassification of workers and corporate tax breaks.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), also passed in March 2020, widened the umbrella of eligibility for unemployment insurance (UI) and extended the amount of time an individual can collect UI (US Code §2102); established moratoria on foreclosure and eviction in properties that receive federal funding (US Code §4022–4);⁴ and issued one-time stimulus payments and additional boosts to UI payments for a short period of time. While the importance of expanding unemployment insurance to independent contractors and other vulnerable employees should not be underestimated, the barriers to collection remain in place for employees without a steady, full-time work history and, in particular, for undocumented workers.

As for OSHA, the agency's response to Covid-19 has been widely criticised as slow and inadequate, largely attributed to bureaucratic inefficiency and lack of political will to protect workers in the anti-worker and anti-immigrant Trump Administration. There is no OSHA standard for worker safety during the pandemic in spite of advocates pushing for one; more disturbingly, OSHA has declined to provide workplace enforcement of Covid-specific guidance.⁵ While OSHA grants employees the right to refuse unsafe work, the standard for refusal and the enforcement of this policy is weak and it seems unlikely that domestic workers could benefit from this clause (Berkowitz & Sonn, 2020). Individual states with OSHA regulations have likewise been overburdened to the point of incapacity. Each of these Acts and agencies need to be understood within the exclusionary historical

⁴A more widespread eviction moratorium has been declared by the CDC, though at the time of writing it is set to expire in March 2021 with no further relief in sight and with Covid-19 cases and new unemployment applications still soaring.

⁵One of President Biden's first acts when he took office in January 2021 was to direct OSHA to create such a standard, though at the time of writing it has not yet been issued.

context of US labour law. While these Acts did provide some basic protections to domestic workers, nonetheless immigrants remained in precarious situations.

Mindful of the developments and some improvements under the new administration that took office in January 2021, the rest of this chapter depicts the response of the organisations throughout 2020, under particularly difficult circumstances.

7.5 Domestic Workers' Activism in the US

In the US, organising in the domestic sector has a rich and deep history going back to the end of the nineteenth century. In the early days of the movement, from the 1881 washerwomen's strike in Atlanta, Georgia, Black domestic workers who dominated the sector became the first advocates of domestic workers' rights. Black domestic workers' activism peaked in the Fifties, Sixties, and Seventies (Nadasen, 2015). One of the results of that period of activism was the passing of the amendment to the Fair Labor Standards Act in 1974 that included domestic workers under these laws, discussed in the previous section, as well as advancements on the state level, for example by the efforts of Women's Service Club of Boston, which was able to enact legislation including domestic workers in state labour regulations.⁶

Starting from the 2000s, there was a new wave of domestic worker organising that was principally led by immigrant workers. The movement broadly shifted its energies toward mobilising and organising diverse immigrant and local workers on a large scale. These efforts bore fruit in the form of the National Domestic Workers Alliance (NDWA), established in 2007 by 13 organisations from around the country. Among the NDWA's achievements is inspiring the Domestic Workers Bill of Rights passed in New York in 2010, and consequently, in nine more states and two cities; one of their recent initiatives was the National Domestic Workers Bill of Rights that was presented to Congress in July 2019 and re-introduced in July 2021.

Along with advocacy organizations like the NDWA that span the entire country, domestic workers in the US have largely built power through worker centres in the twenty-first century. These centres are often organised along lines of race, ethnicity, or nationality, and have historically organised African American workers and immigrants working in precarious industries left behind by organised labour. Because of the growing prevalence of immigrants in the sector, and the fact that domestic workers are excluded from the list of industries that can unionise at the federal level, many (though not all) worker centres that have developed in the US have by necessity focused on *both* economic justice and immigrant justice, in many cases presenting them as inseparable. And because these centres provide a space for the most precarious workers to come together, they face a unique set of challenges, even in pre-pandemic times. Many worker centres find creative ways to overcome these challenges, including creating multi-lingual spaces, providing childcare during

⁶<https://archives.lib.state.ma.us/handle/2452/497429>

meetings, and using public spaces like parks or libraries or even buses for outreach. This has been the case in Massachusetts, where activism has largely been led by the Massachusetts Coalition of Domestic Workers (MCDW) formed in 2010 by two workers centres: the Dominican Development Center that works with Dominican personal caregivers, and Matahari, a women's worker centre that principally represents nannies and au pairs from all over the world but was established as an organisation for gender justice; and by the Brazilian Women's Group, a grassroots organisation that mostly mobilises Brazilian cleaners. Throughout 2020 and as of August 2021, the Massachusetts Coalition of Domestic Workers steering committee has been composed of Dominican Development Center, Brazilian Women's Group, Brazilian Worker Center, Massachusetts Coalition for Occupational Safety and Health (MassCOSH) and Women's Institute for Leadership Development (WILD).⁷

Janice Fine defines the work of immigrant worker centres in particular into three types: service delivery, advocacy, and organising; to this, we would add education and participatory research as additional categories that are central to the missions of many centres (2006). All these activities, and more, were a vital part of everyday work for the domestic workers organisations long before the pandemic. For example, the Brazilian Worker Center provided food help for community members in need; the MCDW first successfully campaigned for the Bill and then organised regular trainings and workshops around the Domestic Workers Bill of Rights; and Matahari established neighbourhood chapters and organised International Nanny Training Day and other forms of learning and outreach. The events were multilingual. The Brazilian Women's Group established a cleaning cooperative that emphasised justice at work and safety for the environment and cleaners. Together with NDWA, Boston-based organisations carried out local research that contributed to the Home Economics report (Burnham & Theodore, 2012). These are only some of the multitude of pre-pandemic activities (see also Tracy et al., 2014).

7.6 Domestic Workers' Activism Under the Pandemic. Addressing the Old Problems and the Covid-19-Related Challenges

In many ways, domestic workers' organisations and worker centres in general have always operated in an emergency mode – trying to make up for the permanent deficiencies in social security measures for immigrant and working class members. So, in a way, they have been more prepared for the pandemic than many other organisations because they have been forced to organise incredibly vulnerable and often dispersed workers on an ongoing basis. Globally, social movements adapted to the challenges of the lockdown, and as Geoffrey Pleyers explains, have continued, modified, or invented five basic activities: protests, workfare actions and strikes;

⁷<http://www.massdomesticworkers.org/about-steering-committee>

solidarity efforts; monitoring policymakers; and popular education and politicisation (2020). Popular education, monitoring policymakers, pushing for social reform, and solidarity efforts have been at the heart of the work performed by domestic workers organisations.

In what comes next, we discuss four types of activism: service delivery, popular education, organising, and political advocacy (including participatory research), during the Covid-19 pandemic. The organisations continued some of these activities, added new ones to respond to immediate needs, but also considerably expanded some actions, trying to use the pandemic as an opportunity to push their agenda forward. We will also analyse in what ways immigrant and domestic workers' rights intertwined during the pandemic. In each case, we offer a review of existing practices and close-ups of selected practices.

7.6.1 Service Delivery

Though direct service often plays a role in the daily work of worker centres, the pandemic pushed this form of interaction with workers to the forefront, particularly in light of the fact that immigrant and undocumented populations face unique barriers in accessing government relief programmes as described above. We define service delivery as any programme that provides food, cash assistance, or legal aid to meet material needs of members. Whereas pre-pandemic service provision was dominated by assistance with wage and labour complaints and access to government services, translation, and ESL classes, widespread loss of income meant that many organisations shifted to providing large-scale material relief in the form of food and supplies. Both the NDWA and many worker centres across the country offered some version of a mutual aid programme in which members could receive weekly food deliveries, masks, and PPE, or apply for cash assistance grants. For example, the NDWA has established a Coronavirus Care Fund that has assisted over 30,000 domestic workers and their families. The Brazilian Worker Center in Boston has begun weekly food and diaper distribution, and paired this work with political campaigns and education including census outreach and advocacy for a bill that would provide access to driver's licences to undocumented immigrants (see video at <https://youtu.be/R-QEflFsutQ> and in Advocacy subsection).

Matahari Women Workers' Center of Boston reports that they have distributed over \$340,000 in direct aid to more than 700 applicants, with priority funding going to domestic workers and undocumented workers. This number includes the NDWA funds and likely also money distributed through MassUndocuFund, a joint initiative between Massachusetts Jobs with Justice, Matahari, and One Fair Wage, which to date has distributed over \$1 million to more than 800 undocumented families in Massachusetts. The Chinese Progressive Association in San Francisco reports on their website that they distributed \$30,000 in assistance to 60 families; however, they also report that they received 4500 applications.

Before the pandemic, the models for mutual aid work in the US included trade unions, the work of the Black Panther Party, African American-led earlier domestic workers organisations (Nadasen, 2015), and more recently the work of disability justice organisers, most notably Mia Mingus and the Bay Area Transformative Justice Collective. The context of mutual aid organising during Covid-19 differs from these other examples in the extent to which these funds have gone mainstream and the availability of foundation grants for distribution in networks that might have been more tightly regulated prior to the emergency.

Many of the mutual aid networks that have popped up have been regionally based, primarily online, and largely in English. One area of future study should be the extent to which mutual aid networks as constituted in the pandemic replicate the structural inequalities already present in more traditional models of non-profit work; in this context it appears likely that the mutual aid work of worker centres, particularly those focused on immigrant women, is able to address some of the imbalance present elsewhere.

7.6.2 Popular Education

Popular education has always been at the core of domestic work activism. We define popular education as programming that uses liberatory pedagogy to deconstruct the expert/novice dichotomy (i.e., it values the prior knowledge and experience of students) and, crucially, seeks political change as an outcome. Rather than simply providing information and expecting students to absorb that knowledge, popular education asks students to reflect on their own experiences and the systemic causes of oppression, and then asks them to take political action to create change. Popular education centres language justice by acknowledging that members have different linguistic needs and by providing the resources in many languages and making sure that as many members have information available in a language in which they feel most comfortable. Typically, pre-pandemic training was offered in person and translated simultaneously. As an example, the National Domestic Workers Alliance Assembly in February 2020 was translated into seven languages and the International Nanny Training Day organised by Matahari in 2019 was made available in five languages simultaneously. As Covid-19 in general was a very new phenomenon, having information about the virus and about safety measures quickly became vital. Suddenly language justice became fundamental, a life and death type of situation, especially early in the pandemic. As more information were becoming available, the organisations provided online resources and training in more languages. In particular, the organisations provided information on the virus itself, on safety measures that workers should take, and on cleaning and disinfecting in an efficient but also safe manner.

In Massachusetts and in other states that have passed Domestic Workers Bills of Rights, considerable energy has been dedicated to promoting and enforcing these Bills. These efforts continued under the pandemic, but on top of regular educational

resources, there was also a need to expand the topic as new information and regulations were becoming available. Workers' rights training continued to be provided but included information on the safety net measures and how to access them.

What changed under the pandemic was that training went online, with various organisations adjusting to the remote format in different times. The online events mushroomed and making online resources available grew in importance. One of the first online Covid-19 related trainings was the webinar "What domestic workers need to know during the public health crisis" organised by Matahari on 19 March 2020. The presentation was available in English and Spanish, and emphasised the accessibility of state laws irrespective of the immigration status.

The Massachusetts Coalition of Domestic Workers covered the topic of paid sick leave and new unemployment benefits in a Zoom call held in Spanish, Portuguese, and English on 9 April with a lawyer from Greater Boston Legal Services answering questions. The regulations were so new that the lawyers did not have answers to all the questions, but as a follow-up a leaflet in Spanish and Portuguese was distributed, providing basic information and contact details. The New York chapter of the NDWA held a 'Paid sick leave webinar/Pago por ausencia laboral seminario' on 28 April 2020 that discussed regulations including Federal Families First Coronavirus Response Act, New York State Emergency Sick Leave, New York City Safe and Sick Time, and Westchester County Safe and Sick Time. Likewise, the Chinese Progressive Association in San Francisco carried out Know Your Rights trainings in Chinese and English.

The Women's Institute for Leadership Development held their annual Summer Institute over Zoom (it is usually held over 3 days on a college campus in June). Whereas the Summer Institute usually focuses on leadership development and specific skills workshops for women in unions and workers' organisations, the 2020 version happened over the course of one day and focused all workshops on pandemic-related information while providing simultaneous interpretation in English, Spanish, and Portuguese.

The information provided at many of these trainings was perhaps more geared towards those still employed (workers' rights, paid sick leave, refusing unsafe work, tips on cleaning safely), but also about applying for unemployment insurance, including 'new unemployment' available under the CARES Act to new categories of workers (for example, independent contractors, especially pertinent to some house cleaners). This holds especially in the light of the overwhelming prevalence of unemployment related to workplace closures in the US in comparison to Europe (ILO, 2020a), of how common furloughs were, and within the domestic sector, how common it was to lose a job (ILO, 2020b).

Among online resources, we wanted to highlight the information and resource hub created by the NDWA, available at <https://membership.domesticworkers.org/coronavirus>. As early as May 2020 the NDWA launched a simple webpage with a list of links such as "What is coronavirus?", "Tips for home care workers", "Information on accessing health care". By November 2020 this page had grown into a Coronavirus Resource Centre, with articulate subsections that offer learning opportunities, support, and ways to get involved. The swift adaptation to an online format was a way to provide members with information, but also gave them a new

platform to connect and continue the sense of community, and also seek help through applying to the Coronavirus Care Fund and get involved (more under Organising below).

7.6.3 *Organising*

We define organising as bringing people together in the same space (physical or virtual) to build power, define goals, and take action together in order to change their conditions. While it can be read more broadly as encompassing all of the other areas of work, organising specifically focuses on relationship building, often via group meetings or one-on-ones. Because of the marginal position of domestic workers, in comparison to more traditional union organising, worker centres' focus has not been on membership as in the case of unions but on organising for change and creating a common space to come together. In addition, domestic workers' movement organising historically was community-based rather than workplace-based because of the particular character of the household as a workplace and workers' isolation (Nadasen, 2015). This took creative forms such as recruiting members on the bus rides by Dorothy Bolden in Atlanta, Georgia, in the 1960s, and more recently required a lot of in-person outreach, like for example distributing flowers to nannies and au pairs in Boston public parks alongside information about the organisation during Nanny Appreciation Week (September 2019); working through neighbourhood sections, including local new members' orientations sessions; and working with members in one-on-one sessions – all of which are examples of past Matahari work.

The isolation of domestic workers has always been an inherent part of the sector so in some ways domestic workers were always going to be better positioned to adapt to organising in shutdown. Some groups quickly moved their organising (and education) efforts online. In doing so, it was important not only to keep the information flow but also to provide a space of emotional care. Dominican Development Centre and NDWA NY chapters host regular weekly check-in sessions. NDWA offered a Care Together text line for emotional support and weekly Connection Calls to address isolation and distress. The purpose was to stay in touch, provide each other company in times of isolation, and exchange experiences. Many of the meetings start with a circle of everybody sharing something personal. Some of these events have built-in fun segments. For example, a circle meeting of MCDW had a music listening component. The We Dream in Black chapter of the NDWA launched the 'Unbossed agenda' at a separate dance party with a professional DJ. The WILD Summer Institute included a multilingual talent show, with members sharing poems, performances, stories, and singalongs in their native languages.

New Labor is a worker centre and advocacy organisation in New Jersey that largely focuses on Hispanic workers in precarious industries including, but not limited to, domestic work. They built an online video library with interviews from a variety of workers on a set topic each week during the pandemic – from shutdown

to culturally relevant holidays to the right to refuse unsafe work to the Black Lives Matter movement. This gives workers a forum to come together, educate one another, share stories and experiences, and advocate for initiatives like a New Jersey domestic workers' bill of rights. (<https://newlabor.org/covid19/>).

It should be noted here that as organisations were moving online, their members had to adjust as well, and to the best of our knowledge, there was no training on digital literacy nor was there support for broadband or internet access. While the online move was the only one available, it may have also left behind those workers who are not confident with technology, live in rural areas without reliable broadband, or cannot afford consistent access to internet service.

7.6.4 *Political Advocacy*

Despite the dire and immediate needs of members, the organisations engaged in political advocacy alongside providing support to individual workers at previously unknown levels. We define political advocacy as the venue to address the ground-level problems at the systemic level by creating political pressure to effect changes in legal statutes and interpretation. According to the survey with Spanish-speaking workers, this is precisely what workers want. When consulted about priorities in negotiating the new federal relief package in August, they pointed to free Covid-19 testing and treatment regardless of immigration status, childcare support, and food support for those in need (López González & Anderson, 2020).

This issue was part of a major study of Spanish-speaking domestic workers through the Alianza chatbot by NDWA. In fact, research efforts mushroomed under the pandemic. The organisations very quickly realised that they needed data to back up their claims. And the domestic sector in general is very hard to accurately estimate because of the prevalent informality and the fact that some of the workers are undocumented. There always is a need to study the sector and hence some of the research projects brought to light under the pandemic were part of long-planned endeavours, like the We Dream in Black study of Black immigrant workers in Massachusetts, California, and Florida, published as the *Notes from the storm* report (IPS, 2020). Established projects shifted to encompass the pandemic in new ways. The Alianza survey switched from monthly to weekly to better reflect the swift changes in workers' lives as they moved in and out of work. Another early project was the 'Listening campaign' by Matahari, in which organisers called 92 members to collect information about the Covid-19 crisis impact – and presented the results early in the pandemic, in May. All these instances were either participatory, carried out with, by, and for the members, or very strongly embedded in already established communication practices, like the chatbot Alianza that allowed the NDWA survey of more than 16,000 Hispanic domestic workers (López González & Anderson, 2020).

In general, it seems that organisations that worked with specific communities on a given terrain were swamped with needs and applications for support, and it was probably more difficult for them to get involved in advocacy during the crisis.

NDWA and some state-level umbrella organisations like the Massachusetts or California Coalitions of Domestic Workers were probably better equipped to handle both direct service provision in the form of funds and push for new legislation simultaneously. They acted at the federal and state levels respectively, pushing for passing Families First, CARES, or HEROES acts, but also to include domestic workers in the state health and safety regulations, as was the case of California Coalition of Domestic Workers, or protesting against ending the eviction moratorium in Massachusetts by the Massachusetts Coalition.

As is evident, some initiatives were focused on Covid-19, while some were grounded in more general issues and needs. Some were more reactive, some more proactive. Federal-level advocacy was more about organising against exclusion by advocating for the inclusion of domestic workers in relief bills, including the Essential Workers Bill of Rights introduced by Sen. Warren and Rep. Khanna. But the (unsuccessful) California initiative, for example, was one of the proactive efforts trying to highlight the needs of care workers in times when they are considered essential and closer to the centre of attention than usual.

This advocacy reflected the organisations' collective identity scope and wider alliances they wanted to support. It is important to note that there were initiatives directly connected to domestic work, but also addressing needs of larger categories of workers and only partly overlapping with the domestic workers, like the aforementioned eviction moratorium. Several efforts were grounded in the immigrants' rights framework already present in their activism. Two examples include the Driving Families Forward campaign and the advocacy around the term 'essential work'.

A key example of how traditional advocacy campaigns have overlapped with the impacts of Covid-19 is the Driving Families Forward campaign in Massachusetts. A coalition of labour unions, worker centres, economic justice organisations, and immigrants' rights organisations began a campaign in 2019 for the passage of the Work and Family Mobility Act, which would provide the right to apply for a drivers' licence to undocumented immigrants (though there had been a much longer history of advocacy on this issue in the region). The coalition is co-led by Natalicia Tracy, director of the Brazilian Worker Center, and Dalida Rocha, Political Director of Service Employees International Union (SEIU) 32BJ Local 615, representing largely janitors and security officers in New England.

Before the onset of Covid-19, the campaign focused on convincing state legislators to co-sponsor the bills in the Senate and House; building community support and endorsements from key sectors including labour, faith, social justice, and, crucially, law enforcement; and mobilising the public to contact their legislators in support of the bills. Key talking points in support of the Act prior to March 2020 included public safety, the need for mobility and limitations of public transportation, immigrants' rights, and economic stability for both undocumented immigrants and state tax revenues.

After the onset of Covid-19, the campaign shifted its messaging to address broader concerns relevant to the pandemic, including public health and spread of disease, and the stability of supply chains. A flyer released by the campaign declares,

'Work & Family Mobility Act becomes even more critical during Covid-19 pandemic/Licencia de Conducir Para Inmigrantes se vuelve critico durante la pandemia de Covid-19'. The flyer's text explains that immigrants are part of the essential workforce – including agricultural workers, cleaners, and healthcare workers – that others rely on during the pandemic and that public transportation does not allow for safe social distancing on their way to and from work, access to drive-through-only Covid-19 testing sites, and safer transportation for children accessing in-person education. A driver's licence would also allow easier access to food and healthcare for immigrants and their families, helping to lower the total disease burden on area hospitals. Finally, the flyer explains that the agricultural industry is largely staffed by immigrants who do not have safe access to and from work without a driver's licence; providing licences would help stabilise supply chains during a time of shortages.

The rhetorical strategies of the new flyer are largely the same, relying on both the human rights of immigrants and on the self-interest of non-immigrant populations in granting rights that would increase public health and safety. However, the campaign was able to shift its rhetoric toward the issues at the forefront of public anxieties around the pandemic, while being careful not to play into xenophobic narratives about immigrants spreading disease. A higher disease burden is not inherent to immigrants, the flyers are clear to note, but rather due to laws and regulations that could be improved to stop the spread of the disease for everyone. These flyers were included with food distribution by the Brazilian Worker Center, and social media posts about immediate assistance were nearly always accompanied by action items to push for the passage of the Work and Family Mobility Act. In this way, Covid-19 response almost always included multiple of the categories we analyse here, in this case including service, education, organising, and advocacy.

The pandemic edition of the 'Driving Families Forward' campaign made an explicit reference to the essential work argument, present in the public discourse and some regulations. Also, the National Domestic Workers Alliance has repeatedly claimed that 'Domestic work is essential work' and campaigned for the Essential Workers Bill of Rights, which explicitly includes domestic workers. The label itself appears a controversial way of obliging some workers to sustain the work-from-home mode of a minority of workers, even if, for example in Massachusetts, dividing businesses into essential and non-essential was aimed at keeping the bare minimum of activity to curb the spread of the virus. There are several other problems with being an essential worker under the pandemic. Some workers do not have much choice but to work, even if the workplaces are not safe for them, with employers not providing personal protective equipment, as was the case of personal care aides and many healthcare workers.

Risky work is required of workers who as undocumented immigrants, concentrated among others in agriculture, meatpacking, and domestic work, have little protection in case they get sick. So why are the immigration justice and domestic workers organisations making an appeal to this category and embracing it? In our opinion, they are trying to counter the overall exploitative narrative by using essential work as a platform to access rights otherwise unavailable rather than just

accepting the risky obligation to provide vital services, no strings attached. There is a symbolic aspect to it, and in a way stating that domestic work is essential work, for example by the NDWA, is another way of saying ‘we make all other work possible’, ‘we are fundamental’. This is a way to have their importance recognised under new circumstances. There is a long historical tendency to treat domestic workers as ‘disposable domestics’ (Chang, 2000), meaning that they are both fundamental for everyday life but also so marginalised and replaceable that it is possible to just ‘dispose’ of them. By claiming the status of essential workers under these new circumstances, the organisations are counteracting the disposability and reinforcing the fundamentality narrative.

The important step implied in claiming the status of essential workers seems to be about making domestic employment official and formalised. Informality of the sector is one of its biggest problems, and it has a devastating impact on a laid-off person who cannot claim any benefits because they were not in formal employment to start with. This is more common among undocumented workers. Essential workers should not work without a contract, right? But by claiming this status, the organisations aim at more than just helping the workers to step out of the shadows. It is about gaining the benefits that they consider due. As essential workers, they require personal protective equipment, inclusion in relief funds, keeping their jobs, or having the right to stay home to care for themselves or a loved one – or all. Just recently, Matahari has argued that domestic workers should be included in Phase 2 of the vaccine rollout in Massachusetts just like all essential workers.⁸ These organisations are trying to navigate the ‘essential work’ paradoxes as best they can, to the advantage of domestic workers.

Domestic jobs are not created equal and the impact has been diverse depending on whether you are a nanny, a PCA, or a cleaner. Some workers, predominantly PCAs and some nannies, found themselves working more and confronted more challenges and risks on the job. Some, as most cleaners and some nannies, were laid off with short notice and often no access to any relief or benefits (cf. Rosińska 2021). It seems that recognising all domestic workers as essential prevents problems tied to both kinds of situations: protection for those on the job, paid time off to anybody who needs a break, and inclusion in unemployment and relief measures in case the workers are out of a job.

Similarly, some organisations and unions have pushed for ‘hazard pay’ for low-paid workers whose jobs cannot be done remotely, mainly in grocery and retail sectors. This strategy, like that of harnessing the rhetoric of essential work and workers, is not without controversy. Specifically, it positions these workers as central for white collar survival during the pandemic but presumes a return to the status quo when the social ‘emergency’ has ended; it also raises the fraught question of how exactly to quantify the lethal risks taken by the working classes on behalf of the wealthier classes. A more equitable approach would mean that nobody feels inclined to put themselves and their families at risk because of financial need. This is

⁸A letter to demand vaccine access for all domestic workers: <https://linktr.ee/mataharijustice>

balanced by the desire to gain some benefit more tangible than gratitude for these workers. Those in the informal sectors, who may or may not be documented, are essential in the sense that their labour contributes to the comfort or survival of others but are simultaneously declared disposable by employer and government policies that write them out of relief benefits.

7.7 Concluding Remarks

During a health and safety campaign at our public university employer this spring, management refused to provide face coverings for the maintenance workers on campus – and simultaneously tried to unroll a ‘safe return to campus’ plan for research workers in labs that included free daily masks for researchers. Ultimately, when the coalition of campus unions pointed out that treating different categories of workers differently affects the spread of disease for everyone, the university’s administration changed its mind and began to provide face coverings for all workers, including the lower-paid, immigrant workers in the maintenance unit.

The Covid-19 pandemic emphasises that real public health cannot be divided into sectors based on income, ethnicity, or immigration status. But what the *syn-demic* teaches us is that introducing a pandemic into a system that is already largely out of balance and historically rooted in unequal treatment means that some – usually, those with the least to lose – will face much greater risks.

While public rhetoric in the US since March 2020 has emphasised togetherness and unity – for example, businesses and cities posting signs declaring ‘we are all in this together’ and ‘support our essential workers’ – the situation of domestic workers paints a very different picture of the real situation. Flattening the curve, after all, is never about stopping the virus in its tracks; it always presumes a base level of cases (and fatalities) that are seemingly unavoidable, and in this way, the most vulnerable workers are expected to act as shock absorbers that allow the rest of the system to function.

The organisations’ responses to the Covid-19 crisis span from the initiatives addressed at individual workers in terms of organising funds and resources to provide financial, material, and food security to continuous training and organising in the online mode to continued and amplified policy campaigns at the federal and state levels when it comes to hazard pay, health and safety regulations, or eviction moratoria, while skilfully navigating the contentious label of ‘essential work’ to the workers’ advantage.

There has been an overwhelming need for direct financial and material help. To a certain extent it seems that some of the funds have been redistributed or were distributed differently than they would have been had there been no disaster situation. As much as these organizations have done their best to absorb some of the shock placed upon these workers, this support has been far from sufficient, and the blooming of mutual aid initiatives should not be the sign of relieving the state of its responsibility to its citizens; in fact, the organisations were balancing the enormous

on-the-ground service delivery and education initiatives with relentless efforts to change the system and include domestic workers in the relief measures and protections. They availed themselves of the sudden prominence of care under the pandemic (Fine & Tronto, 2020) and used it as an opportunity to push their agenda forward for a systemic change.

As immigrant workers form the majority of domestic workforce and domestic workers' organisations, immigrants' rights are at the heart of the domestic workers' movement, both before and during the pandemic. Domestic workers' precarity has been reinforced under the pandemic both in terms of job situation as well as immigration status. This has required organisations to address the needs of domestic workers simultaneously as workers and as immigrants even more than before. Under the pandemic, the tool of the intersectional work continued to be language justice – offering popular education on workers' rights in multiple languages. Another tool has been to be vocal and participate in issues geared towards immigrants as such, towards immigrant workers (not only domestic workers) as in the driving licences campaign, or against the eviction moratorium, which impacts an even larger population.

We should ask a question about the costs for the organisations operating in constant overdrive mode; it is a situation that if protracted will lead to burnout in an already underfunded and understaffed area of activism and cannot be a model of dealing with social crises. The organisations are doing necessary work that should not leave the impression that 'people are always going to cope'. That is why it is of vital importance for all the actors to support reforms advocated for by the organisations. We also wish to avoid narratives of 'resiliency' or 'grit' that risk oversimplifying the achievements of these organisations during a time of immense emotional, financial, and physical stress. After all, the pandemic is a battlefield (Pleyers, 2020) and too many of those in power still want to 'return to normal' after vaccination rollout has been achieved.

So far in the US the successes of domestic workers' organisations under the pandemic have been moderate, with initiatives failing or being stalled. But it is hard to say that the public and the policymakers are not aware of domestic workers, whether through a mural celebrating essential workers in Chicago⁹ or through explicitly listing domestic workers in the still-unpassed 'Essential workers bill of rights'. For these organisations, a 'return to normal' cannot be the solution for workers who were already marginalised and excluded before the pandemic, and their work emphasises their commitment to building a new and more equitable normal for the future.

⁹<http://iamsamkirk.com/murals>

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Chapter 8

Essential Farmworkers and the Pandemic Crisis: Migrant Labour Conditions, and Legal and Political Responses in Italy and Spain



Alessandra Corrado and Letizia Palumbo

8.1 Introduction¹

In recent years, institutional and scholarly attention has focused on the exploitation and systematic denial of the rights of workers – in particular migrant workers – which underpins agri-food systems in many European Union (EU) countries, especially in southern European countries such as Italy and Spain (Corrado et al., 2018). In January 2020, just a few months before the Covid-19 pandemic hit Europe, the United Nations Special Rapporteur on the right to food, Hilal Elver, denounced the situation in Italy: ‘from the North to the South of Italy, hundreds of thousands of workers farm the land or take care of livestock without adequate legal and social protections, coping with insufficient salaries and living under the constant threat of losing their job, being forcibly repatriated, or becoming the object of physical and moral violence’ (Elver, 2020). In February 2020, following his visit to Spain, Philip Alston, the UN Special Rapporteur on extreme poverty and human rights, said: ‘In Huelva, I met with workers living in a migrant settlement in conditions that rival the worst I have seen anywhere in the world. They are kilometres away from water, and live without electricity or adequate sanitation’ (Alston, 2020).

The Covid-19 emergency has exacerbated this situation, revealing the precariousness of migrant labour in the agri-food system and, simultaneously, its essential role

¹ This chapter is the result of a common reflection of the two authors. However, Alessandra Corrado drafted Sects. 8.2 and 8.4 while Letizia Palumbo drafted Sects. 8.3 and 8.5. The Introduction and Conclusions (Sects. 8.1 and 8.6) were drawn up by both the authors. This publication has received funding from the Open Society European Policy Institute (OSEPI) and from the European Union’s Horizon 2020 Research and Innovation programme (GA n. 870845 VULNER).

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in this sector. Indeed, since the outbreak, a rise in the demand for essential goods has also meant that workers in key sectors such as agri-food have been recognised as fundamental to the economic and societal functioning of EU countries. At the same time, the pandemic has sharply disclosed the limits of long supply dynamics (in terms of price distortion, unfair competition, and distribution dynamics) as well as the conditions of exploitation and vulnerability experienced by many migrant farmworkers. An evident tension therefore has emerged between containing the pandemic through mobility restrictions, on the one hand, and preventing labour shortages (especially in core sectors) and addressing migrants' situations of vulnerability, on the other.

On 31 January 2020, Italy became the first EU member state to declare a state of emergency. This was followed by a series of government decrees in March establishing lockdown measures in the most affected zones aimed at containing the pandemic. These were then progressively extended to the entire country. The measures included closure of borders, high mobility restrictions and controls, hygiene and sanitary controls, and the closure of all commercial and retail activities except those deemed essential to coping with the emergency – such as the agri-food-sector. While in June 2020, the government lifted quarantine restrictions and reopened the borders, lockdown measures have been periodically implemented throughout the country. Indeed, at the time of writing Italy is still in a state of emergency.

In Spain, a state of emergency was enacted on 14 March 2020. This was then intensified on 27 March of the same year to be even more rigid for a further 15 days, during which a total ban on all non-essential work activities was established. In the case of Spain too the agri-food sector was declared strategic and therefore excluded from the so-called economic hibernation measures.

While the restrictions were progressively relaxed in June 2020, they continued to be adopted until Spring 2021. Indeed, the Spanish government declared the end of the state of emergency on 9 May 2021.

At the same time, both Italy and Spain, in line with other EU countries, adopted measures to respond to labour demand in key sectors, such as agri-food, and to face the situations of vulnerability of migrants employed in these sectors in a time of health and economic emergency. Both countries, in particular, drew the praise of the general public for adopting actions aimed at providing undocumented migrants with opportunity to regularise their legal status (Martín, 2020; Testore, 2020). However, despite the enthusiastic and optimistic tones, these interventions reveal shortcomings that significantly limit their impact and outcomes. This calls into question to what extent migrant workers are considered as really 'essential' in a long-term perspective and, above all, to what extent the current pandemic crisis constitutes an opportunity for a new national push to enforce labour rights and strengthen migrants' rights.

By focusing on Italy and Spain and building on extensive research carried out on working conditions of migrant farm workers, this chapter illustrates the characteristics and dynamics of migrant labour in the agri-food system, highlighting the impact of the Covid-19 crisis. It provides a critical comparative analysis of the legal and policy interventions adopted to tackle migrants' rights during the pandemic by paying special attention to the measures concerning migrants' situations of vulnerability. This contribution relies on the analysis of information collected through interviews with key stakeholders, legal and policy documents, and relevant

literature and reports. The interviews were mainly carried out within a research project on the impact of the Covid-19 crisis on agri-food systems and migrant labour in EU countries which was commissioned by the Open Society European Policy Institute (OSEPI) and conducted by the Migration Policy Centre at the European University Institute (EUI) in May 2020 (Palumbo & Corrado, 2020).

8.2 Agri-Food Restructuring, Imbalances of Power, and Renewed Agrarian Conflicts

Spain and Italy are the top European countries for number of specialised farms, cultivated area, and organic fruit and vegetable production, and for the highest number of farms overall (after Romania); together they accounted for about two-fifths of the total value of the EU's fruit and fresh vegetable production in 2017 (Figs. 8.1, 8.2, and 8.3). They are also the two countries with the largest areas of

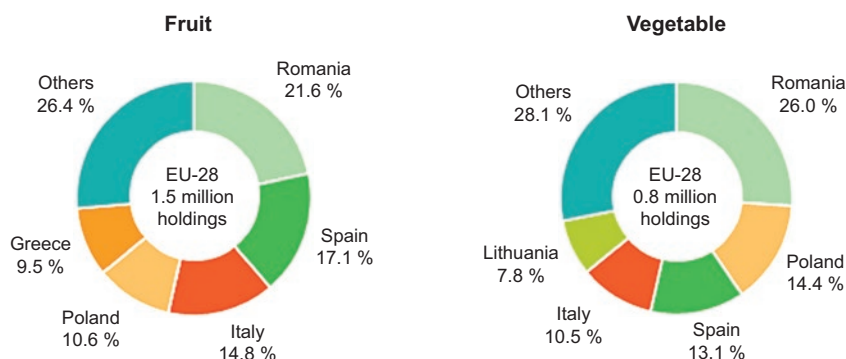


Fig. 8.1 Fruit and vegetable holdings by Member State, 2016 (% of EU-28). (Source: Eurostat)

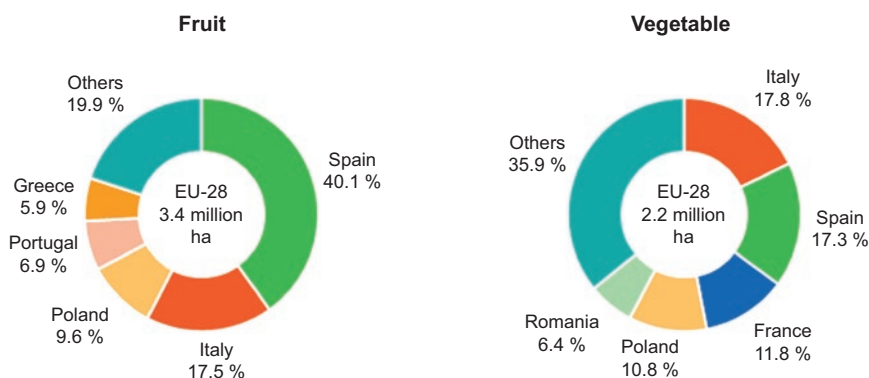


Fig. 8.2 Area of fruit and vegetable by main producing EU Member State, 2017 (% of EU-28). (Source: Eurostat)

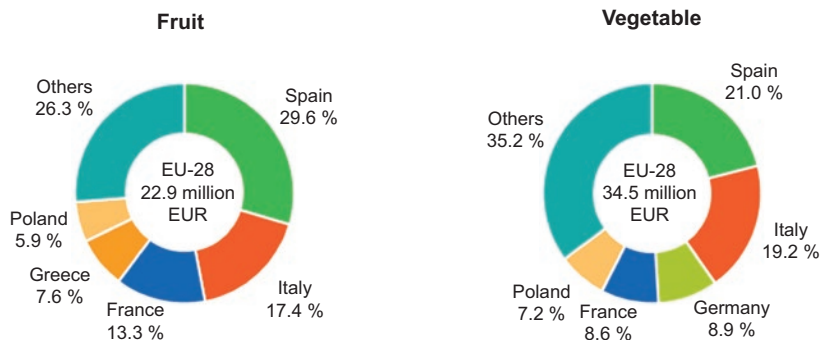


Fig. 8.3 Fruit and vegetable production value by main producing Member State, 2017 (% of EU-28). (Source: Eurostat)

some production (tomatoes, oranges) and (with Poland) the highest value of tomato production. Fresh fruit and vegetables were traded mainly on the European market; Spain was the leading trader. Spain and Italy, together with the Netherlands, accounted for more than two-thirds of intra-EU exports in value terms and were responsible for over one-third of the total value of production in 2017 (Fig. 8.4). The EU as a whole was a net importer of processed fruit and vegetables, but some member states had record trade surpluses, including Spain and Italy (Eurostat 2019).

Both Spain and Italy have undergone a major restructuring of their agri-food systems, especially since the 1980s, within the dynamics of post-Fordist development and neo-liberal globalisation (Corrado, 2016). In Italy, the Common Agricultural Policy (CAP) served to support interventions for the modernisation of agriculture – i.e., the intensification of production, the enlargement of scale, the adoption of chemical inputs, varietal renewal, export orientation, entrepreneurship, and protection from foreign competition, at least until the early 1990s and the establishment of the European Single Market (1993). In Spain, on the other hand, agricultural modernisation had already begun before entry into the European Community (in 1986), under the Francoist regime, in the years 1950–1960, laying the foundations for the sector’s industrialisation and the structuring of the country’s main enclaves of production specialisation (e.g. Almeria and Murcia).

Through progressive reforms, following World Trade Organisation (WTO) agreements, the CAP has promoted competitiveness in global markets. Profit margins and market power in the agricultural sector have been severely weakened by the concentration process in the food industry, and the rapid expansion and centralisation of power in large-scale retailing systems. In line with the dynamics of the rearrangement of production processes on a global scale, agri-food supply chains in Italy and Spain are buyer-driven, with retail companies playing a central role in creating and managing a broad base of selected suppliers on which to build distribution systems. In 2017 supermarkets in Italy sold about 73.5% of all food and drinks consumed. Market shares tend to be distributed among the various large-scale retail

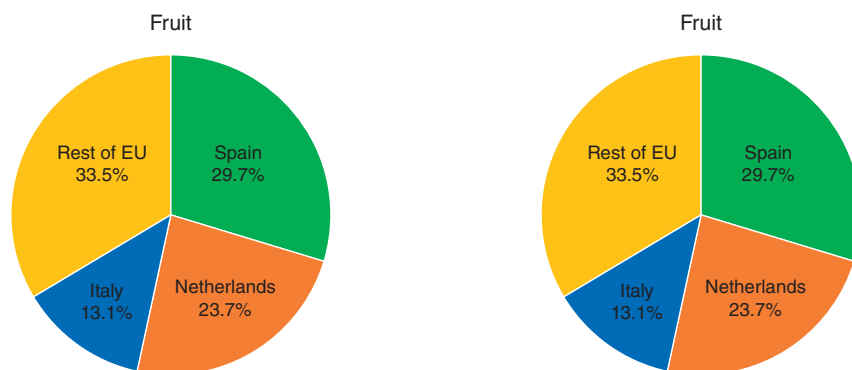


Fig. 8.4 Intra EU-28 Export of fruit and vegetable, 2017 (1000 EUR, 1000 tonnes). (Source: Eurostat)

operators. The top five companies jointly controlled just over 50% of the market in 2017, and of these three have a market share of over 10% (Oxfam, 2018). In Spain, supermarkets and hypermarkets together controlled 82.3% of the food market in 2018 (ANGED, 2019); in 2019, Mercadona controlled 25.5% of the food market (Kantar, 2020). However, it is worth noting that 80% of Spanish production is exported, while only 20% ends up in the domestic market – with large-scale retailers marketing just 7% of national production (Romera, 2020).

The process of concentration today is also articulated through the establishment of international super buying centres – alliances between the largest distribution groups aimed at obtaining better contractual conditions through collective negotiation with suppliers. The oligopolistic control of prices by the large international supermarket chains through continuous revisions and auctions on the reduction/depreciation of products imposes an increasingly intense pressure on suppliers (Corrado et al., 2018).

Moreover, it is important to emphasise that, over the decades, in the light of a progressive process of defamilisation of agriculture or family deagrarianisation (Arnalte-Alegre & Ortiz-Miranda, 2013), the sharp reduction in the number of employees and farms resulting from these transformations has been matched by the growth of salaried work. The growing recruitment of migrant workers has certainly served to support the capitalist development of the agri-food system, that is, the continuous intensification, capitalisation, and innovation of agri-food production and processing, to cope with market pressures and the squeeze dynamics on producers' revenues. In both countries, Spain and Italy, therefore, the unequal relationship of global value chains has resulted in renewed agrarian conflicts (Perrotta, 2015; Perrotta & Sacchetto, 2014; Reigada, 2021) and has rendered migrant labour both essential and exploitable.

Between 2019 and 2020, the agricultural sector in Spain was incited by a protest movement initiated by a group of the largest agricultural organisations – Coordinadora de Organizaciones de Agricultores y Ganaderos (COAG), Unión de

Pequeños Agricultores y Ganaderos (UPA), and Asociación de Jóvenes Agricultores (ASAJA) – against low prices paid to companies, increases in production prices, and the imbalance of power along the food value chain. In February 2020, the Left-wing Spanish government established a 5.5% rise in the minimum interprofessional salary (*Salario Mínimo Interprofesional*, SMI) over 2019, when it had been increased by 22.3% – that is, from €735.90 gross per month to 14 monthly payments of €900. This measure also provoked strong criticism, especially from the most capitalised farmers, ASAJA members, and employers’ organisations from the main enclaves of intensive production (such as Murcia and Huelva) that opposed the SMI increase in the local collective agreements in agriculture (Pedreño Cánovas, 2020).

Pressure from the farmers between February and June 2020 further forced the Spanish government to amend Food Chain Law No. 12 of 2013 (*Ley de la Cadena Alimentaria*) in line with EU Directive 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain. Urgent measures on agriculture and food were introduced by the Royal Decree Law RD 5/2020 issued in February 2020, and a Draft Law No. 36-1 amending Law 12/2013 of 2 August on measures to improve the functioning of the food supply chain was approved by the Government on the 13 November 2020 (with the provision of entry into force in November 2021). The urgent measures made contracts obligatory in all transactions between producers and other actors in the chain; and prohibited sales at a loss and misleading offers at points of sale. In order to ban the destruction of value in the food chain, production costs have to be recorded and the price agreed by the producers and their first buyer has to be indicated in detail to ensure that sales prices are higher than production costs. The draft law extended the ‘blacklist’ of unfair practices, as well as the scope of sanctions and other measures to correct price imbalances harmful to farmers or stock breeders, and protection in international trade relations.

Similarly, in April 2021, the Italian Parliament approved the Law 53/2021 (2021 European Delegation Act) which delegates the Government to transpose the EU Directive 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (Art. 7). In addition to being adopted with a significant delay, this law has introduced some criteria for the transposition of Directive 2019/633 that seem to be in contrast with the main approach of such EU instrument (Dongo, 2021).

Since 2019, the Parliament has also begun the process of approving a new law on ‘ethical’ agri-food chains (Draft Law 1373), that aims to contribute to the respect of farmworkers’ rights, while providing consumers with tools to make informed food choices. The current draft law intends to define environmental, social and economic sustainability parameters, and provide tax relief and reward systems for agri-food companies that contribute to the creation of ethical chains, including those companies that join the Network of Quality Agricultural Work, which was established by Legislative Decree No. 91/2014 to recognise and support companies that respect fair labour and employment conditions in the agricultural sector. Furthermore, this draft law has introduced production traceability systems.

8.3 Migration Policies, Migrant Labour Composition, and Working Conditions

This section offers a critical overview of the relevant policies and legislation on migration in Italy and Spain, as well as information about migrant labour composition and working conditions in the agri-food systems in these two countries. The aim is to provide the background against which the pandemic crisis exploded.

Being characterised by an historical tradition of emigration, and with a recent history of immigration, Italy and Spain have been defined as emblematic of the ‘Mediterranean model of migration’ (King et al., 2000). This is marked by a high element of ‘irregularity’, in which employment in the agricultural sector represents one of the main channels for migrants to access the labour market. Since the late 2000s, this model has been challenged by several factors such as the European enlargement process, the economic crisis and the so-called refugee crisis. The impact of these factors, together with the inadequacies of national systems of recruitment of foreign workers, has reflected a change in migratory movements and, accordingly, in the composition of migrant labour. This is especially evident in sectors such as agri-food which are marked by a high segmentation of labour on the basis of nationality, class, and gender, and by downward competition in terms of wages and labour rights.

In Italy, under Law No. 40/1998, the entry system for foreign workers is based on an employer-driven mechanism requiring a specific request from a resident employer. This system, which sets annual quotas for different categories of workers via government decree (*Decreto Flussi*), has proved inadequate and resulted mainly in ‘ex post regularisations’ and abusive practices. Furthermore, since 2011, quotas for non-seasonal workers have been drastically limited, while quotas for seasonal workers have been cut by almost half (Corrado et al., 2018).

In this context, the lack of an effective entry system for foreign workers capable of meeting labour demand in sectors such as agriculture has been offset mainly by migrants from eastern EU member states, undocumented workers, and, especially since 2015, by non-EU asylum seekers and refugees (Corrado et al., 2018). As several studies have highlighted, the different situations of vulnerability of these categories of migrants seems to translate into a variety of forms of exploitation (Palumbo & Scirba, 2018).

According to official data, Romanians are one the largest groups of farmworkers in Italy, involving a significant presence of women (CREA, 2019). In some areas, Romanians have ‘replaced’ African migrant workers as their wages are lower and they tend not to be unionised and are viewed as a less-empowered labour force. Thus, despite being able to freely move within the EU, Romanians often work under harsh and exploitative conditions. For instance, in the case of the agri-food district in Ragusa, Romanian labourers work between 10 and 12 h per day in unsafe conditions for a meagre wage and live in crumbling shelters in the greenhouses, often with their children. In this scenario of isolation and dependency on employers, women’s labour exploitation is often accompanied by sexual blackmail and abuse

by employers and gangmasters. Women with family responsibilities in particular seem to be the most exposed to abuse (Palumbo & Scieurba, 2018).

While Romanian farmworkers are employed in both seasonal and permanent agricultural production (as in the case of the greenhouses in Ragusa), asylum seekers and refugees as well as undocumented migrant workers are mainly involved in seasonal cultivation, moving from one harvesting zone to another across the country.

Some scholars have talked about a process of ‘refugeesation of the agricultural workforce’ (Dines & Rigo, 2015) to highlight the rising number of refugees and asylum seekers employed in agriculture. For asylum seekers especially, the interplay between the inadequate implementation of asylum procedures and the absence of appropriate hosting and inclusion measures in the country has produced a condition of ‘hyper precarity’ (Lewis & Waite, 2015) that fosters their exposure to dynamics of exploitation. This situation of vulnerability has been further exacerbated by the provisions of the so-called Security Decree or Salvini Decree’ (Decree Law No. 113/2018 converted into Law No. 132/2018), which was adopted in October 2018. Building on an emergency-based approach to migration, the Security Decree abolished the residence permit for humanitarian reasons (known as ‘humanitarian protection’). This form of protection had been established by Legislative Decree No. 286/98 (Consolidated Act on Immigration) to protect people in situations of vulnerability who are non-eligible for refugee status or subsidiary protection but could not be expelled from the country because of ‘serious reasons of humanitarian nature or resulting from constitutional or international obligations of the State’. The abolition of humanitarian protection has led to a significant increase in the number of irregular migrants (Geddes & Pettrachin, 2020, 238).

The Security Decree also excluded asylum seekers from the decentralised state reception system SPRAR (*Sistema di Protezione per Richiedenti Asilo e Rifugiati*), renamed SIPROIMI (*Sistema di protezione per titolari di protezione internazionale e per i minori stranieri non accompagnati*), which supports social and labour inclusion for migrants. Asylum seekers have therefore been crammed into emergency reception centres known as CAS (*Centri di Accoglienza Straordinaria*), many of which lack adequate structures and services, fail to meet basic hygiene and safety conditions, are overcrowded, and do not provide effective inclusion programmes. Moreover, some of these centres are in isolated rural areas and have become a pool of cheap and easily exploitable migrant farmworkers (Corrado et al., 2018).

At the same time, thousands of migrants, including seasonal workers, asylum seekers, beneficiaries of international protection, and undocumented migrants, live in informal settlements (MSF, 2018) without basic services such as access to water and sanitation. As discussed below, the degrading conditions of these informal camps as well as the inadequacies of the institutional reception centres have raised serious concerns during the pandemic.

Exploitation and social and spatial ghettoisation are also common elements in Spain. According to official data, in 2017 migrant workers constituted roughly 23.2% of the total salaried agricultural workforce (Cuesta & Sánchez, 2017). However, as in the case of Italy, these statistics cannot provide an effective depiction

of reality given the significant presence of undeclared work in the agri-food sector. Migrant farmworkers are mainly concentrated in the southern areas of the country, and their employment is characterised by a market of internal circular mobility linked to the harvest period, moving, for example, between Murcia, Alicante, Albacete, Huelva, and Almería, or Barcelona and the provinces of Tarragona and Girona (Viruela & Torres Pérez, 2015).

As for recruitment system of foreign seasonal workers, in Huelva and Lleida one of the main institutional mechanisms for the employment of third-country migrant farmworkers is the so-called ‘contract in origin’ or ‘at source’ (*contratación en origen*), within defined annual quotas, as established by the Law on the Rights and Freedoms of Foreigners (*Ley Organica* No. 4/2000). Migrants are recruited directly in their country of origin, arriving in Spain having already signed a contract for specific employment with pre-set working and social conditions. Returning home at the end of the contract is a conditional criterion for reapplying for other ‘contracts in origin’ within the next year’s quotas.

The first trial of the ‘contracts in origin’ mechanism was based on bilateral agreements between Spain and eastern European countries, in particular Romania, in the early 2000s. Recruitment mainly involved female workers who, in accordance with gender and social stereotypes, were considered more ‘docile’ and culturally similar than African males (Hellio, 2016).

Contrary to what happened in Italy (especially in rural areas like Ragusa), EU enlargement in 2007 resulted in a decrease in EU migrant workers in the Spanish agri-food sector in districts such as Huelva. Romanian and Polish female farmworkers in particular were almost entirely replaced by Moroccan women employed through ‘contracts in origin’. In this case, the fact of having left young children in the country of origin was an explicit formal prerequisite to be selected, as it was considered a guarantee of their return to the country of origin at the end of the harvest (Palumbo & Scirba, 2018).

But similar to Italy, in Spain too agriculture has become a refuge sector for migrants, especially Africans, as a consequence of the 2008 economic crisis (Pedreño Cánovas, 2020). At the same time, the economic crisis affected the system of ‘contracts in origin’ with a decrease in quotas and contracts since 2011. This has in turn led to an increase in the presence of EU migrant workers. In particular, Romanian farmworkers have become, once again, one of the largest components of migrant labour in the Spanish agri-food sector (Caruso, 2016); many are women, usually recruited through temporary work agencies (Molinero Gerbeau, 2018) and often in conditions of exploitation.

Yet, ‘contracts in origin’ is still the main path for farmworkers’ (women) recruitment from third countries in the areas of Huelva and Lleida. This model has been criticised for creating a strong worker dependency on employers, leading workers to be more ‘docile’ and willing to accept abusive work conditions. Moreover, within this system, care relations and family responsibilities have formally become elements used as a guarantee of the recruitment of a vulnerable, flexible, and feminised labour force. While in some Italian contexts, such as Ragusa, similar dynamics emerge as a consequence of the interplay between inadequate entry systems, new

composition of migratory movements, and the requests of employers, in Huelva these seem to be facilitated by institutional policies. Several studies have reported how the ‘contracts in origin’ model has fostered specific forms of gender-based exploitation and abuse, ranging from arbitrary deductions of a percentage of wages and excessive unpaid overtime to sexual assault and exploitation (Palumbo & Scirba, 2018). As discussed below, this situation of dependency and vulnerability has been exacerbated by the Covid-19 lockdown.

8.4 The Pandemic’s Effects on the Agri-Food Sector and Migrant Labour Conditions

In both Italy and Spain lockdowns and other measures taken to stem the pandemic significantly hit the hotels, restaurants, and catering sector, or ‘Horeca’. This in turn affected the demand for agricultural products, especially ‘quality products’ such as cheeses and wines. In Italy the sector’s losses were around €34 billion. A drop in seasonal products – i.e., tomatoes, strawberries – was recorded, but a rise in demand for domestic food consumption and a drop in imports helped maintain or in some cases boost products’ prices (ISMEA, 2020; MAPA, 2020). However, employment rates in Italy’s agricultural sector remained close to 2019 levels and have been rising since May, revealing good stability relative to other sectors (Mlps et al., 2020).

In Spain, by contrast, agricultural employment has been significantly impacted by Covid-19, with migrant labourers particularly hit as the jobs in the sector shrunk to 791,163 in 2020 from 808,255 in 2019 (Ministerio de Inclusión, Seguridad social y Migraciones, 2020a, b). Even so, there has been substantial employment stability in the enclaves of intensive agriculture, such as Huelva, Almeria, and Murcia.

The pandemic border restrictions and lockdown have led national farmers’ organisations to sound the alarm on labour shortages, especially of eastern European workers (mainly Romanians), highlighting the agri-food sector’s dependence on cheap and flexible migrant labour – one of the results of power imbalances in long supply chains. However, labour shortages in many areas have been offset by a reserve army of migrant labour in situations of irregularity and vulnerability, and through dynamics of work intensification.

In Spring 2020, farmers’ organisations asked for the establishment of special ‘green corridors’ facilitating the mobility of seasonal workers within the EU, according to the EU Commission on the free movement of workers during the crisis (European Commission, 2020a, b). In Italy, this proposal was supported by the Italian Minister of Agriculture, Food and Forestry. However, despite numerous bilateral meetings, no concrete agreements were reached with Romania. National emergency measures did not provide for ‘active quarantine’ - i.e. the possibility for foreign seasonal workers to spend their quarantine working in the fields albeit at a distance from other workers. This measure has been adopted by Germany, with the result of attracting many Romanian farmworkers, also because of the higher wages (Cappellini, 2021).

Since the beginning of the pandemic, companies or producer organisations have arranged the transport of groups of seasonal workers by charter flights to countries such as Italy from Morocco or to Spain from Uruguay. In Italy, especially in the northern regions, businesses have looked for workers through employment agencies or local employment centres (Macri, 2020).

As has emerged in the case of Italy, the lockdown measures initially made it impossible for many migrant farmworkers, especially those without a residence permit or a regular contract (mainly Sub-Saharan Africans) to move and access farms. Lockdown measures also undermined the actions of illegal gangmasters (so-called *caporali*), who in some zones of Italy maintain near-total control – in an exploitative way – over the recruitment, transportation, and accommodation of farmworkers. Gradually, the situation has changed as police and labour inspectorate controls have been relaxed, allowing *caporali* to move and transport workers to complete the harvest, such as in the area around Foggia, or farmers to hire irregular workers (interview with R. Falcone, trade union Flai Cgil, 17 June 2020).

In Spain, border restrictions have meant serious repercussions for the ‘contracts in origin’ system. Before the state of emergency, only 9000 of the 24,000 workers from Morocco who had initially been contracted entered Spain. When the harvests ended, the Moroccan government prohibited the return of the (mostly female) workers who remained ‘immobilised’ in the Spanish countryside with no means of subsistence and were supported solely by trade unions (Echevarría, 2020). In other words, the pandemic has put the spotlight on the reality of a system built on dependence on employers and gendered dynamics and power relations.

Moreover, since the lockdown, there has been an intensification of rhythms in the fields; conditions have been more abusive, with workers having to harvest larger quantities of produce and to do more overtime, such as in Huelva (interviews with A. Pinto, *Jornaleras de Huelva en Lucha*, and S. Gorsky, Instituto Joaquín Herrera Flores, 29 June 2020; interviews with A. Márquez Tejón and H. Wilson, *Women’s Link Worldwide*, 30 June 2020). The *Jornaleras de Huelva en Lucha* collective, in collaboration with the *Abogadas Sociedad Cooperativa* association, urged state institutions to intervene and raised several complaints against companies and local authorities for non-compliance with safety regulations to protect workers.

In Italy, trade unions have also reported a lack of compliance with safety protocols in the countryside. Few businesses have provided workers with masks and enforced safety measures. Several complaints were addressed by workers, especially in packaging warehouses (interviews with G. Scifo, Cgil, 19 June 2020 and R. Falcone, Flai Cgil, 17 June 2020).

In both Italy and Spain, the degrading living conditions of migrant farmworkers raise even more concerns in a pandemic. In the informal camps where many migrant farmworkers settle, personal protection measures have been practically impossible to implement due to a lack of drinking water, electricity, and essential minimum services, as well as precarious and overcrowded housing conditions. In both the countries, trade unions and humanitarian organisations have supported agricultural workers by distributing drinking water, essential goods, and personal protective equipment to informal settlements such as the *Sindicado Andaluz de Trabajadores*

(SAT) in Hueva and Almeria, or *Unione Sindacale di Base* (USB) in Foggia and in the Plane of Gioia Tauro-Rosarno.

Various outbreaks of Covid-19 have been reported. In Spring 2020, the contagion spread to the industrial animal slaughtering sector, as in Bari (Italy) and Huesca (Spain), but then gradually affected mobile seasonal labourers housed in informal ghettos or collective dormitories. The temporary work enterprise *Terra Fecundis*, based in Murcia (Spain) but operating across interprovincial or national borders, was investigated in France for the Covid-19 outbreaks triggered by seasonal workers in Provence.

On the other hand, there have been migrant workers' demonstrations in both countries: for instance, in May 2020, in Italy (in particular, in Foggia) hundreds of migrant workers went on strike to demand a strengthening of their rights; in July 2020 in Spain, migrant farmworkers took the streets to protest against the confinement imposed on an informal settlement and claim the need to work in order to meet their livelihood (as in Albacete, Castilla-La-Mancha), or demand decent housing in (Lepe, Huelva) (Summers, 2020).

In June 2020, a coronavirus outbreak hit Bulgarian Roma farmworkers living in degraded buildings in Mondragone (Italy). This situation – and the ensuing lockdown of the entire residential area – triggered protests and clashes with the Italian inhabitants. In October of the same year, the spread of infections in the crowded emergency camps in the Plane of Gioia Tauro-Rosarno (in the province of Reggio Calabria) resulted in the confinement of hundreds of migrant workers (Fig. 8.5).

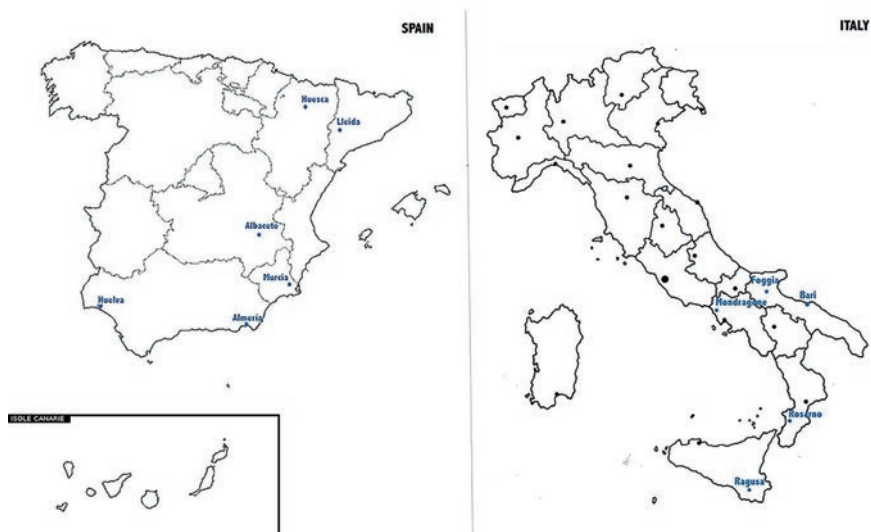


Fig. 8.5 Maps of main Covid-19-related infections and mobilisations involving migrant farmworkers in Italy and Spain. (Source: own elaboration)

8.5 Legal and Political Responses to Address Migrant Farm Workers' Situations of Vulnerability During the Pandemic

In response to alarm about labour shortages, and to address the situations of vulnerability of many migrant farmworkers, Italy and Spain have adopted several measures to support the agri-food sector and to facilitate the mobility and recruitment of seasonal migrant workers and guarantee them adequate and safe services during the pandemic .

In Italy, in March and April 2020, the government adopted some measures to provide a financial support package during the crisis, also covering the agri-food sector. It established an increase from 50% to 70% in advance payments from the CAP, as well as incentives for exports. The measures also provide for a two-month €600 transfer to agricultural workers on short-term contracts, subsidised lay-offs for all employees in the sector, and rolled out social protection for seasonal workers. However, many migrant farmworkers who were employed informally could not benefit from these subsidies (Palumbo and Corrado 2020).

With respect to alarm about labour shortages, in Italy most of the institutional attention focused on the adoption of a plan to regularise undocumented migrants. The regularisation scheme was adopted after intense debate, with some misgivings within the governing coalition and opposition from the far-right Lega and Fratelli D'Italia parties. This provision, entitled 'Emergence of Employment Relationships', was included in the so-called Relaunch Decree (in particular in Article 103) approved by the Italian government on 13 May 2020 for a post-pandemic economic recovery (Law-Decree n. 34 of 19/05/2020 converted into Law n. 77 of 17 July 2020). The provision aimed to 'ensure adequate levels of individual and collective health protection' as a consequence of the health emergency, and to 'facilitate the emergence of irregular employment relationships', applying only to the agri-food, care and domestic work sectors. It aimed to cover all those doing undeclared work, whether undocumented foreign workers, Italian citizens, EU migrants, or regular non-EU migrants.

The provision established two application channels and a 15 July 2020 deadline, which was subsequently extended to 15 August 2020. The first channel allowed employers to apply to conclude a fixed-term employment contract for foreign nationals or declare the existence of an irregular employment relationship with Italian citizens or foreign nationals. Foreign citizens must have been present in Italy before 8 March 2020 and must not have left the country since that date. In the case of undocumented migrants, they received a residence permit for work reasons.

The second channel allowed foreign citizens with a residence permit that had expired since 31 October 2019, who were able to prove they worked in one of the eligible sectors before that date and who had been present in Italy before 8 March 2020, to apply for a six-month temporary residence permit to look for a job in these sectors. This temporary permit can be converted into a residence permit for work reasons.

In both channels, if the employment relationship terminates, even in the case of a seasonal contract, foreign nationals have the possibility of applying for a one-year residence permit while ‘awaiting employment’.

It might be argued that given the Italian government’s hesitant and restrictive approach to migration, this regularisation could be considered a step forward. However, since the beginning it has been clear that significant inadequacies would affect its impact, resulting in a limited number of regularised migrants, especially migrant farmworkers.

In line with the previous regularisation schemes, the plan has mainly relied on an employer-driven approach, providing a limited space of action for the workers. The limits of this approach are particularly evident for cases characterising the agri-food sector, where irregular recruitment of workers is connected to exploitation of workers in a situation of vulnerability. The Decree does suspend some ongoing criminal and administrative proceedings against employers; however, this has not been sufficient to sway employers who find it more convenient to use undeclared workers (Palumbo, 2020; Schiavone, 2020).

With regard to the second channel, a temporary residence permit to look for work is a relative novelty for the Italian legal system which, since 2002, has closely linked residence permits to the existence of a labour contract and channelled foreign workers into the above-mentioned inadequate entry mechanism (see above ‘Migration policies’ section). However, prerequisites for this second path significantly limited its scope, leaving out numerous migrants in situations of irregularity and precariousness, including many of those affected by the so-called Security Decrees.

Lastly, by applying only to the agri-food and domestic/care sectors, the plan overlooked sectors such as logistics, construction, tourism, and food services that have high rates of undeclared work, including by migrants in irregular and exploitative conditions. This decision clearly highlighted the economic and labour market logic behind this regularisation.

According to official data provided by the Italian Minister of the Interior (Ministero dell’Interno, 2020), there have been 220,528 applications for both channels of regularisation: respectively, 207,542 for the first channel, and mainly in the domestic and care work sector (that is 85% of the total number of applications), and 12,986 for the second, and basically in agriculture (that is 15% of the total). Interestingly, 64% of applications in domestic and care work concern foreign men. Given the high percentage of women in this sector, the latter datum suggests that there have been abusive practices such as sale of ‘false’ contracts to allow people to access to regularisation (Rondi, 2021).

The number of accepted applications is not yet known or estimated. However, it is worth underlining that, while there is a correspondence between the number of applications estimated by government and the real number of applications, 220,000 is only a fraction of the estimated 600,000 undocumented migrants (Fondazione Ismu, 2020) at risk of marginalisation and exploitation. Moreover, the regularisation seems also to have had a limited impact for specific sectors covered by the scheme: around 46,000 migrants irregularly employed in agriculture and some 132,000

migrant workers in care and domestic work have not benefited from the regularisation (Schiavone, 2020, 133).

At the time of writing, the processing of the applications has proceeded at an unbelievably slow pace (in May 2021, only 12,7% of the applications were examined). This, in turn, has resulted in a slow number of residence permits that have been issued: with regard to the first channel, at the end of 2020, only 1480 residence permits were issued throughout Italy (0.71% of the total), while in the case of the second path, data are slightly better as in the same time frame 8887 residence permits were issued (68% of the total) (Ero straniero, 2021). Although migrant workers are allowed to work while waiting for the processing of their applications, this condition of uncertainty leaves them in a limbo that increases their situations of vulnerability.

The Relaunch Decree (Article 103) also provided that competent national and regional authorities adopt – including through the implementation of the measures established by the 2020–2022 national Plan against exploitation in the agricultural sector and illegal gangmastering – interventions and actions to guarantee adequate and safe accommodation and services, as well as to combat undeclared work and exploitation. These measures should also be adopted in accordance with the actions provided by Law N. 199/2016 addressing labour exploitation and illegal gangmastering, which constitutes an important milestone in the fight against exploitation but is still inadequately implemented, especially in respect to the development of the above-mentioned Network of Quality Agricultural Work at national and local levels (Corrado et al., 2018).

Far from implementing structural actions, at the time of writing, only emergency-based interventions have been developed in a few rural areas of Southern Italy, providing migrant workers in the informal settlements with water, food, health and legal assistance, and temporary housing structures.

In October 2020, the Italian government issued a new Decree Law No. 130/2020 on migration and international protection, which was converted into Law No. 173/2020 by Parliament on 18 December 2020. The Decree has significantly changed some provisions of the so-called Security decrees,² in particular introducing a form of ‘special protection’, similar to the former humanitarian one and which is valid for two years and can be converted into a resident permit for work. It has also revised the reception system SIPROIMI (now renamed SAI, *Sistema di Accoglienza e Integrazione*) by restoring a widespread reception system managed by the municipalities and allowing asylum seekers access to it. In addition, the Decree has strengthened services for asylum seekers’ social inclusion.

Lastly, it is worth mentioning that in Italy many local Civil Tribunals have recognised the right to essential services and benefits (such as food vouchers) of

²In 2019 the government issued Decree Law No. 59, known as the Follow-up ‘Security Decree’, implemented by Law 77/2019, and which, in particular, toughened sanctions on NGO ships seeking to bring migrants rescued in the Mediterranean to Italy. Both the first Security Decree and follow-up decree were supported by Interior Minister Matteo Salvini.

undocumented migrants during the current health emergency (Giammarinaro & Palumbo, 2020).³

In Spain, the government also adopted measures to prevent targeted migrant workers from finding themselves in a condition of irregularity due to public administration delays or difficulties in renewing residence permits during the pandemic. In particular, to address labour shortages, support agricultural activities, and encourage the recruitment of new categories such as young third-country nationals in the agri-food sector, the Spanish government – through Royal Law Decree (RD) No. 13/2020, of 7 April 2020 – extended the validity of migrants' residence permits expiring during the lockdown period. In addition, young third-country nationals (aged between 18 and 21 years) in possession of regular documentation could benefit from being allowed to work in agriculture. This group consisted mainly of unaccompanied foreign minors (*menores extranjeros no acompañados*, also called 'mena') who turn 18 with their documents still pending resolution. This measure was updated and extended on 26 May 2020 by RD 19/2020, which allowed migrants employed in other sectors whose jobs had been affected by Covid-19 crisis to seek employment in agriculture. Furthermore, this RD provided a residence and work permit for two years (with a possible renewal of two more years and without sectoral limits) to young third-country nationals who obtained their first work contract thanks to the measure on work flexibility in the agricultural sector. This would allow these young migrants to potentially access long-term residence (OSEPI, 2020: 15).

In addition, the Spanish government adopted another wide-ranging measure extending permits to migrants already in possession of documents (*Orden SND/421/2020*, May 18). This measure established automatic renewal for six months following the expiration date of all temporary work, residence, and study permits expiring during the state of emergency or 90 days before its declaration. Furthermore, it provided for the renewal of residence cards of family members of EU citizens. However, even in this case, this measure did not apply to all migrants, excluding some categories such as, for instance, foreigners doing internships in the health sector – an exclusion that sounds quite bizarre in the middle of a public health crisis.

On the other hand, in June 2020, the government rolled out specific short-term social measures (*Instrucciones*) to stop more migrants falling into undocumented status. Income thresholds and other requirements were lowered to facilitate access to permit renewals, family reunification (*Instrucciones DGM 4/2020*), and the temporary residence permits based on social integration (*arraigo social*) (*Instrucciones DGM 6/2020*). Residence permits will also be renewed for those who are unemployed or receiving income support or the minimum living income, and for those who depend on their families.

Lastly, the Spanish government also issued a set of measures to protect asylum seekers who are in reception centres and who have pending administrative deadlines (*Instrucción DGIAH 2020/03/20*).

³ See, for instance, Tribunal of Rome, Decision of 22 April 2020, R.G. No. 18957/2020.

In general, it might be highlighted that, unlike the Italian regularisation plan, Spanish measures have consisted mainly of extending permits to migrants who were already in possession of documents. Therefore, they have not applied to migrants already in a condition of irregularity. At the same time, and perhaps related to the fact that they mainly consist of an extension, these measures do not rely on an employer-driven approach, as in the case of Italy. However, similarly to the Italian regularisation scheme, the Spanish measures have covered specific sectors and groups.

On 23 September 2020, the Spanish Congress refused to ask the government for a general and unconditional regularisation of undocumented migrants as proposed by the Republican Left of Catalonia party with the Confederal Parliamentary Group of Unidos Podemos, En Comú Podem, Galicia en Común. The initiative was rejected by the Spanish Socialist Workers' Party (PSOE), Popular Party (PP), Ciudadanos (Citizens), and the far-right Vox. The PSOE, in particular, argued that neither Spanish nor European legislation allows this measure, since both provide for 'individualised' and 'case by case' regularisation. This view has been significantly contested by Left parties, such as the Republican Left of Catalonia.

Like Italy, official data reveal that in Spain there are around 600,000 people in a condition of irregularity and precarity, including undocumented migrants and asylum seekers awaiting a decision on their case who could benefit from the move to grant them legal residency papers (Díez & Casqueiro, 2020). As the *RegularizacionYa* campaign by civil society groups claims, rejecting the proposal for an unconditional regularisation is a missed opportunity that marks a significant step backwards for the rights of migrants in Spain.

On the other hand, important measures and court decisions have been adopted in Spain at the regional level to address the degrading living conditions of migrant farmworkers during the lockdown and pandemic crisis. For instance, the Administrative Court of Huelva (decision No. 345/2020) has allowed migrants living in informal settlements to register in the Municipality of Lepe (*empadronamiento*). This registration also lets irregular migrants access citizens' rights and is important for them to initiate the process of regularisation based on social integration (*arraigo social*) (Sainz, 2020). Furthermore, in Lleida and several municipalities in Catalonia, local authorities provided temporary shelters for farm workers. The regional government of Andalusia allocated over €1.1 million to guarantee minimum services to some 2200 inhabitants in the 79 settlements in the province of Almeria and another €1.1 million for 2200 people in 30 villages in Huelva. However, xenophobic and racist attitudes against migrant groups or institutional interventions also emerged, as in Albacete and Murcia (Palumbo & Corrado, 2020).

In addition, unlike the Italian context, where there have been no actions to increase the institutional capacity to monitor during the pandemic, in Spain, in May 2020, the Minister of Labour provided for a strengthening of labour inspections in the agri-food sector during harvesting. This provoked strong reactions from agricultural businesses and employers who asked for the Minister's resignation, claiming that she attempted to stigmatise the sector (León, 2020).

Finally, the participation of migrants, refugees and asylum seekers in the anti-Covid-19 vaccination campaign is another relevant issue. In Italy, the vaccination plan does not make any specific reference to migrant people. This is a significant limitation considering that the access to health assistance is often problematic for migrants, especially for those who are in a condition of irregularity. In Spain, on the contrary, the vaccination strategy clearly states that vaccination could be applied to socially, economically and occupationally vulnerable groups, such as homeless people, people in the horticultural sector and undocumented migrants. The government of Aragon, for example, established the vaccination of temporary agricultural workers in May 2021 (Pérez, 2021).

8.6 Concluding Remarks

In many European countries, key and labour-intensive sectors such as agri-food rely on the employment of migrant workers, often in conditions of exploitation. The main factors driving the recourse to this labour force include agri-food restructuring processes, in particular imbalance of power in long supply chains. At the same time, stringent migration policies and labour market liberalisation processes play a crucial role in fostering the conditions of vulnerability of migrant workers and producing labour market segmentation based on gender, nationality, and legal status. This contributes to confining a migrant labour force to specific sectors and facilitates their continuous replacement and substitution by taking advantage of specific situations of vulnerability.

Such dynamics have been disclosed and simultaneously aggravated by the current Covid-19 crisis. In particular, the Covid-19 crisis has brought under the spotlight the essential character of migrant farmworkers and exacerbated their situations of vulnerability as it disproportionately impacted people most affected by discrimination and social exclusion.

By focusing on Italy and Spain, this chapter illustrates how, since the pandemic, labour shortages in the agri-food system have been offset both by a reserve army of migrant labour in situations of irregularity and vulnerability and also through work intensification and a further compression of workers' rights. This process has also involved encouraging the recruitment of new categories (such as young third-country nationals) which, according to the dynamics of high labour turnover constantly reproduced in agriculture, sustains the need for a fresh and docile workforce. As the case of Huelva reveals, these processes have been compounded by gendered dynamics and power relations.

At the same time, the poor and degrading housing conditions have raised even more concern at this time of health emergency in terms of the dramatic consequences for individuals and public health. Contagions and risks of contagion of migrant agri-food workers are associated with overcrowded collective dormitories, extreme spatial mobility, reduced or non-existent protection measures at work and

during transportation to employment, and the precarity and flexibility of labour contracts.

By reflecting the main political concerns and agri-food issues in the two countries, the Italian and Spanish governments have adopted different legal and policy responses to sustain the agri-food sector and address migrants' situations of vulnerability. In both cases, the responses of national governments have consisted primarily of short-term solutions, aimed at meeting seasonal labour demand and, as in the Italian case, at reducing the number of undocumented migrants working in agriculture or, as in the case of Spain, at preventing migrants' condition of irregularity. In Italy regularisation has had a limited impact, especially on the agricultural sector, resulting in a sort of failure. While it is true that Spain has taken some tentative steps towards more longer-term solutions, as in the case of measures for young third-country nationals (OSEPI, 2020), even in this country, as in Italy, the question of a profound change in migration policies has remained unaddressed.

However, some differences have emerged in the institutional responses to address labour rights in agri-food systems before and during the pandemic. The Spanish government established a new increase in the minimum wage in agriculture, strengthened labour inspections in the countryside, and introduced reforms to contrast market pressures and unfair practices all along value chains, in line with EU Directive 2019/633 on unfair trade practices. In Italy, on the contrary, although the adoption of the Law n. 199/2016 on labour exploitation and illegal gangmastering, and the 2020–2022 Plan against exploitation in the agricultural sector marked an important step forward, no effective institutional initiatives have been adopted so far to support the implementation of specific provisions concerning the enforcement of labour rights and workers' transport and accommodation. Moreover, there is not yet a legal instrument to address unfair trade practices.

Since the outbreak of the Covid-19 crisis, it has been clear that agri-food sectors do not suffer from labour shortages, but from a shortage of rights for workers. Even if migrant farmworkers have been recognised as essential, their situations of vulnerability have been addressed in many countries, such as Italy and Spain, by implementing mainly emergency and short-term measures to mitigate the effects of the pandemic and provide them with some degree of social protection and temporary residence permits. However, as many trade unions, NGOs, and workers themselves have claimed, the response cannot be limited to this. The Covid-19 emergency, and all the inequalities and discriminations that the pandemic has made evident and exacerbated, should induce the adoption of structural interventions to overhaul a system that takes advantage of – and simultaneously engenders – the vulnerability of workers, especially of migrant workers. These interventions should be aimed at creating safe and legal entry routes for low- and medium-skilled workers, strengthening wages and labour rights, ensuring decent living conditions, developing welfare services, and supporting fair and sustainable agri-food supply chains. Only by moving in this direction might the pandemic constitute a crucial opportunity for a new drive to forge more labour and migrant rights compliant agri-food systems.

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Chapter 9

The Entangled Infrastructures of International Student Migration: Lessons from Covid-19



Parvati Raghuram and Gunjan Sondhi

9.1 Introduction

International students are a growing share of the global migrant population. The top two countries of origin are China and India while the top destinations are the United States, Australia, and the United Kingdom (Fig. 9.1). Students are often considered to be transient and therefore not pertinent to the politically divisive dialogues around migration in many countries. Perhaps, as a result, through the second half of the twentieth century, when migration moved up on research agendas, student migration research was still relatively embryonic. However, there has been an explosion of research in the last two decades tracing the causes, experiences, and consequences of student migration as student migrant numbers have increased (Brooks & Waters, 2011). They have produced new insights and agendas for research (King & Raghuram, 2013).

If international student experiences have been based on the lack of permanence, i.e., the itinerancy of study, then it is precisely this lack of permanency that has made international students some of those hardest hit by Covid-19 (Bilecen, 2020) as it exposed the liminalities that are inherent to study but also the constitutive nature of mobility¹ to higher education today.

¹In this chapter we use the terms migration and im/mobility in specific ways. International student migration is the lens through which this chapter examines the infrastructures of migration- corporeal, knowledge, and finance. A deeper discussion of the nuances of migration and mobility is beyond the scope of this chapter.

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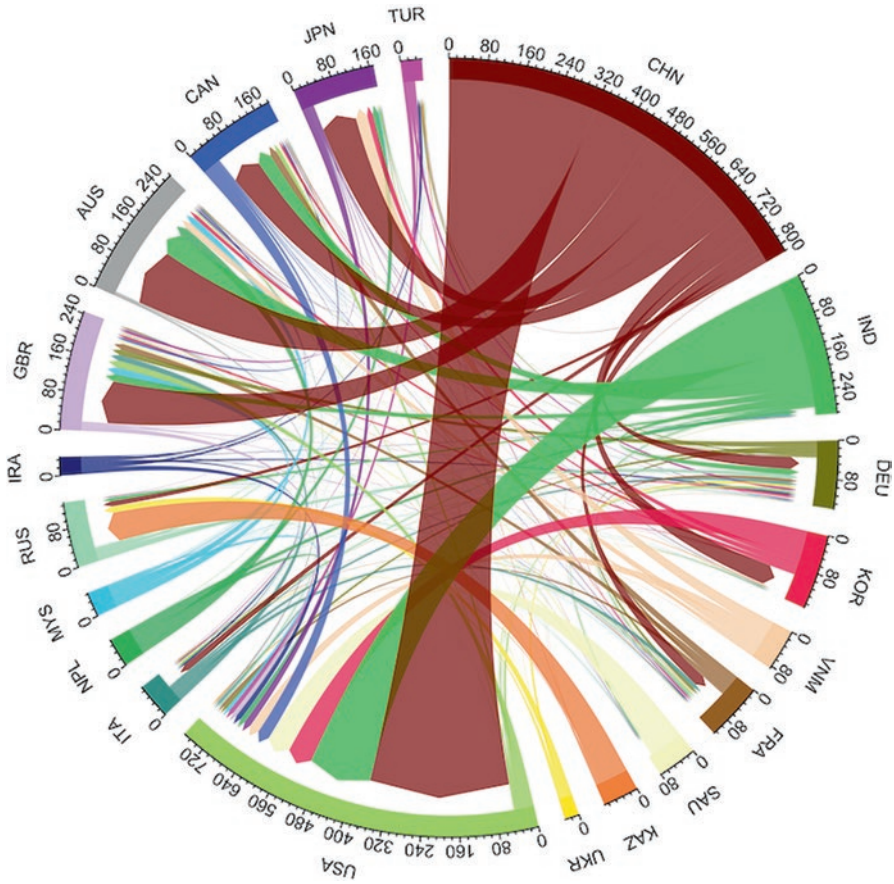


Fig. 9.1 Global flows of international students in 2017 (top 20 countries). (Source: OECD)

This chapter focuses on the experiences of international students in the UK during the Covid-19 pandemic in 2020. It particularly addresses the altered mobilities and immobilities produced by the pandemic and the infrastructures that shaped them. The rest of the chapter is divided into four further sections. The next section outlines how Covid-19 may be seen not only as a crisis, but also as a conjuncture that exposes the infrastructures shaping student lives. It suggests that focusing on the fissures in the infrastructures that are supposed to support the mobility of international students offers a useful lens for migration research. Section three outlines the project and data collection methods and describes the international students who participated in the study. The fourth section delves into the experiences of international students to show how the entangled infrastructures of education, migration, and finance failed during the pandemic, leading to particular forms of immobility and mobility for international students. The section argues for deeper examination of these infrastructures to capture the inherent liminality of the lives of international

students. The chapter concludes by exploring the implications of these findings for theoretical and policy research.

9.2 Covid-19 and Infrastructures of International Student Migration

The Covid-19 pandemic led to the introduction of short-term but stringent measures to control the spread of the virus. When the outbreak was first detected, it was difficult to comprehend and anticipate the intensity, nature, and length of disruption to our normal lives. For students in destination countries, the hope was that the interruption to study would be short term, but the challenges faced by international students revealed the fractures in the infrastructures shaping student lives. Conceptualising Covid-19 as a crisis provides us a productive entry point towards exploring the failures in these infrastructures and how international students negotiate them.

Covid-19 as crisis, like other crises, offers opportunities for unpacking what went before. Crises then are not events, but condensed moments where the internal contradictions of a period come to light (Hall & Massey, 2010). They highlight the complex entanglements of the social and cultural character not only of the crisis but also the conditions under which it arose.

Infrastructures offer one way of exploring that character. Migration and mobility scholars have, for some time, focused on the infrastructures of mobility (Hannam et al., 2006) and immobility (Breines et al., 2019). Xiang and Lindquist define ‘migration infrastructures’ as ‘the systematically interlinked technologies, institutions, and actors that facilitate and condition mobility’ (2014, S124). International migration and its infrastructures, which link ‘technologies, institutions, and actors’ have been analysed for how they enable different forms of mobility. For instance, authors have explored the role that intermediaries such as education brokers, employment agencies, and migration brokers play in facilitating student and skilled migration (Cranston, 2017; Harvey et al., 2018). Student migrants are filtered and stopped through a range of methods from fee requirements to visas. Their onward mobility and their presence are also governed and securitised through everyday bordering (Dear, 2018).

The intertwining of infrastructures of mobility and immobility, and how they shape international students’ mobility is highly differentiated by nationality and class. For instance, students from some countries, particularly in Africa, have fewer venues to go to get their visas to study in the UK as visa functions are centralised in major sending countries. Moreover, the infrastructures around funding are variable based on whether students travel on scholarships or through personal funding or loans. Finally, some apparatuses and technologies, institutions, and intermediaries appear far more significant when viewed through the eyes of such migrants than they appear in the eyes of the receiving countries.

These infrastructures of mobility were particularly affected during the Covid-19 crisis. Mobility is central to this pandemic. Viruses travel on moving objects and bodies so the only solution to this crisis is to make them immobile. It requires stasis to contain the virus. People stopped wherever they were, irrespective of status and location. In some senses, the story of the solution to the spread of Covid-19 is immobility. This had social effects – with people only allowed to mix socially in bubbles with tightly drawn boundaries and encouraged to work from home if they could as well as with compulsory regulations stopping movement except for defined purposes. Educational institutions were also initially closed for face-to-face study but over time the restrictions were partly lifted.

However, Covid-19 did, in effect, lead to large scale mobility (Rajan, 2020). The pandemic triggered an economic downturn, with extant job losses and global recession which fed right through the economic system. People who lost jobs went back – to their home countries as well as to their rural homes. Both the informal economy and the lowest-paid sectors such as hospitality, which employs large numbers of migrants in cities, contracted sharply. The rural economy – and sending countries, themselves affected by the pandemic – however, had to accept large numbers of return migrants.

Mobility and immobility were thus entangled in the strategies for containment of Covid-19. International students were amongst the first to feel the impact of the Covid-19 crisis. Chinese students, the largest cohort of international students globally, returning from the festive break at the turn of the year, were subject to quarantining mingled with an unhealthy dose of racism. Those who returned found that they had little ability to then return to their home countries as borders hardened and travel restrictions grew. Those who were wealthy and healthy could return. However, not all international students are wealthy and able to buy airline tickets at short notice and at inflated prices. They stayed. Many students were unable to ‘go home’ as the other infrastructures that are supposed to support and enable mobility were also failing, consequently immobilising students both within their country of destination and within the sending countries.

Despite these issues, the first and most persistent concerns about international students were not around *their* welfare but on what a system of education based on mobility would do without international students (Gamlen, 2020). Universities UK (UUK) estimates that the education sector generates £13.1 billion in export earnings. This helps underpin employment of around 940,000 people across the sector. It, therefore, requested ‘a balanced package of measures to maximise universities’ contribution to the economy, communities and the post virus recovery,’ i.e., a cash injection of about £2.2 billion to help the sector cope with the outcomes of the Covid-19 pandemic (Universities UK 2020). Universities UK argued that the potential loss in revenue could be over £790 million in 2019–2020 and potentially £6.9 billion in 2020–2021 if there was a drop in international students’ enrolments as these were critical to the financial health of the sector (Ahlburg, 2020). Similarly, the Australian government abandoned students until the impact of this attitude on future student flows was driven home (Nguyen & Balakrishnan, 2020). The infrastructural role that international student fees play in constituting educational

institutions and systems is little recognised and analysed but became particularly apparent during the pandemic. It led to new registers of recognition of the role that international students play in higher education.

However, the issues faced by students received much less attention. There were some media reports, but they remained marginal to mainstream concerns about the effect of Covid-19 on UK higher education. Our project aimed to address this lacuna through a small-scale study of the issues that the students themselves faced. The next section outlines the study and the methods adopted.

9.3 Studying International Student Migrants During Covid-19: Digital Methods

The research presented in this chapter is based on a project that emerged out of concerns for international students during the initial stages of the lockdown in the UK (Raghuram & Sondhi, 2020). It aimed to capture the experiences of the pandemic on the 2019–2020 cohort of international students in the UK. The study used online methods, which were widely adopted by research communities studying migration during the pandemic. The researchers knew before embarking on the study that while the subject of their study was clear, the field site of their study was less clear, and required further consideration. The researchers were also sensitive to the ethical issues and safety concerns of both the researchers and participants.

This research took shape amidst the pandemic as well as the Black Lives Matter movement and the calls to decolonise the curriculum and research that accompanied it. The research was undertaken after obtaining ethical clearance from the university. Although some meetings were allowed by the time the research was undertaken, ethics clearance was only requested and obtained for online interviewing. The researchers had considerable experience of undertaking online interviews in previous research. By undertaking the data collection entirely online, the research challenged our assumptions of the ‘field’, but also forced us to think of what the field meant at a time when the media was full of stories, such as those around the illness itself, and to the mobility limitations being imposed, that were directly relevant to the students. The field, in this research, therefore included the contexts within which research problems were conceptualised and designed. We were conscious that these problems were pressing for many students but that the students were also vulnerable in the context of very rapidly changing regulations.

There are four ways in which the digital appears in research. Drawing on scholarship on the ‘digital turn’ in geography the digital in this paper was understood as:

- (a) an interface through which access to the field is mediated
- (b) a field site where data can be generated
- (c) field of concern about how data is generated
- (d) offering opportunities for generating various sorts of ‘telling’ geographies as outputs.

In our project we primarily used the digital as interface. We used a mainstream meeting software offered through our university and in doing so were able to access students, irrespective of physical location. This included students who had physical disability. However, we were aware that other forms of exclusion were operating. For instance, those with limited bandwidth or inability use the software or unwilling to download the software. Those who were concerned about digital interviewing too would, no doubt, have opted out although the ease with which participants interact online had no doubt been strengthened by the time we undertook the interviews. Students had been exposed to hours of online learning after universities closed face-to-face teaching in March 2020, as such, the digital also became our field of/for concern as we considered the inclusions and exclusions digital methods pose. The digital was not then simply an interface.

The study employed a mixed-method approach to data collection using a bespoke online survey on a software platform and in-depth online interviews. The survey ran from August 2020 to 15 October 2020. The project was advertised through the researchers' Twitter accounts, and their respective Twitter networks, as well as other channels offered by the project partner UK Council for International Student Affairs (UKCISA). UKCISA circulated the call for participation through their social media platforms and their student ambassadors. Interview respondents were recruited from among the survey respondents; survey respondents who expressed an interest in being interviewed were contacted by researchers.

The survey generated a total of 85 complete responses. Sixty per cent of respondents identified as women. Of the remaining 40%, the majority identified as men, and a smaller group identified as non-binary.² International students were defined as those who were enrolled in UK higher education institutions as international students either on a Tier 4 visa³ or paying international student fees or both. Unlike other studies, two definitions were used to identify international students. This was to capture students with dual nationalities who may not need a visa to be in the UK because they hold EU or British passports, but do not meet the residency criteria that makes them eligible for home fees.⁴ This project, therefore, includes British-born migrants who may be returning to the UK for higher education. The data collected through the individual survey aimed to be illustrative rather than representative. The survey captured a cross-section of students who were studying in the UK from around the world. This is in contrast to other recent studies that have focused on

² Specific percentages are not provided because of data privacy issues.

³ Tier 4 (General) Student is the visa category a person needs to have in hand if entering the UK for study. From October 2020, 'Student Visa' replaced the Tier 4 (General) category. This was because the UK moved to a Points Based migration system.

⁴ To avail of UK home-based fees, students need to demonstrate residency in the UK up to 3 years prior to starting study, i.e., continued stay at a UK residence. Prior to 2021, for EU citizens to be eligible for home status fees, they had to show evidence of three-year prior residency at an EU address. The implications of this eligibility requirement are that British or EU nationals (holding British or EU passports) are not automatically eligible for home status fees if they cannot prove residency for 3 years prior. Hence, there are several cases where British and EU passport holders also pay international students rate fees.

specific sending countries such as Chinese students abroad (Hu et al., 2020) and Indians in Germany (Jayadeva, 2020). The survey was organised around seven broad themes to explore the impact of the crisis on students: experiences of migration, education, financing, housing, social exclusion/racism, institutional support, and future intentions.

The majority of respondents were under the age of 33 years (75%) and many were enrolled in a Masters-level program of study (42%). Nearly 60% of the respondents were single, with another 37% either in a relationship or married. Thirty per cent of the respondents selected China as their primary nationality. This was double the number of the next most populous group, Indian nationals (15%). The survey also captured the experiences of students from West African countries (Nigeria, Ghana), North America (US, Canada), Latin American countries (Brazil and Columbia), and South-East Asian countries (Malaysia and Singapore) (Table 9.1).

In addition to the survey, the project also included ten in-depth interviews with students to contextualise and explain the data. The interviews were conducted in September and October 2020, as the UK was emerging out of lockdown and international student recruitment was picking up. Universities UK was reflecting on the absence of the drop in international student figures, and this formed the background to public discussions at this time. Each interview lasted an average of 45 min. Of the ten students interviewed, eight were based in the UK at the time of the interviews, one had returned to their home country as they had run out of funds and could not afford to live in the UK, and one respondent had started their studies at a distance in the midst of the lockdown, and hence had yet to enter the UK. The sample of interview respondents was gender balanced and included nationals from Asian and North American countries. The interviews followed the survey and explored the seven key themes in greater depth, the findings from which we will turn to below.

Throughout the research process we were conscious of the implications of this study for our participants. Briggs (1986) refers to interviews as ‘speech’ events and Johnson et al. (2004) as ‘meetings’. Both these terms aim to draw attention to the relational and dialogic elements that are central to interviewing. They highlight the specific contexts and spaces that are created through the interactions. The context of the study was shaped by the difficulties that students had been experiencing which had been very upsetting and unsettling. During some interviews, students could barely hold back their tears as they talked about their family members and how much they missed them. Others spoke of resilience and holding on as pragmatic

Table 9.1 Top 5 nationalities by gender

	M (%)	F (%)	Total
China	33	66	100
India	66	33	100
Nigeria	33	66	100
USA	50	50	100
Malaysia	40	60	100

Source: Authors’ COVID ISM Survey

responses to uncontrollable events and uncertain futures. The interviewee was continuously conscious of these issues, sensing discomfort, and doing care work through and in the interviews. Care was particularly taken to ensure that participants were not left more grieved and in poorer shape than before. Both the authors had themselves been international students, albeit some time ago, giving them some insights into the issues that students face in the UK. They both have worked on international student migration for some years and have also supervised and mentored international students. They have argued for international students to be included in the global compact for migration as the fees that students pay is a form of negative remittance for sending countries (Raghuram & Sondhi, 2017). They have written widely about the issues that students from the global south face (Raghuram et al., 2020; Sondhi, 2013, 2019). They thus came to this research with strong sensibilities around the issues facing student migration. Moreover, they have engaged in broader debates around the Indian diaspora in the UK and Canada and thus were sensitive to some of the racialisation that students were facing in the context of COVID-19 (Kim & Sondhi, 2015, 2018). Thus, these ‘meetings’ involved shared experiences as well as differences.

9.4 Migration Infrastructures and Failure

International higher education was one of the first major global sectors to be significantly impacted by the Covid-19 pandemic because of the closure of borders and radical reductions in air transportation. It led to a range of hardships for students, several of which are discussed below. Moreover, it also showed the constitutive role that international students play in global higher education (Raghuram, 2013).

As lockdowns were announced, many of the students who could return to their home countries did so, but this was not always an option. Some students stayed on in their country of study because their courses involved laboratory work and co-presence with supervisors – technological infrastructures and sites that were enmeshed in their institution of study. Their studies could not all be moved online. As the policies being adopted by the universities were unclear, the students had to anticipate how the closure might affect their subject areas and decide if, for them, mobility was risky. Despite this some students left as uncertainties loomed large and families extricated their children. Others stayed on because of the time-lag between the closure of borders between the countries where they study and those to which they wanted to return but were now enforcing restrictions or simply did not offer enough means of transport to get back. Still others simply could not afford to go back and forth without some certainty of their future. These disabled, delayed, and disrupted mobility outcomes were the results of failures of migration infrastructures. Table 9.2 explores how these components differently interacted to produce differential mobilities and immobilities.

International students who were already in the UK as lockdowns began to be implemented in various parts of the world were faced with two options: they could

Table 9.2 Components of infrastructures of migration that shaped mobility and immobility during the pandemic

Components of Infrastructures	Unable to leave	Unable to re-enter the UK	Unable to enter the UK
Migration policies	Uncertain of whether they would meet the Tier 4 requirements in the UK Uncertain of whether post-study visa would require a minimum period of stay and students did not want to jeopardise that Unable to return to families who were not living in the country of citizenship		Uncertain of how migration policy might change due to the pandemic
Consular services	Closure of offices due to lockdown (unable to renew passports for home country where they had lapsed) Delays in processing biometric residence permits for those who had arrived recently	Closure of offices due to lockdown (unable to renew visa applications)	Slow processing times
Higher Education Institutions	Uncertain about whether face-to-face studies were suspended and for how long	Uncertain about when face-to-face studies will be resumed	Uncertain of whether courses would be offered face-to-face or online Uncertain of the value of online study
Financial	Prohibitive cost of airfares and uncertainty about when flights might be cancelled Prohibitive cost of living in the UK without being able to supplement with part-time work	Prohibitive cost of flights. Cancellation of flights from sending country.	
Travel	Lockdown in receiving country meant that students could not fly back. Flights were often cancelled or reserved for repatriation of select groups	Lockdown in sending country meant students could not travel There were limited flights and many countries had compulsory and often expensive quarantining	

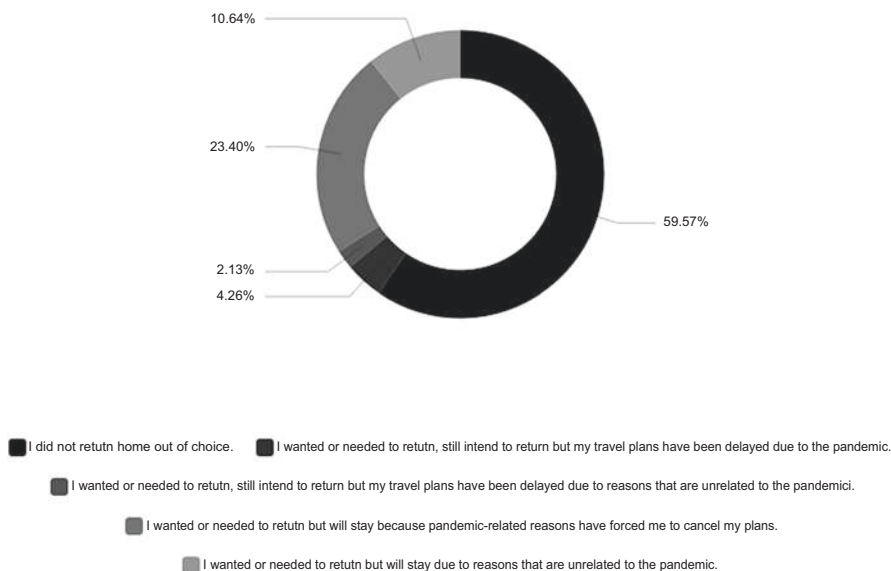


Fig. 9.2 Decision to stay in UK or leave during lockdown. (Source: Authors' COVID ISM Survey)

stay in the UK or leave and return to their home countries. Over 65% of respondents indicated that they did not return to their home country, with nearly 35% indicating that they left the UK and returned to the sending country during the UK lockdown (Fig. 9.2). Our survey asked respondents who decided to stay in the UK for the duration of the lockdown about why they made that decision. Forty per cent of respondents said that they wanted or needed to return home but did not do so. The most common reasons among this subgroup for staying was concern about their migration status.

Overall, the educational infrastructure negatively impacted students' education experience but the specific challenges international students face has received little attention. Survey responses (Fig. 9.3) showed that for the majority of those in taught programmes studies have been slowed with delayed assessment and study breaks as well as due to illness of staff or students. Students often struggled with Internet connectivity as tutoring moved online. Some found that their course options were no longer offered, changing the nature and content of their degree.

At a time of uncertainty, international students did not want to make decisions that would further compromise their precarious situation. This was especially an issue for international students in the UK.

Students engaging in research-related projects were particularly affected as they had to rethink their case studies and methods. Laboratory-based taught courses and research were delayed, sometimes stalled, occasionally abandoned. Some students deferred or stopped their studies as the courses they registered for were not what they were now being offered. Although the fast-moving and changing nature of the pandemic meant that several of these issues were faced by all students, UK students largely went home to their families as they navigated this. This was not an option for international students.

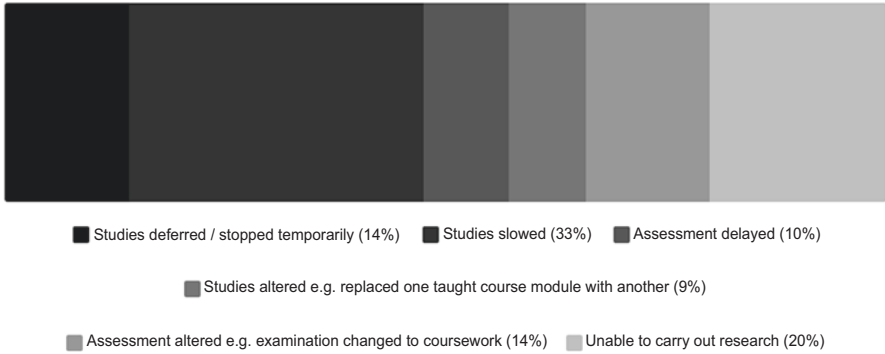


Fig. 9.3 Impact of COVID on programme of study. (Source: Authors' COVID ISM Survey)

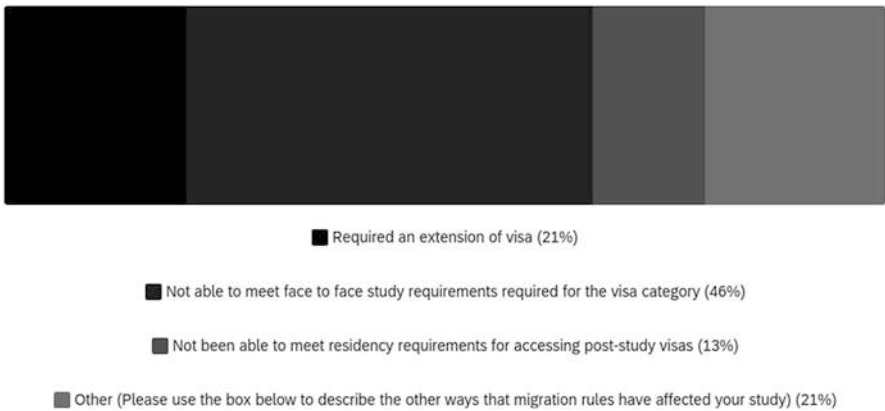


Fig. 9.4 Impact of migration rules on studies. (Source Authors' COVID ISM Survey)

This is because in the UK universities, acting as agents of the UK Border Agency, are required to monitor continuous attendance of classes by international students on Tier 4 Visa category (Jenkins, 2014). The rules also limit the amount of time a student can spend abroad and requires evidence of commitment to uninterrupted study.

There was a lot of uncertainty about the rules as the studies were interrupted and face-to-face study requirements could not be met (Fig. 9.4). As such, students were deeply concerned that they could unwittingly break rules. Any irregularities or missed classes might result in the students losing their migrant status, and potentially, deportation from the country. In fact, nearly 50% of the respondents identified this as the reason they did not leave as they were uncertain about where they stood with regard to their visa if they did not attend classes. Which rules would be relaxed, how, and when were all unclear. The interlinked nature of physical presence in the country, their studies, and visa was not only stressful but is often little understood as these are often seen as separate issues. Moreover, all these were also linked to their financial position and affected the poorest students the most. In an effort to mitigate



Fig. 9.5 Type of support offered by university. (Source: Authors' COVID ISM Survey)

the uncertainties around migration processes, many students had already paid or expected to pay extra fees related to visa and passport processing due to the pandemic.

This situation was exacerbated by the lack of timely clarifications by the UK government who periodically provided updates on their website as well as through social media and universities but offered little direct advice to the students. While some respondents implicitly pointed to the issue of poor communication, all respondents expressed deep dissatisfaction with the incomplete or incorrect information they received from their universities during this pandemic. Survey respondents indicated that the majority of institutional support and messaging relating to students was on mental health and well-being; only a minority indicated that their institution provided them with any financial or housing support (Fig. 9.5). Thus, structural reasons and infrastructural failures leading to poor mental health were ignored, and mental health was individualised and made into a personal responsibility. The universities were not adjusting the structures and infrastructures of education, housing, and visa to meet student requirements. The lack of institutional support on these issues exacerbated ongoing visa-related challenges.

Moreover, delay in completion of their studies raises distinctive problems for future planning among international students. Post-study plans are an issue for all students, especially in the context of the economic upheaval, job losses, and truncated opportunities that have resulted from the pandemic, but it is particularly so for international students who aim to obtain some labour market experience or embellish their CVs through internships before returning home. Students, especially those from the Global South who had taken loans to study, aimed to recoup some of the money spent on education through working, but were no longer sure if this would be possible. Self-funded students make up the largest share of the international students in the UK. Over 40% of our survey respondents said they were self-funded and were reliant on funds from friends and family or bank loans. Because of the differential values of currency and the earning power back home, the difficulties of recouping that money by working in their own countries was much greater. The high interest rate charged for loans, often at compound interest, also made the need to quickly pay back the money urgent. Those who had borrowed from family and friends or had been funded by them did not have to pay interest but were usually wealthier as they moved in a network where they knew others who had some money.

Some respondents expressed concern that if they were unable to complete their studies and were still outside the UK, they may no longer be able to avail of opportunities for further study and post-study visas. Several students spoke about how they had intended to transition into further programmes of study in January or September 2020 but were unable to do so. The importance of post-study work and of being able to retain that ability to have this visa cannot therefore be overestimated.

For many the post-study visa period also offered a bit of slack when they could plan future study and migration. International students have a time-limited period in which their visa is valid in which to accomplish these things. However, international students also varied in how far they had access to resources with which to cushion periods when they have no income. They were incurring expenditure on rent and living as they had no homes to go to while they waited for their plans to materialise, making the utilisation of the post-study visa much riskier. As a result, there was a drop in the proportion of students in the survey who were planning to stay on (Figs. 9.6 and 9.7).

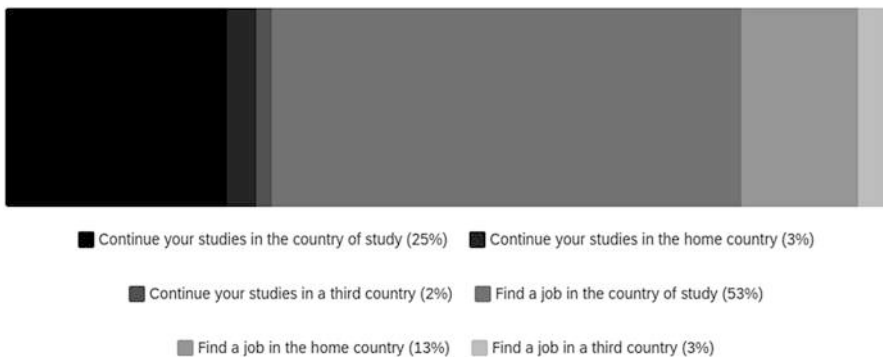


Fig. 9.6 Original post-study intentions prior to lockdown. (Source: Authors’ COVID ISM Survey)



Fig. 9.7 Post-study intentions after experiencing lockdown. (Source: Authors’ COVID ISM Survey)

In reflecting back on their intentions, nearly 80% of the student respondents reported that prior to the lockdown they had intended to stay in the UK, either transitioning to a work permit (53%) or pursuing further studies (25%). However, when asked what they felt after the lockdown, only 70% intended to make those choices (44% work and 25% study). This lack of confidence in post-study stay in the UK was also exacerbated by what students considered as the poor handling of the pandemic in the UK, as it has had some of the highest infection and death rates (thus far) globally. Thus, the drop in those who intend to stay on does not adequately reflect the extent to which migrant students were anxious about this issue. One of the interviewee's reflections on the complexities of how these concerns play out is presented below:

Due to severe sickness, I couldn't submit my dissertation on time, and I didn't get enough time to concentrate well on the dissertation. I had self-isolated myself as I was unwell, and NHS had asked me to stay at home for more than 21 days. Therefore, I requested for visa extension, but I didn't get positive response from the University and the home office. I am literally trapped as I cannot apply for a job anywhere due to COVID 19. I can't even apply for another course as I won't get enough time to search the course because I am getting just one month of time instead of 4 months after completing. (Female, Masters student)

However, it was not only the students who were stuck in the UK who faced challenges. Students who had left the UK when the lockdown was first imposed had been unable to re-enter to pick up their things and wrap up. As one survey respondent reported:

I initially went home for Easter break and stuck here since then. I haven't moved out from my accommodation and is continuing paying. I really hope I can go back soon! To retrieve my things and secure a job! (Female, Bachelors student)

Our project primarily focused on those who were in the UK during the period of the lockdown. Several of our interviewees talked about colleagues and peers who had been stuck in their countries and were unable to leave them. They also spoke about others who left when the lockdown was lifted because they were unable to afford to live due to the high rent costs and were now trying to re-enter the UK. They were struggling to travel.

Those who were looking to start their studies and enter the UK for the first time faced other challenges too. Language testing centres had closed for a period, making it difficult for students to obtain the necessary documentation. The consular services were also operating with reduced staff and at a distance. Moreover, students were unclear about whether the studies would be offered online or face-to-face and how studies would progress once they arrived. The different waves of the pandemic were also geographically varied, with source countries going into lockdown at contrasting times than in the UK. The variegated nature of disease spread and intensity, and hence of the control measures, meant that the students faced limitations over their mobility both in their own countries and in the UK. While some students were unable to leave the UK, others were unable to re-enter or enter it due to failures in the entangled infrastructures – migration, education, and finance, namely visa offices, biometric centres, and language testing centres to list a few.

Moreover, travel itself came to be increasingly brought under new forms of surveillance. Many visa centres were closed, and immigration regulations restricted entry for non-nationals. Covid-19 testing, sometimes difficult to access in the UK but a mandatory requirement for entering some countries, created new costs and immobilities. The mobility of students who had access to sufficient finances to access these was delayed rather than entirely disabled but for others, the costs of mobility were too high. The impact on students has been and continues to be class-differentiated.

The challenges of visa centres, unclear migration policies, ineffective communication, and surveillance by the universities have long been hallmarks of infrastructures of student migration. The slippages and problems of these systems were often apparent to those who had to use these infrastructures, especially those from and in the Global South. They were set up to filter those from some nationalities and classes and they very often did just that, albeit in new ways. Crucially, the effects of the pandemic also furthered inequalities with some students more severely affected, especially those from the Global South. However, the power of intermediaries, infrastructures, and policies in shaping migration outcomes became even more exposed due to the pandemic.

In sum, the infrastructures supporting student mobility in the UK were fractured and incomprehensive. This led to international students being trapped in the UK, unable to leave fearing that they may not be able to return to the UK if they returned home for the period of the lockdown. They were anxious that this would leave them with an incomplete education and with no chance of reimbursement of the money spent. Others left but found it difficult to re-enter. Yet others have delayed their international study plans or dropped them. Thus, infrastructures of mobility led to the selective mobilities and immobilities of students.

9.5 Concluding Remarks

This chapter has explored the entangled nature of migration, education, and finance infrastructures that have shaped international students' Covid-19 lives. Drawing on an online survey and select interviews, the paper explored the experiences of migrant students in the UK. It particularly pointed to the issues that students face. For instance, some of the infrastructures around mobility are used to filter students rather than facilitate mobility. They are also situated within a governance complex which is suspicious of mobility from the Global South. The infrastructures of mobility of receiving countries are comprised of various components, the most visible of which are visa policies, visa offices, biometric centres, and language testing centres. The pandemic highlighted how these are entangled with and delivered through educational institutions and mobility infrastructures. The tenuous relations between these infrastructures came unstuck during the pandemic, leading many to become locked within UK borders, while others were unable to enter the UK. Moreover, students were also concerned about their post-study lives and how their future could

be affected. Crucially, these infrastructures always existed and particularly impeded those from the Global South, but the pandemic exposed not only the politics and operations of these infrastructures but also their failures.

Importantly, these crises are moments which shed light on existing infrastructural arrangements that are often hidden from view. It requires that analysis of Covid-19 goes beyond descriptions and beyond seeing it as an acute unprecedented event. It is all those things but it also much more. It is an analytical invitation to re-read the past and see how hegemonic systems have been maintained, who benefited, and how infrastructures were shaped through very particular politics of operations, stitching together these multiple infrastructures. For instance, concerns about attendance can become a problem if there is illness in the family or if financial conditions change. Finances, education, mobilities, and health have to routinely align for international student migration to become successful. However, each of these is also surrounded by infrastructures that routinely fail. Yet these entanglements are rarely recognised either by researchers or institutions providing student-facing services. Rather, institutions routinely see students as cash-cows (Indelicato & Pražić, 2019). The insistence that it is higher education institutions and national economies that suffered during the pandemic rather than the students themselves suggests a utilitarian and extractive politics to international student migration which infuses their reception, not only now but also in pre-Covid-19 times. These are some of the lessons we learnt from our study.

This poses important questions for researching international student migration in the future. What do the failures of infrastructure that negatively impacted international student experiences of Covid-19 tell us about how infrastructures are routinely experienced? What do crises expose about how infrastructures appear as impediments selectively for some students and at some times? What is the work undertaken to maintain and repair these infrastructures routinely and how complete or incomplete are these operations of maintenance when it comes to intermediaries in the Global South? In short, what are the routine failures that those wanting to pursue international study face on their route to becoming a migrant?

But crises also offer a political opening to think otherwise. They point to analytical opportunities and to moments when change can be identified. This requires that we also explore the emergent, i.e., new arrangements of power and how they will operate to shape international student mobility. For instance, future research on international study must address the effects of negative remittances, situate the class dimensions in international study, and read for how these intersect with gender and race. It should also focus on how students themselves negotiate the entangled infrastructures and their agency in the face of severe constraints. While the UK has retained its international student numbers, this is not globally true. For instance, there has been a significant drop in numbers travelling to some other major destinations such as Australia. Overall student migration numbers have thus dropped. Is this the beginning of a pattern of change or only an aberration? How will individual countries' ways of handling Covid-19 affect who goes where? The impact of the quarantine costs, and potential implementation of vaccine passports are estimated to lower international student flows along certain corridors. Moreover, given that

international students have underwritten the costs of higher education to the national exchequer and to domestic students, how will nations respond? What role will international distance education (Mittelmeier et al., 2020) play in the unrelenting spread of internationalised higher education? What lessons can this form of internationalisation learn from the experiences of international student migrants? These are all important questions for future research.

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Chapter 10

Voluntary and Forced Return Migration Under a Pandemic Crisis



Zeynep Sahin Mencutek

10.1 Introduction

The Covid-19 pandemic has had an impact on all types of mobility and migration dynamics, including return migration. The almost immediate closing of borders in the face of pandemic lead to the panic mobility of those returning home across the globe. In addition to visitors and tourists, internal and international migrants returned to their country or city of origin. Lockdown measures prevent many migrants from earning a living from their unsecured, temporary, and informal jobs. The pandemic also brought evident risks for highly-skilled migrants' access to healthcare, financial security, and social protection, forcing them to consider the return option. The crisis, like economic recession and pandemics, makes migrants' aspirations and decision-making far more complex than in 'normal' times. Migrants' decisions are marked by deep dilemma between staying and returning.

Against his background, the chapter addresses the following questions: how and to what extent has the pandemic triggered the returns of migrants? What are the diverging characteristics of returning compared to other crisis situations and before pandemic times? How do receiving and sending countries respond to returns? How does the pandemic influence migrants' aspirations about staying and returning? Does the pandemic create different sets of challenges for irregular migrants and regular migrants?

An emphasis on returns offers insights to evaluate changing characteristics of migration in 'pandemic times'. It will also contribute to revisiting discussions on dichotomies in the return discourse such as voluntary versus forced, return assistance, and reintegration during and after the pandemic crisis. The chapter is based on desk research and analysis of the scholarly literature, reports, and grey literature

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from international organisations (particularly the International Organization of Migration, IOM), civil society reports, scientific blogs, and media reports. Data on returns are based on information provided by the Mixed Migration Centre (MMC).

The chapter starts with a brief review of literature on return migration. It then moves to the recent scholarship addressing the crisis – particularly in the global economy – and its impact on returns. The next section explores how the pandemic influences the multiple facets of the migrant returns. After presenting the main patterns during the pandemic, this section introduces two subsections to further elaborate on the topic: the first focuses on the logistics of returns, with special attention to IOM's involvement in the assisted return operations; the second provides some insights into the complexity of return decisions, drawing mainly from secondary sources. The challenges in which returnees encountered on the way and after return are addressed next, and the chapter concludes with a summary of main trends and some projections.

10.2 An Overview of Return Migration Scholarship

Return is a broad concept that is variously defined. An encompassing definition refers to 'the movement of a person going from a host country back to a country of origin, country of nationality or habitual residence usually after spending a significant period of time in the host country whether voluntary or forced assisted or assisted or spontaneous' (IOM, 2011). The scholarship on return migration overwhelmingly draws from the experiences of international labour migrants, while refugees, asylum seekers, and internally displaced people (IDPs) have been paid less attention.

Existing studies seek to theorise return migration (Cassarino, 2004; Carling & Pettersen, 2014; King, 2015). Mapping the plethora of studies shows that there are no single reasons explaining return aspirations, decisions, the actual return process, and reintegration. The approaches on return aspirations and decisions diverge based on the level of analysis (individual, household, state), the primary motives driving return (economic aspects, non-economic aspects) as well as micro or macro dimensions. As the migration processes have often been explained by push-pull factors highlighting economic reasons, return migration scholarship also adopts a similar approach.

The first strand of scholarship focuses on motivations for returns, also called intentions and aspirations. It should be noted that return motivation is not the exact predictor of actual returning. Although most migrants initially intend to return, they rarely do. Studies on return aspirations draw largely from neoclassical economics, labour economics, and transnationalism literature (Waldorf, 1995; De Haas et al., 2015). Large-N studies about migrant workers find that failure of integration in the country of residence is a factor, prompting return intentions and pushing for returns. This is because labour market participation, education, and job satisfaction are expected to increase migrants' stay intentions (De Haas et al., 2015; Waldorf, 1995).

Return also happens when migrants miscalculate the costs of migration and when they realise they are not able to access high standards of living, higher income, or accumulate saving (Cassarino, 2004: 255; Dumont & Spielvogel, 2008: 178). Although the level of education is not directly related to the tendency to return, those who work below their qualifications may have a higher tendency to return.

In return decisions, the economic and education variables interact with other factors such as the initial migration plans, expectations upon return, demographic characteristics, gender relations, and family issues, among others. Quantitative studies specify demographic characteristics such as age, lifecycle, generation, gender, number of dependents, household decision-making, and lifestyle reasons to explain likelihood to return (De Bree et al., 2010; De Haas & Fokkema, 2010). For example, studies on return migration to central and eastern Europe find that ‘returnees are predominantly male, young, not married, and with a medium or high level of education’ (Zaiceva & Zimmermann, 2012, 2). A return move may also occur when any pre-defined objectives are achieved, such as completing education (or children’s education), accumulating a certain amount of wealth or gaining citizenship or pensions. Duration of residence in the host country and years prior to retirement may impact on return decisions (Waldorf, 1995; Dustman, 2003). So, as Cassarino (2004) notes, migrants consider return when they achieve migration-related goals and targets; return is thus a ‘calculated strategy’ of both migrants and migrant households.

Return decisions can be also explained by pull factors related to the home country. Factors that may influence migrants’ decision-making to return include investments and social ties to the homeland, political and economic opportunities; family demands; identity-driven motivations such as feelings of belonging to the homeland; and ethnic (Wang & Fan, 2006; De Haas et al., 2015; Skrentny et al., 2007).

All these factors are neither related in a predictable way nor independent of each other, making any analysis quite complex (Carling & Pettersen, 2014). To illustrate, based on the cases of Eastern European migrant workers’ return to their home countries, Anzelika Zaiceva and Klaus F. Zimmermann found that

If migration is temporary, the decision to move will not only be based on immediate and future incomes in the destination, but also on the expected future returns in the country of origin. The main motives for return include preference for consumption in the home country, family and other networks at home, taking advantage of differences in relative prices between host and home countries (high wages abroad and low prices at home), and the possibility of accumulating human capital abroad, the returns to which are higher at home. (Zaiceva & Zimmermann, 2012: 2)

Individual factors also interact with the host country’s policies. In a recent article on Bolivian migrants’ return from Spain, Raquel Martínez-Buján (2019) argues that ‘migrants’ decisions to return home are embedded in the gendered allocation of economic and reproductive responsibilities and patriarchal ideology’ as well as in fluctuating Spanish migration policies restricting circular migration and allowing citizenship acquisition (p. 3105).

In addition to analysing factors that shape return intentions and decision, the second strand of return migration scholarship – which emerges more in the field of

Refugee Studies and Forced Migration – raises the question of how returns are organised. Focusing on the return of refugees, asylum seekers, and IDPs, existing studies question the pre- and post-return assistance, practices, and interventions of international agencies, home and host states (Bascom, 2005; Omata, 2013; Iaria, 2014; Arias et al., 2014). Drawing from the existing practices, several studies offer key dimensions of better return programmes such as compliance with legal principles (safety, voluntariness, dignity), livelihood development, and equal citizenship within a nation (George et al., 2016; Frank, 2017; Gerver, 2018). In recent years, much interest has been dedicated to examining Assisted Voluntary Return and Reintegration (AVRR) schemes adopted by European countries to facilitate the return of rejected asylum seekers and those who voluntarily return (Lietaert et al., 2017; Lietaert, 2019; Koser & Kuschminder, 2017).

The third strand of return migration focuses on reintegration of returnees. The studies examine the impact of several factors on returnees' reintegration, including human capital and financial capital; resource conditions, particularly livelihoods; economic opportunities and housing; personal networks, social contacts and existing power relations; reception by host communities; and traditions and values in the home country (De Bree et al., 2010; Ruben et al., 2009; Iaria, 2014; Cassarino, 2004). Despite the significant insights these studies provide, we do not yet have adequate knowledge about how crisis situations like economic recession or a pandemic influence migrants' return aspirations, actual returning practices, and reintegration.

10.3 Returning Home in Times of Crisis

The impact of crisis over a return migration had received limited scholarly attention until the global economic crisis, also called the Great Recession. Drawing from the mainstream literature on return migration and labour migration, growing scholarship has focused on the 'crisis returnees' emerging from 2007 to 2011 (Apsite-Berina et al., 2020). These studies engaged with the hypothesis that 'the economic crisis and the resulting situation on the labour market in the immigrant-receiving countries have a negligible influence on the migration decisions (including return and onward migration)'. A number of large-N and single case studies cover return dynamics during economic crisis in Europe (Smoliner et al., 2012; Machnis-Walasek and Organiściak-Krzykowska), North America (mainly US-Mexico) (Buznego et al., 2020), and South and East Asia (Zachariah & Rajan, 2010).

The main finding for internal European migration is that no mass return migration was observed because the economic situation in migrants' home countries also worsened, however, emigration slowed as migrants adopted a 'wait-and-see' strategy during this period (Holland et al., 2011; Koehler et al., 2010). Nevertheless, the crisis has given momentum to accelerate planned returns and onward migration to elsewhere (Koehler et al., 2010; Eurofound, 2012). Some migrants from new EU member states (central and eastern European countries) working in the old member states of the EU (known as the EU15 countries) had to return home. The Baltic

states, Slovakia, and Poland had the largest proportions of returnees during the crisis period. A prominent quantitative study highlights that the probability to return emerges as larger for individuals with middle and higher educational attainments. Also, migrants who are males, single, and older, and those without children are more likely to return, relative to other migrants in the same destination countries (Zaiceva & Zimmermann, 2012). Returns during crisis occurred due to economic reasons – mainly job loss – because migrants often are employed in sectors most affected by the crisis such as services, construction, and retail. Migrants experienced bigger rises in unemployment compared to natives. Also, some of these returnees initially hold temporary intentions of staying abroad or feel emerging social pressures fuelled by economic difficulties in destination countries. As in the case of Polish returnees from the UK in this period, migrants ‘might not intend to return due to the crisis, with the main reasons for return in this case also being family related’ (ibid., 9) In the case of returnees to Lithuania, family and cultural motives appear as the most important for return decisions (ibid).

Aside from several push factors for returning home during a crisis, there are also pulling factors that make staying a more rational decision under some conditions. As regional or global economic crisis affects both receiving and sending countries, the economic situation at home might become worse than that in the destination. Some migrants thus delayed return; unemployed migrants ruled out the return option due to uncertainty about the possibility to re-enter the destination country in the future. Despite job loss, the presence of established networks abroad (feasibility of re-migration to elsewhere), migrant-to-migrant solidarity, expansion of social assistance or transitional measures in a way to include migrants, and a sense of belonging and security or having settled family (Pusti, 2013) acted as factors deterring returns. Some migrants chose to migrate onwards to other destinations less severely affected by the recession. Even in instances of return, these did not necessarily mean the end of the migration trajectory, rather potential repeat and circular migration seem to be the case. Many returnees have strong aspirations for repeat emigration (Zaiceva & Zimmermann, 2012, 9).

Several other case studies such as research looking at the impact of the Greek debt crisis on the decision of Albanian migrants to return (Kerpaci & Kuka, 2019), the return motivations of Romanian healthcare staff (Roman & Goschin, 2014), highly educated Polish emigrants (Machnis-Walasek & Organiściak-Krzykowska, 2014), Romanians and Latvians (Apsite-Berina et al., 2020), or Bolivians’ return from Spain (Martínez-Buján, 2019) found similar patterns to those discussed above.

Existing research on the impact of financial crisis provides us some insights for examining return dynamics during pandemics, as McKee and Stuckler rightly note:

The Covid-19 pandemic is, first and foremost, a health crisis. However, it is rapidly becoming an economic one too...because of...reduction in economic activity reduces the circulation of money and, with it, tax revenues...hits individuals and families, who may see their income plummet catastrophically...Once they have depleted their financial reserves, companies close, with consequences for their owners, employees, and suppliers. (2020, 1)

Although conditions of economic crisis display similarities with pandemics, there are some differences too. First, the pandemic created serious health risks for migrants and returnees, including the potential of spreading it to the communities on return. Second, immediate border closures to control the spread of Covid-19 generated more restrictions over all types of mobilities – which was not the case in the time of economic crisis. Third, migrants' exits from or re-entry to may not be feasible, hindering the circular migration patterns and embracing stranding or a 'wait and see approach'. Fourth, the pandemic hit almost all countries, while economic crisis was more region-specific. Given this context, the pandemic has particular sets of impacts on return migration that can be conceptualised as crisis-return. The term implies that crisis shapes return intentions and decision, the actual returning practices, the involvement of state and international actors, and the conditions encountered by migrants upon return as will be discussed below.

10.4 The Pandemic's Impact on the Acceleration of Returns

The Covid-19 crisis prompted many migrant workers, irregular migrants including asylum seekers, and those stranded in transit zones to evaluate the option of returning to their home countries. Actual returns occur across the globe with small and high numbers according to news and reports, mainly published by the IOM and research institutions like the Mixed Migration Center (MMC).

India, the country of the highest number emigrants in the world, observed one of the biggest return movements of international and internal labour migrants. Hundreds of thousands of Indian citizens working in the Gulf Countries as well as the US, the UK, Spain, and Italy had returned to India by 22 March when it restricted all international travel. Reports claim that 'as many as 4,56,431 expatriates wanting to return home registered on the government-run Non-Resident Keralites Affairs department website in April. According to the state government data, over 90,000 have so far been evacuated' (Babu, 2020). Indian journalists and scholars identify this movement as a reverse migration (Premkumar, 2020; Menon & Vadakepat, 2020). Moreover, a half-million internal migrants literally walked to back to their home villages to survive as they lost daily earnings in the large cities.

Some other massive returns occurred in South America and Europe. One of the largest return movements was that of an estimated 15,000 Venezuelans (Polanco & Sequera, 2020). Some 90% of Venezuelan refugees and migrants in Columbia and Peru reported losing income due to the pandemic – a much higher percentage of job losses than in other regions (MMC, 2020a). In Europe, tens of thousands of Ukrainians working in Poland, the Czech Republic, Italy, and elsewhere rushed to return home because of business shutdowns and economic contraction (Scollon, 2020). Seasonal workers from Romania, Poland, and Bulgaria who work in farms and food plants in Germany, Australia, and the UK had to return to their origin countries in March, while in early summer they were asked back to the destination countries as much-needed agricultural labour (Gherasim, 2020).

One of the largest movements observed was the ‘spontaneous’ return of irregular Afghan migrants from Iran and Pakistan. It is the pandemic’s best-documented return because it had been underway before the pandemic. While some of these returns occurred due to the loss of income (MMC, 2020a), others can be attributed to the inability to continue the migration journey due to the increased risk of detention and deportation. From January to September 2020, a total of 576,801 Afghans had returned – 571,800 from Iran and 5001 from Pakistan. Parallel to rising Covid-19 cases in Iran, these spontaneous returns of stranded migrants from Iran to Afghanistan increased marginally. For example, while the total number of returns was only 9478 in the week of 23–29 February, the figures peaked at 62,341 for the week of 15–21 March (IOM, 2020). A similar sharp rise was also observed in the assisted returns of Afghans from Iran, organised by the IOM; whereas 527 Afghans returned in the week of 23–29 February, their number rose to 3300 in the week of 15–21 February (IOM, 2020).

In general, some migrants returned using their own resources, while others had to wait for their governments to fly them home as they lacked financial resources or faced border closures (Gulf News, 2020). Migrant workers’ returns are often labelled ‘voluntary returns’ in the reports by the IOM, research institutions, and academic publications (Menon & Vadakepat, 2020, 2), although they lacked another option, raising questions about how this return is ‘voluntary’. In addition to those able to return, many migrant workers were stranded or did not find opportunity to return (Scollon, 2020). Some of those stranded became more vulnerable to exploitation and had to take up or continue to work in employment in conditions with increased exposure to Covid-19 such as delivery and food processing (IOM-Abuja, 2020). Many migrants, unfortunately, died of Covid-19 – for example, 296 expatriates from Kerala who died in West Asia – thus adding other sets of difficulties for families of migrants such as bringing home the deceased’s body when commercial flights resume (Babu, 2020).

The difficulties in logistics of migrant returns spurred some migration governance arrangements, with the involvement and funding of international organisations. Home countries with fewer resources to arrange charter flights and host countries looking for the quick return of migrants cooperated with the IOM in developing solutions, as will be elaborated below.

10.5 Logistics of Returns for Stranded Migrants: The IOM’s Interventions

Many migrants were stranded for some time in transit points (or buffer zones) of several lands and maritime migratory routes such as Turkey, Greece (eastern Mediterranean), Libya (central Mediterranean), Niger (Sahara route), Djibouti, and Yemen (East African route to Saudi Arabia), Kenya (southern route) and elsewhere. According to reports, among these transits, the highest percentages of trapped

migrants for a time were in Libya, Niger, and Kenya (MMC, 2020b). Some of these migrants had to return after being stranded for months, although they rarely changed their actual plan of migration (MMC, 2020b).

Between Spring and Fall 2020, some migrants stranded in transit were returned with the assistance of the IOM because they were neither able to reach their destination nor to return home (IOM-Djibouti, 2020). The IOM worked with regional governments in Africa, Latin America, and Asia to facilitate the return of stranded migrants, opening 'humanitarian corridors' by collaborating and negotiating with the origin and host countries (IOM-Freetown, 2020). In Latin America, the return operations emerged as part of the IOM's Assisted Voluntary Return and Reintegration Programme (AVRR) (IOM-Belize, 2020). In Africa, IOM interventions were part of the AVRR and the EU-IOM Joint Initiative for Migrants Protection and Reintegration. These programmes are funded by the EU Emergency Trust Fund for Africa (IOM-Freetown, 2020) as well as donor countries such as the US, Germany, Norway, Denmark, and the Netherlands. From March to May 2020, the IOM facilitated the voluntary return of over 16,500 migrants under the EU-IOM Joint Initiative for Migrant Protection and Reintegration (IOM-Nigeria, 2020). The operations continued. The majority of assisted return operations were in Africa's transit points, as shown in Table 10.1.

Moreover, the IOM worked with the World Health Organization (WHO) to strengthen health surveillance measures at points of exit and entry of returnees, including the distribution of personal protective equipment, pre-departure testing for Covid-19, rehabilitation of screening and isolation facilities, and training of frontline border officers on infection prevention and control (IOM-Sudan, 2020). For instance, some 5822 persons returned from the US and Mexico to Honduras (IOM-Honduras, 2020) were provided post-return assistance. Similar support was given to 14,000 Mozambican returnees from South Africa (Africanews, 2020).

In almost all IOM operations, both IOM regional staff and coordinating home and host state officers underlined compliance with the principles of returns: voluntariness, safe and dignified return. A review of news published in IOM's official website shows that many of the country representatives (called 'Missions' in IOM's terminology) emphasised how the IOM assisted returns by invitation and ensures safe and dignified return. It should be underlined that the published quotes below from country representatives are preselected by the Media and Communication Division at IOM Headquarters. Thus, it is not surprising that they align with the overarching discourse reflected in the IOM's ongoing information campaigns and communications with crisis-affected communities and governments. Like all political discursive practices, press releases about return operations of stranded migrants during the pandemic may have a legitimising function. The quotes chosen for inclusion in press releases exemplify this attempt at justification by appropriating a rights-based terminology.

For example, Michele Bombassei, IOM Regional Senior Programme Coordinator for West and Central Africa, legitimised the necessity of IOM's interventions by underlining the terminology on safe and dignified return as well as taking action after invitation (rhetoric). He reported:

Table 10.1 IOM-assisted return operations during the Pandemic

Returned to/Nationality	Stranded in/Returned from	Total number
Ethiopia	Sudan, Djibouti, Somali, Saudi Arabia, Kuwait, Lebanon	17,000
Sudan	Middle East, North Africa, Asia	15,000
Mali, Guinea, Burkina Faso, Benin, Nigeria, Cameroon	Niger	2800
Ghana and Guinea	Niger	61
Mali	Niger	159
Mali	Niger	179
Mali	Algeria	84
Côte d'Ivoire, Guinea, Liberia	Algeria	114
Ghana	Libya	118
Malawi	South Africa	111
Nigeria	Lebanon	165
Sierra Leoneans	Senegal	59
Uganda	Saudi Arabia (female migrant workers)	100
Chad	Cameroon (students)	2000
Somalia	Iran	13
Mongolia	Czechia	250
Nepal	Cyprus	63
India	Cyprus	21
Belize	El Salvador	13

Source: Author compilation from IOM press releases: IOM-Addis Ababa 2020; IOM-Accra 2020; IOM-Bamako 2020; IOM-Niger 2020; IOM-Algiers 2020; IOM-Pretoria 2020; IOM-Abuja 2020; IOM-Freetown 2020; IOM-Kampala 2020; IOM- N'Djamena 2020; IOM- Mogadishu 2020; IOM-Nicosia 2020; IOM-Ulaanbaatar 2020; IOM-Belize 2020; IOM-Sudan 2020

An increased number of migrants and governments have approached IOM for support in the organization of return operations to countries of origin...Governments are approving exceptions to the closure of borders for IOM to operate and to support the *safe and dignified return* [italics added] of stranded migrants. (IOM-Freetown, 2020)

The IOM and collaborating partners seem certain about the voluntariness of the returns. Chief of Mission of IOM in South Africa Lily Sanya stressed the same voluntariness aspect:

Since the beginning of the pandemic, IOM and our partners have provided *voluntary return* support to approximately 400 nationals from various countries in the region. This is a continuation of our support to vulnerable migrants that decide they *would be better off returning home*. (IOM-Pretoria, 2020)

The continuation of return operations in new formats and narratives during the pandemic might be expected to aim at strengthening IOM's visibility and credibility. They may bring the organisation more leverage in migration governance in general by carrying out the critical role of negotiating/operating further returns that have been the goal of regional and global migration governance (see UN Compact,

2018; EU Pact, 2020). The consistency of the statements delivered by different IOM officers confirms the previous findings that IOM has ‘an intra-organisational cohesion which contributes to the power and authority of the organisation as related to AVRR programming’ and that ‘the IOM has become a key source of power and authority in the pursuit of global forms of migration governance’ (Smith, 2019, 1).

While the pandemic opened a space for the IOM to operate new modes of return operations, it had to suspend or downsize formal AVRR programs in Europe. For instance, only 432 migrants on Greek islands voluntarily returned to 20 countries of origin via commercial flights with the IOM’s assistance from March to mid-July 2020 (IOM-Athens, 2020). However, since mid-July 2020, several EU member states resumed returns with the IOM. The first ‘voluntary returns’ were facilitated by IOM in Greece and the Hellenic authorities, in coordination with IOM Iraq and the diplomatic corps, for the return of 134 Iraqi nationals who had been residing on the islands of Lesbos, Samos, Kos, Chios, and Leros, as well as the Greek mainland for several months and wished to return to Iraq (ibid.). Moreover, in August 2020, after a 6-month hiatus due to Covid-19 border closures, the IOM resumed its AVRR programme from Niger to Gambia, by returning 26 Gambian migrants who in the IOM’s transit centres in Niger (IOM-Banjul, 2020).

10.6 Reasons of Return

Migrants’ aspirations and decisions for return have always been a complex process, as discussed in the literature overview above. Covid-19 created conditions of severe financial crisis for many migrants, thus ‘returning home’ emerged as a desired or required urgent decision. A review of the independent think tank Mixed Migration Centre’s weekly snapshot reports shows that the ‘Covid-19 was cited as a main driver of return’ in the survey questionnaire filled by returnees in Asia and Latin America. The survey was conducted with 7000 participants in five regions and 14 countries between April and July 2020 to collect data about the impact of Covid-19 on migrants and refugees’ (Mixed Migration, 2020). According to other research and news reports, returns are most likely to happen due to the income losses and consequent deterioration of living conditions in the host countries.

The impact of Covid-19 on global trade and the resultant shocks to national economies have put both public and private businesses at huge risks. Distressed companies – especially those in ‘recession-hit’ sectors such as construction, manufacturing, and services – have either suspended or slowed their activities (Menon & Vadakepat, 2020, 7; Zeeshan & Sultana, 2020, 135). Accordingly, lockdown measures prevented many labour migrants from earning a living due to the business shutdowns, wage cuts, outstanding back pay, paused or cancelled employment contracts, being placed on paid or unpaid leave, and asked to vacate their accommodations (Babu, 2020; Kuttappan, 2020). The pandemic reduced possibilities of finding new jobs not only due to the consequences of Covid-19 on the national economies but also because of governments’ greater focus on prioritising the employment of

own nationals to protect them in the shrinking labour market (Menon & Vadakepat, 2020). From the policymakers' perspective, 'the common assumption is that labour migration is a temporary feature which in the event of an economic crisis can be simply "turned off," mitigating the effect on the national population and institutions' (Chang, 2014, 93). Thus, the policy environment is eager to encourage or force migrants to return until the crisis passes (Chang, 2014). States introduced relief packages that would partly compensate for worker salaries mainly for citizens, but rarely for the benefit of migrants (Zeeshan & Sultana, 2020, 135).

Those working in temporary and informal jobs experienced greater deterioration of financial insecurity coupled with rising prices of essential goods. In addition to the loss of their livelihoods, they faced impediments in access to health facilities, sanitary items, and basics such as food, water, and shelter. Restricted economic activity to contain the virus's continued spread left many migrants without money to buy food or pay rent (Polanco & Sequera, 2020). The social support and protection mechanisms became more limited for migrants, while signs of increasing stigmatisation and xenophobia emerged. Some other factors pushing returns include the desire to unite with their families and concern for the safety of their families during this emergency.

Some snapshots from interviews with returnees about triggering factors are found in IOM's reports and scholarly publications. In their study, Zeeshan and Sultana quote one Pakistani returnee among some 60,000 working in the United Arab Emirates (UAE):

I have never felt so helpless in my lifetime. We neither had money, nor were our dues cleared by the employers we served. Also, there was no way of approaching them since most of the offices were closed and our movement was banned. Many of us had left with no mode of communication with their companies. Some of us started having symptoms of the Covid-19, but they were denied of any access to health facility. After repeated contact with the consulate, we were informed that the repatriation services are going on. (cited in Zeeshan & Sultana, 2020, 141)

As quoted by the IOM in a press release on Covid-19, a domestic worker who returned from Lebanon to Ethiopia at the onset of the pandemic recalled her experience:

We lost our jobs, we struggled. Some of our friends fell ill... Things in Beirut are currently bad, and it was getting to a point where our lives were at risk. (IOM-Addis Ababa, 2020)

In another IOM press release, a Malawian migrant who returned from South Africa explained his reason for return:

Since the pandemic, I lost my job and source of income and support to my family. It's been too tough, so I decided to go back home and figure things out with the people I have missed all this time. (IOM-Pretoria 2020)

Additionally, as labour migrants' visas and work permits might expire due to job loss, they worried about being stranded or detained in already-overcrowded facilities where the virus spreads fast. In the case of Indian workers, the UAE government extended the validity period of residence visas (Travel News, 2020), while Kuwait used the lockdown period to crack down on workers over-staying their visas or

permits (Irudaya Rajan & Arokkiaraj, 2020). Some Gulf countries waited for the borders to reopen before repatriating or simply deporting migrants with a view to implementing a 'safe returns' policy, but others did not. Saudi Arabia deported 2870 Ethiopian migrants without regular papers to Addis Ababa between early March and April, while some 200,000 Ethiopians were expected to be deported in the following months (Endeshaw & Paravicini, 2020).

The US administration banned immigration to the US and suspended processing of all work visas and appointments in March 2020. Migrants who were on vacation and in immigration processes were negatively affected by the hasty decision. As one Pakistani returnee from the US explained,

I do think of returning back to work but my work permit has expired and the immigration processing is banned. My employer is directed by the US government to induct the local citizens keeping the national interest due to very high rate of unemployment. I neither have a way to get back, nor an opportunity in Pakistan due to immense downsizing in the job market. (quoted in Zeeshan & Sultana, 2020, 137)

For irregular and undocumented migrants, the pandemic brought more challenges for overall security and well-being. The pandemic-related measures reduced access to asylum applications and processes (MMC Asia, 2020) on the one hand, and increased the risk of forced returns, including detention, deportation, and pushbacks on the other. More frequent identity checks by police on the street for citizens' compliance with movement restrictions caused concern among undocumented migrants in destination countries, particularly those in Europe, that they may be detained or deported (Butterly, 2020). For undocumented migrants travelling to destination, the pandemic created an inability to continue the migration journey (MMC Asia, 2020), raising risks even higher due to the travel restrictions, border closures, and extreme danger along migratory routes. The continuing pushbacks on the sea borders of the EU's frontline countries like Greece, Cyprus, and Malta were justified by the risk to spreading the coronavirus, although the lack of rescue operations and assistance cost the lives of dozens of migrants (Butterly, 2020). The US allegedly deported thousands of undocumented migrants to neighbouring Guatemala and Mexico amidst the pandemic, including some who were infected with the virus (Dickerson & Semple, 2020).

Although the impact of Covid-19 on return decisions was more detrimental for temporary migrant workers and irregular/undocumented migrants, highly-skilled migrants were also influenced by the pandemic into reconsidering their return plans. The imminent danger of 'job loss' or a 'lack of permanent residency' in the host countries led migrants to feel insecure (Menon & Vadakepat, 2020). Anecdotal pieces of evidence from social media posts of immigrant groups illustrate that the highly-skilled migrants, such as engineers and those working in the multinational companies abroad, became the first candidates for layoffs in companies' downsizing, meaning the return of some to their countries of origin sooner or later. Even immigrant families with no financial stress worried about who would take care of their children if they contracted Covid-19, how their bodies would be sent to their countries of origin, and how they would attend the funerals of elderly parents if they

passed. In such cases, Covid-19 seem to act as a catalyst for a return migration decision that had was being planned prior to the pandemic (ibid.).

10.7 Challenges Faced During and After Return

Previous research has documented how returning migrants encounter problems upon return and have to navigate socioeconomic, cultural, and moral differences and renegotiate transnational identities and intergenerational relationships (De Bree et al., 2010; Saar, 2018).

Returning due to Covid-19 has created additional challenges to already-contentious relationships about belonging and citizenship. Those making the return home because of the pandemic have faced severe difficulties. For example, many Afghans and Africans encountered troubles in crossing borders, movement within the country, and increased risk of detention and deportation throughout the return journey and reduced access to smugglers (MMC Asia, 2020).

Host countries and regions were not prepared to accommodate the sudden mass return migration economically by absorbing returnees into the labour market or providing services such as healthcare (Menon & Vadakepat, 2020, 2). It is not unusual during pandemics to target those deemed ‘foreign’ and accuse them of ‘importing disease’. Such prejudices were also aimed at return migrants (Munasinghe, 2020), prompting heated public discussion about the contribution of emigrants, their belonging, and citizenship. The following quote from a Sri Lankan emigrant in Italy reflects how the return discussion entangles the claims about citizenship rights of emigrants and emigrants’ contribution to the economy of the home country.

These workers are Sri Lankans. They work in homes, outside, in factories... the money they make they send to Sri Lanka, nowhere else. They were born in Sri Lanka, where else can they go? These innocent young men and women work hard to send money to Sri Lanka, and you will happily eat from that money. How can you say, “when you are sick, don’t come to Sri Lanka?” People who are living abroad are living in fear, not knowing what will happen. Without coming to Sri Lanka, should they jump in the ocean?. (ibid.,1)

Both prejudices and facts created an environment in which returnees were suspected and accused of bringing the disease with them as being ‘super spreaders’ (RFE, 2020). In India, regions having high emigration linkages with Gulf countries like Kerala and Tamil Nadu saw a sudden spike of Covid-19 cases in relation to the returns since April 2020 (Mitra et al., 2020). In response, in June 2020 the Indian state made Covid-free certificates mandatory for the returnees (Babu, 2020). Also, the local government restricted evacuation flights, considering that they do not have adequate facilities to tackle a surge in the number of returnees (ibid.). In Pakistan, it is reported that people testing positive on flights bringing migrant workers back from the UAE averaged 12% but that on some flights, the positivity rate shot up to 40–50% as many of these workers had lived in congested dormitories where the disease spread fast (Zeeshan & Sultana, 2020, 137).

In the case of Venezuelans, over 2100 migrants returning from Colombia were required to quarantine in unsanitary conditions at makeshift shelters near the border, reflecting the perceived threat from the influx to Venezuela's medical system, which has decayed during 6 years of economic collapse (Polanco & Sequera, 2020).

Many returnees were unable to find work upon return to their home country, hit not only by the pandemic and lockdown measures but still reeling from previous crises. For example, Ukrainian returnees were not welcomed in their home country as unemployment is skyrocketing (RFE, 2020). Returnees thus experience impediments in accessing livelihoods and health services. As in the case of Afghan returnees, reduced access to work is higher for returnees; more returnees lost income and received even less assistance than refugees (MMC Global, 2020, 7–9). In the words of a male Afghan returnee:

When I was in Iran I was terrified by the news on Corona. Everybody was talking about the virus and all the dead people in the hospitals. It was like a war out there. When I returned to Afghanistan, I saw that the situation was worse here than in Iran. Many people are infected, but there is no proper health assistance available. (MMC Asia-May, 2020)

A Pakistani returnee explains his dilemma in returning:

After three months of unemployment and bewilderment, I reached home and thanked the Almighty and my family for all the efforts. I am now at peace that I am backing home, but the future is haunting me now. I used to send the remittances and hence could not save. Neither I have any savings to initiate any business, nor do I have any hope to get back to Britain to work. (quoted in Zeeshan & Sultana, 2020, 137)

Home states and communities expressed concern that a huge influx of unemployed returnees would threaten the already fragile economic situation due to the sudden decline in foreign remittances and rising unemployment, collapse the health system due to the Covid-19 cases, and disturb demographic/social dynamics (Komireddi 2020; Zeeshan & Sultana, 2020). Anxiety and even in some cases resentment against returnees made providing emotional support and feelings of belonging for returnees unavailable and reintegration harder (Zeeshan & Sultana, 2020, 145).

Regarding belonging and feelings of migrants, return carried the risk of losing the hard-gained self-esteem, achievements, and recognition in their family and society from working abroad. They sought to sustain these values while returning home (Sabharwal & Verma, 2020) and expected emotional support from their home communities (Menon & Vadakepat, 2020, 2). For instance, many Indian returnees from UAE (Malayalees) felt neglected by both central and state governments. They believed that many lives 'could have been saved if people had been evacuated in the early days of the pandemic' (Babu, 2020).

10.8 Concluding Remarks

As Anna Lindley rightly advocates, it is important to treat ‘crisis and migration as contextualised processes, rather than isolated events, because migration is either a symptom or a cause of crisis’ (2015, 1). The pandemic as a crisis has impact over various types of migration, including return migration.

During the pandemic, migrants’ decisions are marked by the deep dilemma between staying and returning. Migrants face changing circumstances and conflicting motivations. Those migrants who continued to stay took risks for their health and safety as well as several layers of uncertainty as they might be unemployed due to economic downturn, running out of money, and not being able to send remittances to their homes. Returnees took the risks of returning to a life of uncertainty, not being able to go back again to the country where they worked, not completing their migration project, and encountering stigma in the country of origin as importers of the virus. Hyperinflation, poverty, unemployment even violence in the countries of origin have all loomed as highly possible prospects. Rational calculations, fears, concerns, and emotions are all mixed up to make immigrants reconsider multiple dimensions of staying and returning.

Data from this study can be shaped into a tentative typology (Table 10.2). The typology illustrates that despite the general impact of Covid-19 on international migrants’ return aspirations and decisions, its immediate impact on returning acts differs between types of migration (economic, humanitarian, transit, educational), migration status (temporary, seasonal, permanent); types of skills (low, high) and countries/regions. Also, these characteristics shape the possibilities for remigration to the destination country before pandemic or adopting in other ways.

For temporary migrant workers, the pandemic has a direct and indirect impact on returns. The loss of income and working/residence permit left no option to some migrants other than returning, as observed among South Asian migrants working in Gulf countries or East European migrants working in southern and western European countries. The pandemic has given momentum to some previously planned returns and onward migration to elsewhere, thus serving as a catalyst.

It may be anticipated that for highly-skilled migrants, including immigrant investors, the health system of the destination country may be a consideration in making migration and return decisions, although it was not a determining factor before. As desirable destinations such as the US and the UK showed slower and poorer performance in responding to the pandemic, this may deter migrants with high capital and lead them to re-evaluate alternatives such as Germany.

For asylum seekers and refugees, Covid-19 caused slowness in the asylum admissions/decisions and suspension of relocation and resettlement provisions for refugees given the public health situation of the host countries (Infomigrants, 2020). It temporarily suspended deportation of rejected asylum seekers in some European countries. It has not necessarily made asylum seekers and refugees consider return options due to the worse conditions in the country of origin and the increasing risk and costs of migrating.

Table 10.2 Tentative typology of crisis-returns

Type of migration	Migration status and levels of skills	Immediate action at the start of pandemic	Examples	Aspirations for re-migrating after pandemic
Economic	Temporary & Low skills	Either stranded or waited in limbo, returned	Indian workers in Gulf countries; Venezuelans in Colombia	Plan to re-migrate soon
	Seasonal & Low skills	Immediately returned	Romanians in Germany's agriculture sector	Already re-migrated in early summer 2020
	Permanent & Highly skilled	Either expedited return decision or plan to return later	Migrants working in the private sector or migrant entrepreneurs in UK, US	–
Humanitarian	Asylum seekers, refugees, undocumented migrants in the destination countries	Not plan to return but may have been forced to; risk further irregularity and xenophobia; deportations resumed in late summer 2019	Irregular migrants in Europe	–
Transit	Migrants on the move	Stranded in transit; spontaneous or assisted return if resources found	Afghans in Iran; Nigerians in Libya; Ethiopians in Yemen	Will re-migrate given the opportunity
Education	Student visa	Immediately returned	Students in Canada, UK, Australia	Either re-migrated to destination or continued education by distance

For irregular migrants on the move, it is difficult to claim that the pandemic makes the majority decide to return. Nevertheless, it indirectly triggers returns as it impedes the migration journey. It increases difficulty moving within transit countries or crossing borders, reduces access to smugglers, and increases costs, stranding irregular migrants in transits like those experienced in Libya, Niger, Kenya, and Yemen. While some become too afraid to either continue their journey or return home, others do not change their plans as a result of the pandemic, but simply wait out developments.

At the political level, the Covid-19 crisis met with highly nationalist government discourses and more restrictive immigration and mobility measures. At the social level, the feelings of suspicion surrounding immigrants and returnees were aggregated due to the perceived risk of the virus spread and growing economic challenges. There are too many shreds of evidence not to anticipate a possible surge in

discrimination and xenophobia which might target migrants, thus prioritising return as a most desired option.

Neither well-planned voluntary returns nor quickly implemented forced returns or deportations necessarily mean the end of the migration journey. As earlier research on economic crises illustrates, many of the migrants continue to be the part of circular migration (both across countries and urban/rural) as the main motivations for migration – the need to earn income or escape persecution – persist, pushing millions to migrate. Most returnees are waiting and have not decided what they will do next. Showing similar characteristics with the global economic crisis, the pandemic has already intensified the struggles of labour.

Despite immediate migration restrictions, there is an ongoing demand for low wage migrants in labour-intensive sectors such as agriculture, meatpacking, processing, caregiving, and construction which are mainly populated by migrants. As Hanse Randal highlights, ‘in a poorer world suffering major virus-inflicted structural damage, the demand for cheap labour – and cheap migrant labour – will only be stronger’ (Hansen, 2020).

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Chapter 11

Return Migration from the Gulf Region to India Amidst COVID-19



S Irudaya Rajan and H. Arokkiaraj

11.1 Introduction

The pandemic has impacted the mobility of people across the globe in a way no other event in the past ever has. Travel restrictions and border sealing imposed by countries to curb the spread of the Covid-19 resulted in a large number of people being stuck in foreign nations, unable to return to their homes. The effect of such a move was felt not just by the migrant population living and working abroad but also by students studying abroad, tourists, and business travellers. Migrants felt the pandemic's effect in different ways, ranging from loss of jobs to cancellation or expiration of visas, thus rendering many unemployed and without any income to support them or send remittances to their families back home who depend on such remittances for their day-to-day expenditures. It is thus pertinent that we study the challenges faced by the emigrants, the assistance provided by the governments in the host and destination countries, and the policies that the home government has put forward to facilitate their rehabilitation and reintegrate them into the labour market of their country of origin. This chapter aims to shed light on the above-mentioned aspects.

In a recent report, the IOM (2020a) defined stranded migrants in the context of Covid-19 as individuals outside of their country of habitual residence, wishing to return home but who are unable to do so due to mobility restrictions related to the pandemic. The number of migrants stranded abroad as of 13 July 2020 was placed at three million, with the Middle East and North African Region reporting the largest number of stranded migrants (Table 11.1).

According to the International Migration Report 2019 (UN-DESA, 2019), India has the largest diaspora in the world at 18 million people; India's Ministry of

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Table 11.1 Estimated known cases of stranded migrants by IOM Region

IOM region	Stranded migrants
Asia and Pacific	976,869
European Economic Area and Switzerland	202,578
South America	37,484
Middle East and North Africa	1,257,053
West and Central Africa	5503
East and Horn of Africa	2509
Southern Africa	99,893
Central America, North America, Caribbean	111,384
South Eastern Europe, Eastern Europe, Central Asia	58,181

Source: IOM (2020a)

Table 11.2 Top 10 hosts of overseas Indian populations (NRIs+PIOs)

Country	NRIs	PIOs	Population
United States of America	1,280,000	3,180,000	4,460,000
United Arab Emirates	3,100,000	4586	3,104,586
Malaysia	227,950	2,760,000	2,987,950
Saudi Arabia	2,812,408	2160	2,814,568
Myanmar	8991	2,000,000	2,008,991
United Kingdom	325,000	1500,000	1,825,000
Sri Lanka	14,000	1,600,000	1,614,000
South Africa	60,000	1500,000	1,560,000
Kuwait	928,421	1482	929,000
Mauritius	10,500	884,000	894,500
Total	13,459,195	18,683,645	32,100,340

Source: Ministry of External Affairs, Government of India (Data given as of December 2018. Accessed from: https://mea.gov.in/images/attach/NRIs-and-PIOs_1.pdf)

Note: *NRI* = Non-resident Indians (an individual who is a citizen of India but is residing in a foreign country and holds a valid Indian passport). *PIO* = People of Indian Origin (Foreign Citizens except for nationals of Pakistan and Bangladesh, who have either held an Indian passport at any point in time or their parents/grandparents/great-grandparents were permanent residents of India or are spouses of an Indian citizen)

External Affairs puts their number at 32 million (Table 11.2). These patterns also vary according to the state of origin and destination countries (IOM, 2020c; Ratha et al., 2020a, b). Table 11.3 shows the number of Indians who travelled to different countries for employment in the last 3 years. In addition to this data, the number of Indian workers travelling to Gulf countries in the past 5 years is on the decline (Table 11.4).

However, country-specific and occupational-specific figures may differ (Kumar & Rajan, 2014; Singh & Rajan, 2016). For example, Kerala still maintains the trend of sending the maximum number of nurses to Saudi Arabia over the years. On the other hand, the number of female domestic workers emigrating to Gulf countries from different states of India has declined in the past 6 years (Table 11.5).

Table 11.3 Number of Indians gone abroad for employment, 2017–2019

Year	No. of Indians departed on employment visa
2017	34,72,494
2018	28,10,789
2019	25,43,577

Source: Compiled by the authors from the annual reports of the Ministry of External Affairs and the eMigrate website of the Government of India

Table 11.4 Number of Indian workers emigrated through Protector General of Migrants and eMigrate, 2014–2020

Year	Numbers emigrated
2014	805,005
2015	784,152
2016	520,938
2017	391,024
2018	340,157
2019	368,043
2020	93,978

Source: Compiled by the authors from the annual reports of the Ministry of External Affairs and the eMigrate website of the Government of India

Table 11.5 Data on Indian female domestic worker emigrated by state, 2014–2019

State	2014	2015	2016	2017	2018	2019
Andhra Pradesh	965	112	51	41	27	85
Karnataka	43	66	68	44	28	20
Kerala	470	597	497	388	238	149
Tamil Nadu	60	95	86	69	52	27
Telangana	38	36	29	16	8	6

Source: Compiled by the authors from the annual reports of the Ministry of External Affairs and the eMigrate website of the Government of India

In recent decades, emigration from India has been largely concentrated towards the Gulf region, followed by the US. However, the nature of emigration differs; unlike migration to Western countries led by mostly highly educated and skilled migrants, migration to the Gulf is of a temporary nature, and this results in large scale return migration to India from the region. An important aspect of migration to the Gulf is the predominance of unskilled labourers (Rajan, 2017, 2018, 2019; Rajan & Oommen, 2020a; Rajan & Saxena, 2019). The temporary nature of the move along with the nature of skill possessed by the emigrants makes them an extremely vulnerable group, especially during a crisis like the pandemic (Rajan, 2020a, b, 2021; Rajan et al., 2020, 2021). As per an official statement made by the Minister of State for External Affairs, in the Lok Sabha, of the total requests for repatriation received by the government, the largest number was from the Gulf region (Table 11.6).

Table 11.6 Repatriation requests received (as of 16 September 2020)

Country	Total requests
United Arab Emirates	305,056
Qatar	120,600
Oman	100,604
Saudi	90,119
Kuwait	80,732
United States of America	69,030
United Kingdom	44,759
Bahrain	41,763
Nepal	26,379
Singapore	21,832
Australia	21,486
Canada	20,385
Germany	17,322
Russia	15,616
Malaysia	14,934
Ukraine	14,585
Kyrgyzstan	14,249
France	12,002
Nigeria	11,694
Bangladesh	10,996
Other Countries	108,379
Total Requests	1162,522

Source: Lok Sabha Q&A Session, 16 September 2020 (Ministry of External Affairs (2020), Lok Sabha, Unstarred Question No.479, Answered on 16/09/2020 by MEA, Shri V. Muraleedharan. Accessed 29 December 2020.)

A large number of Indian migrants are in the low-income category with temporary jobs. This ‘temporariness’ of Indian migrants working in the informal sector abroad contributes to their highly precarious living conditions during the pandemic. It is also estimated that around 586,183 Indian students are studying in 91 foreign countries.¹ India ranks second after China in the number of international students in the United States and United Kingdom, while in 2018, India ranked first and fourth, respectively, in the number of foreign students in Ukraine and China. In Germany, India heads the rankings with regard to labour migration as compared to China in quantitative terms (Graf, 2019).

India was proactive in rescuing and bringing back its citizens from regions that were heavily affected by the pandemic, with rescue operations conducted in February 2020 for Indians stranded in China, Italy, and Iran. Following the rise in cases in India, the Government of India adopted a strategy of a nationwide

¹ Ministry of Human Resource Development (2018), Department of Higher Education, Government of India. Lok Sabha, Unstarred Question No.2219. Answered on 1.1.2018. Accessed 29 December 2020.

lockdown and sealing of international borders for a 21-day period to curb Covid-19's spread. This brought all such rescue missions to a halt, stranding many Indians in different countries across the world. India, as one of the largest migrant-sending nations, had a herculean task ahead of it in terms of bringing those stranded Indians back home.

With the government having announced complete restrictions on mobility both within and outside the country, several petitions were filed in the Supreme Court at the beginning of the lockdown period to bring back the stranded Indians. The Supreme Court dismissed the petitions and advised stranded migrants – migrant workers, students, and tourists – to stay in the respective foreign countries until the lockdown ended. The Government of India subsequently extended the nationwide lockdown until 3 May, prompting new petitions, most on behalf of Indian migrant workers stuck in the Gulf countries. Their number is estimated to be between eight and ten million; Kerala alone accounts for 2.1 million emigrants in Gulf countries, as per the Kerala Migration Survey 2018 (Rajan, 2020c; Rajan & Zachariah, 2019; Zachariah et al., 1999). The state was a leading voice for the repatriation of stranded Indians, many of whom faced visa issues or lived in precarious conditions in labour camps without proper hygiene and unable to observe proper social distancing – which often led to a spike in Covid-19 cases in many of these labour camps (Rajan & Oommen, 2020b).

Some media reports also mentioned that around 19 Indians were stuck in transit at international airports for the duration of the lockdown when India sealed its international borders. One petition also claimed that some of the migrant workers who tested positive for Covid-19 were denied treatment in hospitals. The Government of India finally decided to bring back the Indians stuck in countries across the world by launching a massive evacuation programme called the Vande Bharat Mission, which was introduced on 7 May 2020.

11.2 Differing Paths, Differing Problems

It can be observed that the pattern of international migration from India is diverse where workers originate from different Indian states and migrate to different countries. They are engaged in different occupations as white collar and blue-collar jobs or are students, which points to their distinct category or visa status.

The economic repercussions of the pandemic and lockdowns in most countries were felt acutely by migrant workers and professionals around the world. Many suffered job losses and had to struggle to maintain their visa statuses in their respective countries. In no region was this impact more severe than among temporary migrant workers in the Gulf. Low-income Indian migrant workers in Gulf countries are either partially or fully excluded from social security and health insurance benefits (Chowdhury & Rajan, 2018; Rajan, 2016). Being infected by the virus would have led to increases in their health expenses, taking a huge toll on the meagre savings on which they were relying upon for sustenance abroad after being rendered jobless.

As a result, for these migrants, the financial woes would have been a bigger problem than the virus itself if they were left stranded in a foreign country without adequate assistance. Moreover, this would also push their families in India into greater difficulty because of their dependence on remittances from these workers.

Visa expirations too were an issue that some of these migrants faced, exacerbating the problems of stranded emigrants. It is a common misconception that most of the people stranded abroad have a wealthy background. Several scholars in Migration Studies have pointed out that workers from low economic backgrounds tend to migrate in the Indo-Gulf migration corridor to enhance their financial status. Therefore, what was witnessed was a large number of Indians in the Gulf, who are low- and middle-income migrant workers wanting to return to India to overcome the crisis. Another issue that came up was the issue of wage theft among migrant workers. As the pandemic and its economic effects became more apparent, it emerged that a number of employers had unlawfully dismissed workers and were withholding essential benefits and even wages of migrant workers – who then had to head home with empty hands and very few options for recourse (Piper & Foley, 2021).

Despite the assurances from the Central Government that every Indian abroad is safe and secure and their situation constantly monitored by the Indian embassies, several public interest litigations pertaining to Indians abroad were filed in the Supreme Court and the Kerala High Court to urge the respective governments to act quickly to bring back stranded migrants. Meanwhile in the Gulf countries, the *kafala* sponsorship method of recruiting workers – which gives local individuals or companies sponsorship permits to employ foreign laborers in GCC countries (except Bahrain) for whom the sponsor covers travel expenses and provides housing, often in dorm-like accommodations or, in the case of domestic workers, the sponsor's home – made these migrant employees even more vulnerable as they live at the mercy of their sponsors. This was not the case with other countries, where the imposition of travel restrictions and halting the issuance of work permits had left some migrants unable to reach their place of employment and with no source of income (IOM, 2020b; Le Coz & Newland, 2021). There is also a need to consider that there are different categories of Indians holding different types of visas who are seeking help. In the US, for instance, the non-resident Indian community faced several issues in terms of consular services as the passport renewals were being withheld. Indians in the US include students, young persons on Optional Practical Training (OPT) for F-1 students, persons on temporary visas like the H-1B visa, and B-2 visa. There was a fear that their visas would expire during the lockdown without an extension, which would render their status as 'undocumented'. Meanwhile, the community came together to create awareness sessions with attorneys, immigration attorneys, consul generals of different Indian posts.

The migration crisis in India resulting from the lockdown measures implemented to curb the pandemic's spread has revealed several anomalies in terms of economic and social security provisions for both its internal and international migrant workers during the times of crisis. These vulnerable workers are either unaware of or not in a position to utilise the existing legal provisions to safeguard themselves from the problems they face with their employers or at their workplace, such as retrenchment

at a short notice. In fact, in the case of international migrants, there are no legal provisions to safeguard the rights of these workers in times of crisis. Further, the suspension of consular services by Indian embassies on account of Covid-19 and the virtual nature of providing emergency services made the situation for Indians even worse, as they found it difficult to contact the authorities for immediate help. At this juncture, the Indian embassies in Gulf and other countries are the only point of contact for stranded Indians, and this necessitates their being proactive by enabling them in such circumstances instead of temporarily suspending embassy services.

However, it was in these trying times that the Indian government initiated the largest repatriation mission in its history.

11.3 Assistance Amidst Travel Restrictions

In the initial stages of the lockdown, the lack of initiative from the Government of India towards the evacuation of its own citizens stranded abroad was in stark contrast with other countries. The government cited 'lack of resources' as a reason for not evacuating Indian citizens (The Hindu, 2020). However, there was also a dichotomy between India's previous and current approach to tackle the issue of evacuation that points towards a lack of willingness, despite the pressure from stranded Indians and other stakeholders. During the travel restrictions due to the lockdown, Indian citizens were airlifted from the worst Covid-19-affected countries like China, Italy, and Iran. In view of this, the question arises as to why India had not evacuated its distressed citizens in the Gulf and other countries. The US, which at that point of time had been one of the worst-hit countries in the world, had embarked upon mass evacuation of their citizens stranded in 17 countries. Similarly, other countries affected by the pandemic such as Germany also made efforts to evacuate their citizens stranded abroad. The Government of Kerala made repeated requests to the Central Government for arrangements to evacuate Non-Resident Keralites from the Gulf region citing reasons such as expiring work visas, inability to sustain themselves without work, and pregnant women and children. Kerala was prepared to provide necessary medical support for the returnees. Overall, this raises questions about the lack of such an initiative by India to evacuate all distressed Indians and not just some.

The central government's reluctance to bring back the migrants was not received well by the Gulf nations. Several sent a stern message to the Indian government; the United Arab Emirates, for instance, threatened to enforce tight restrictions on countries failing to take back their migrants and also restructure or suspend its Memorandum of Understanding (MoU) on labour with them, impose limits on the recruitment of workers from these countries, and apply a quota system in recruitment operations (Nasrallah, 2020). Similarly, Kuwait demanded that India evacuate migrants, given the large number of infections in the community. Mounting pressure from the migrant-hosting countries, the emigrants, but also their states back

home, forced the Government of India to launch the Vande Bharat Mission to evacuate stranded migrants in a phased manner.

Kuwait announced an amnesty for foreign workers in the country from 1 April 2020 to 30 April 2020 (The Wire, 2020). Its government allotted specific slots to different countries for the repatriation of foreign workers according to their nationality. The first week was allotted to Philippines to make use of the amnesty. In coordination with the Philippine embassy in Kuwait, the Philippine government evacuated its citizens from Kuwait. The slot allotted to India for evacuating its citizens was 16–20 April 2020. There were many Indian citizens willing to avail this amnesty and return to India, but the Supreme Court's ruling and the Central Government's response was a setback for them. During the same period, the United Arab Emirates government had also shown readiness to allow the evacuation of Indian citizens, but the Indian government was reluctant to take any initiative to help their own citizens stranded in difficult circumstances.

As the pandemic began spreading across the world between February and April, the Government of India embarked upon multiple missions to rescue its citizens from the countries severely hit by the pandemic, starting with missions to Wuhan in February. A mission was also launched in February to rescue members stranded aboard the *Diamond Princess* Cruise ship in Japan. In March, the missions were directed to Iran and Italy, which were severely affected by the pandemic, with a rescue mission conducted in Iran as late as 22 March 2020 to bring back stranded Indians. Along with stranded Indians, the government also successfully evacuated nationals of Myanmar, Bangladesh, Maldives, China, and the US, among other countries, from the Hubei province in China.

11.4 Vande Bharat Mission (VBM)

The Government of India declared a complete lockdown on 24 March 2020 to contain the pandemic and slow down the transmission rates. The lockdown was initially for a period of 21 days, which was further extended. During this period, the country came to a complete stand still as educational institutions, industries, trade, transportation, and government offices shut down. The lockdown included a total ban on international and inter-state travel. As the boundaries of the nation closed, these nationals along with Indians who had travelled abroad prior to the lockdown were stranded in different parts of the world, unable to return to India. The lockdown also ended the missions undertaken by the government to rescue Indians stranded abroad.

In April 2020, the government announced the Vande Bharat Mission for the safe passage of Indian nationals back to the homeland. This mammoth effort was an evacuation initiative jointly coordinated by the Ministry of External Affairs, Ministry of Home Affairs, Ministry of Civil Aviation, and all state governments (Ministry of Civil Aviation, 2020a; Ministry of External Affairs, 2020a; Ministry of Home Affairs, 2020). The missions were to be carried out primarily by air, but the Indian Navy was also involved in the initial stages of the evacuation process. The Indian

Navy had named the evacuation process ‘Samudra Setu’ and had deployed ships to the Gulf to rescue stranded Indians in the region. A Standard Operating Protocol was framed for the mission, with the safety and health of the returnees given priority everywhere and at all points in time. Embassies, high commissions, and consulates were tasked with preparing the list of distressed nationals; they communicated with Indian nationals through social media, set up helplines, and played a key role in the mission. Stranded Indians were advised to register in portals for their return and the passengers were instructed to follow health protocols issued by the Ministry of Health, Ministry of Civil Aviation, and Indian Medical Association throughout the journey. Upon reaching India, all arrivals were screened at the airport and instructed to quarantine for a period of 14 days. The State governments were advised to arrange for testing, monitoring, and helping the returned nationals during their quarantine period and afterwards (Wadhwa, 2020).

There was an overwhelming number of registrations in the repatriation portals that were opened by the Government of India, with the official figures at over 1.16 million on 16 September 2020 (Ministry of External Affairs, 2020d, e). The first phase of the mission from Abu Dhabi was flagged off on 7 May 2020. In the initial phase, rescue missions were undertaken jointly with the Indian Air Force, Indian Navy, along with Air India and its subsidiary, the Air India Express (Ministry of Defence, 2020). A total of seven phases of the Vande Bharat Mission had been completed by late October, with the eighth phase beginning on 1 November 2020. As of 17 December, 3,840,000 Indian nationals had been repatriated through the Vande Bharat Mission (Table 11.7). The missions were initially concentrated to the Gulf region where majority of stranded Indians were located, but in the later phases, repatriation missions were carried out in other parts of the world as well.

As per a government release on data pertaining to Indians repatriated through the Vande Bharat Mission, at 16 September 2020, 1.4 million Indians had been repatriated through different modes, with the government expecting an additional 1,20,000 Indians returning to the country by the end of the Phase 6. Of them, 12,69,549 people have been flown back (Table 11.8); the majority were returned from Gulf nations, notably United Arab Emirates, followed by Saudi Arabia, Kuwait, Oman,

Table 11.7 Vande Bharat Mission: phases and repatriation

Phases	Period	Mission countries	Cumulative no of repatriates
I	7 May – 15 May 2020	12	12,708
II	16 May – 10 June 2020	47	165,375
III	12 June – 2 July 2020	43	503,990
IV	3 July – 31 July 2020	29	900,000
V	1 August – 31 August 2020	22	1,300,000
VI	1 September – 31 September 2020	24	1,645,000
VII	1 October – 31 October 2020	24	2,157,000 ^a
VIII	1 November – 31 December 2020	24	3,840,000 ^b

Source: Compiled from the Media briefings and press releases of the Ministry of External Affairs

^aFigure as of 6 November 2020

^bFigure as of 17 December 2020

Table 11.8 Repatriates by country under Vande Bharat Mission

Country	Repatriates	Percentage
Bahrain	24,704	1.94
Canada	13,342	1.05
France	16,337	1.29
Germany	19,744	1.56
Kuwait	90,759	7.15
Oman	85,498	6.73
Qatar	104,444	8.23
Saudi Arabia	163,851	12.91
Singapore	24,867	1.96
United Arab Emirates	457,596	36.04
United Kingdom	39,141	3.08
United States of America	77,305	6.08
Total Repatriated under VandeBharat Mission	1,269,549	

Source: Ministry of External Affairs, [2020c](#)

Table 11.9 Repatriates by state of arrival under Vande Bharat Mission

State	Repatriates	Percentage
Andhra Pradesh	33,413	2.63
Bihar	33,708	2.66
Delhi	228,705	18.02
Gujarat	24,502	1.93
Karnataka	61,380	4.84
Kerala	372,053	29.31
Maharashtra	96,796	7.63
Punjab	32,017	2.52
Rajasthan	32,709	2.57
Tamil Nadu	110,246	8.69
Telangana	66,518	5.24
Uttar Pradesh	116,009	9.14
India (Total)	1,269,549	

Source: Rajya Sabha Q&A session, 22 September 2020

and the US. Looking at the state data, we see that close to 29% of Indians who have come back have returned to Kerala, followed by Delhi, Uttar Pradesh, Tamil Nadu, and Maharashtra (Table 11.9).

Similarly, data obtained from a government statement in the Rajya Sabha on returnees from the Gulf, of the total number of Indians who have returned, more than 21% are from Kerala; indeed, more than half of the Bahrain returnees and one-third of Oman returnees are from Kerala (Table 11.10).

Table 11.10 Gulf repatriates under Vande Bharat Mission^a

Country	Arrived in Kerala	Total Indians arrived	Percentage of Keralites
United Arab Emirates	70,329	435,682	16.14
Bahrain	12,726	23,957	53.12
Kuwait	14,541	87,305	16.65
Oman	30,545	81,953	37.27
Qatar	27,445	101,182	27.12
Saudi Arabia	34,088	154,103	22.12
Total	18,9674	88,4182	21.45

^aas per domicile declaration done on MEA online registration and the statement made by Minister of State for External affairs in Parliament on 17 September 2020 (Ministry of External Affairs, 2020b)

Though the rescue mission undertaken by the Government of India, the biggest of its kind, has largely been deemed successful, returned nationals have had to face several issues related to the repatriation due to of the government's delayed response – from authorities in the host countries to issues pertaining to the refunds and surcharges for return tickets cancelled because of the lockdown. Apart from these issues, the repatriation mission turned out to be a costly affair for many of the migrants – most of them were returning because they had lost their jobs – due to the exorbitant fares charged for repatriation flights on some of the routes. Media reports suggested the fares charged under the Vande Bharat Mission were higher than normal, especially on tickets from Europe and the Americas, where fares have been reported to be two or even three times higher (Chowdhury, 2020; Smitha, 2020).

After many reports of returnees having to bear the cost of the flights, Indian Civil Aviation Minister, HS Puri clarified that the 'rates were reasonable when compared to repatriation flights of other countries' (Smitha, 2020). This did little to assuage passengers' concerns though. For instance, there were reports of one-way fares from the UK and the US being charged at the same rate as round-trip flights (sometimes even three times that of a normal ticket). Similarly, ticket prices from other popular destinations such as the United Arab Emirates ranged between 1300 and 1700 AED (Arab Emirates Dirham) for a ticket that would normally cost about 900 AED (ibid.).

In fact, the commercial aspect of these flights also came into question when the US Department of Transportation limited the number of Vande Bharat flights into the US in June, citing 'unfair and discriminatory trade practices'. The US government alleged that while Vande Bharat flights were operating from the US and charging fares, US airlines had been barred from entering India. They alleged that this created a 'competitive disadvantage for American carriers' (Levin, 2020). These high costs of repatriation put the humanitarian angle of the mission under a harsh light as they are out of the reach of many of the less privileged migrants, who would have had to stay in their destinations.

11.5 Case Study: Undocumented Indian Workers in Kuwait During COVID-19

On 14 June 2020, Kumar (pseudonym) received a call from Indian embassy in Kuwait, which he recounted over the telephone in a conversation with us:

First they asked my name, then where I was working and was I willing to go back to home. They then asked about the nature of my problem and after gathering the remaining details, they asked me whether I had money to purchase the flight tickets. They told me, to my surprise, that only if I said “yes” would they proceed with the call, and if “no” then they would immediately disconnect the call. Furthermore, if I said “yes” then they mentioned that I would have to undergo Covid-19 testing followed by 14-day quarantine upon arrival. Only if I agreed to these conditions would they inform us on how to book the tickets and then they would note my name. Based on this, we had to decide on whether to go home or not.

This narration is telling about the plight and vulnerability of poor blue-collar workers willing to return from the Gulf countries. For example, 78 Kuwaiti dinars (approx. Rs 19,100) were charged for the ticket in the special flight to Chennai from Kuwait, where they were placed in institutional quarantine – paid or free. The cost for those choosing paid quarantine facilities was around Rs 1500 per day for each person.

In the case of Kuwait, India did not only have to deal with stranded Indians with legal status but also with thousands of undocumented workers who registered for amnesty to leave the country without incurring any penalty – as had been decreed in April by the Kuwait government. These migrants were being housed in shelters provided by Kuwait. The repatriation of Pakistan and Philippine nationals had begun in the first week of April, but Indian expatriates who had applied for amnesty had been languishing at the shelters waiting for the India to devise evacuation plans.

Thousands of undocumented Indian workers applied for the amnesty announced by Kuwait and desperately waited for more than two weeks in the shelter homes. Furthermore, undocumented migrants had to wait for Emergency Certificates (EC)² issued by the Indian embassy, meantime living outdoors in unsafe and poor housing conditions in the absence of any legal status. ECs are valid for a single journey to India and the certificate does not exempt a holder from immigration or visa regulations. Holders must guard the EC and submit it along with the application for a duplicate passport upon arrival in India.

It is unclear how many Indians were infected with Covid-19 in Kuwait, but reports state their number was second to infections among Indian migrant workers in Singapore (Laskar, 2020).

Thousands of Indians in Kuwait lost their jobs due to the pandemic; most undocumented migrants work in construction, hotels, sheep herding, gardening, and other

²An Emergency Certificate is issued to an Indian national for his/her return back to India if there is no valid travel document with the person or he/she is an illegal resident abroad, for example in UAE.

<https://www.cgidubai.gov.in/page/emergency-certificates/#:~:text=Consular%20%E2%80%BA%20EMERGENCY%20CERTIFICATES-,Emergency%20Certificates,be%20issued%20in%20such%20cases.>

low-profile jobs. Generally, low-skilled migrant workers from India enter Gulf countries legally, slipping into undocumented status later as they lack the necessary identification documents after fleeing an abusive employer who confiscates their passport. Due to other reasons such as job loss, visa overstay, or non-renewal of visa, the workers lose their legal status. In the end, there is a sizeable number of undocumented Indian migrants in the Gulf region who were not widely discussed during the pandemic. Undocumented migrants are entirely excluded from both economic and social security as they lack legal status.

Some undocumented migrants received their ECs to leave Kuwait but had no accommodation or basic amenities until returning home. As the EC is only valid for a short period and these migrants have no other legal documents for staying in Kuwait, their daily lives are fraught with risks as they are under the surveillance of Kuwait police and could face persecutions because of their undocumented status. Moreover, they don't have money to pay accommodation, food, and return tickets as the pandemic left them unemployed, many for more than four months. These circumstances add to their physical and mental stress as their families in India worry about their situation. Moreover, these low-skilled migrants are illiterate and have no bargaining power with employers.

In Kuwait, unrest has slowly mounted among the Indian workers in shelters as they started taking to social media to narrate their plight and desperation to return to India. Many do not have money to recharge mobile phones and contact their families or even money to meet basic needs. Moreover, they have inculcated the feeling that they are treated poorly when compared with other Indian citizens who can afford to return India. Meanwhile, Kuwait has offered free tickets to undocumented workers on its national carriers. However, at the time of writing, this category of Indian workers was still struggling to return home as the Indian government had yet to respond to Kuwait's offer (Bhattacharjee, 2020; The Wire, 2020).

Kuwait has been imposing stringent regulations to contain the virus's spread. Undocumented migrants awaiting assistance from the Indian embassy to use the amnesty are entirely dependent on the Kuwait government for necessary medical facilities and other daily needs. Furthermore, if infected with Covid-19, the big question is from where they would seek medical attention: Kuwait's healthcare system may face severe stress from contagion in shelters as happened in Singapore's cramped migrant worker dormitories.

11.6 Rehabilitation and Beyond: Is There a Model in Place?

The huge influx of migrants in the wake of the pandemic throws up several questions for the future of migration and migration policy in India. Due to the large number of emigrants coming back to India, the country may face underemployment or unemployment situations especially among the skilled workforce. Moreover, Indian migrants contribute over \$80 billion in remittances to the country every year— a vital inflow for the development of individuals, families, communities,

societies, and the country as a whole. The pandemic and return of migrants to India should raise concerns regarding rehabilitation, re-integration, and more importantly, re-migration once conditions normalise that the government must address very seriously.

At the beginning of the crisis, there was very little talk about the plight of international migrants, given the immediate concern about internal migrants (Rajan, 2021; Rajan et al., 2020, 2021). Indeed, when the government announced its flagship five-stage *Aatmanirbhar Bharat* (Self-Sufficient India) scheme to ameliorate the plight of migrants within India and revive the economy, it did not mention international migrants (Rajan, 2020d). However, with the plight of international migrants becoming more visible – and through efforts and pressure from state governments and civil society organisations – the central government launched a few initiatives. The Skilled Workers Arrival Database for Employment Support (SWADES) scheme, for example, is a joint venture of the Ministry of Skill Development and Entrepreneurship, Ministry of External Affairs, and Ministry of Civil Aviation to create a database of returned migrants according to skill and experience and thus meet human resource demands of Indian and foreign companies. It is aimed at all the citizens from around the world, across Emigration Clearance Required (ECR) and Emigration Clearance Not Required (ECNR) categories. This was done to facilitate reintegration of migrant workers into the labour market and promote employment opportunities. To facilitate employment opportunities, details of SWADES registrations have also been integrated with Skill India's ASEEM (Aatmanirbhar Skilled Employee Employer Mapping) portal which was launched on 10 July 2020. Furthermore, all data regarding Indians returning under Vande Bharat Mission was also shared with relevant state governments on a real-time basis (Ministry of Civil Aviation, 2020b).

11.7 A Kerala Model of Rehabilitation?

Kerala, which is one of India's largest migrant-sending states, took the lead in pushing for the welfare of its overseas citizens – which is unsurprising given the massive economic and social capital that they garner for the state. Given its large and prominent diaspora, particularly in the Gulf countries which contribute almost 30% of the state's GDP in remittances alone, Kerala has had long and proactive steps in migration policy and diaspora outreach, which precedes even that of the Indian government (Rajan, 2020c). Thus, from the start, Kerala had pushed for the repatriation of the stranded migrants, coupled with mounting pressure from interventions made by the Indian Supreme Court and multiple Public Interest Litigations and appeals made by stranded Indians abroad; this led the government to eventually announce the Vande Bharat Mission. International migrants constitute an integral part of Kerala society and their rehabilitation and reintegration are vital for an economy that otherwise suffers from a modest growth rate and high unemployment. Kerala has,

therefore, announced a slew of schemes that would aid in this effort – more than any other state or even the central government.

Such rehabilitation schemes and projects were launched through a separate web portal for Non-Resident Keralites via NORKA Roots, the Kerala government's agency for the welfare of Non-Resident Keralites. Kerala is a developed state in India where the contribution of the non-resident Keralites to the economy is highly remarkable. The government had initiated a relief fund for the emigrants who reached Kerala after 1 January 2020. The amount of ₹25 (crore) was distributed to 50,000 eligible people by the end of August. Each eligible return emigrant received ₹5000 as a one-time benefit through this scheme (NORKA Roots, 2020a). An NDPREM (NORKA Department Project for Returned Migrants) scheme was also extended to provide seed capital funding of up to ₹30,00,000 for entrepreneurs. Along with 'Meat Products of India', this scheme extends service and benefits to migrants who returned during the pandemic. Banks will sanction loans for modest enterprises as per the business interest and the terms and conditions of the bank. For prompt repayment, 15% subsidy on capital and 3% rebate on interest of loan are offered for the first four years. The applicants must have at least 2 years working experience abroad. The returnees can even form societies, trusts, and companies to apply under this scheme (NORKA Roots, 2020b).

'Santhwana' is a relief scheme that aims to provide financial support for returned migrants. It offers aid to meet the financial needs of returned migrants such as marriage assistance, purchase of physical aids to combat disabilities, medical treatments, etc. Applicants are eligible only if family income is less than ₹1,00,000 per year and they had been a migrant for a minimum of 2 years. Also, to avail the scheme, the period after return should not have exceeded the period of his working in a foreign country or 10 years, whichever is shorter. Santhwana provides up to Rs 1 lakh as death assistance, Rs 50,000 for the treatment of critical medical conditions, Rs 20,000 for the treatment of other kinds of diseases, Rs 15,000 for marriage assistance, and Rs 10,000 to buy wheelchair, crutches, artificial limbs, etc. Additionally, under the scheme all returned migrants who still have a valid passport, valid visa, and have tested positive for Covid-19 receive ₹10,000 as emergency financial assistance (NORKA Roots, 2020a).

The government of Kerala also launched the Dream Kerala Project, which primarily aims to open new possibilities and opportunities for returned Keralites and fully utilise their skills and expertise. This project envisages crowdsourcing of ideas under the mentorship of young government officials and professionals experienced in the international job market. The expert committee will evaluate the proposals and make recommendations to the respective departments. Through successful implementation of these projects and schemes, government relief enhances welfare and thereby ensures the betterment of the Non-Resident Keralite community. However, these projects and schemes are still works-in-progress and whether they achieve their objectives is still a major question – one on which the future of the state depends.

11.8 Concluding Remarks

Although the initiatives undertaken by India's government to bring back stranded migrants have been pronounced as rather successful, the lack of initiative at the beginning of the lockdown and the delay in bringing the stranded emigrants back have come under a lot of scrutiny. What was witnessed was a lack of coherence in the government strategies to bring back these emigrants and differences on this issue between the positions among the states and the central government. The biggest challenge for the government now lies in the reintegration of these migrant workers into the domestic market. With the SWADES and ASEEM policies now in place to try and reintegrate the skilled migrants, the government should also look at policies and programmes that would cater to the skill development of the returned migrants. It should also adopt measures that would enable them to re-migrate, with better skills, which would then broaden their prospects to newer regions for migration and help enhance their bargaining power.

The government's under-preparedness at such a time of crisis and the lack of coherence among the states and the central government can be partly attributed to the lack of a national policy on migration, which countries like Sri Lanka already had in place. The policies followed by countries like Sri Lanka, Philippines, and Malaysia encourage migration from the states unlike India, which is not open about encouraging migration, even though India is one of the largest emigrant-sending and remittance-receiving countries in the world. What is also of utmost importance now is the need for proper data on emigration from the country that would have allowed better management of the pandemic's effects. The right policies, backed by accurate evidence and data, are the need of the hour and would help chart a plan for the way forward and equip India to face such future crises in a better manner.

11.9 Postscript

In the middle of the first wave, MEA revised and reduced the minimum referral wages of Indians who work in Qatar, Bahrain, Oman, and the UAE to \$200 to \$245 for Kuwait, to \$196 for domestic sector workers, and to \$324 for Saudi Arabia. Meanwhile, to bypass the travel ban on India, hundreds of migrants transited through UAE to reach Saudi Arabia and Kuwait for jobs. There were also many other hurdles for stranded Indian workers whose visas had expired to move within and outside the Gulf. Workers who returned to India during the first wave were desperate to return to ensure their livelihoods, but the Covid-19 second wave hampered their travel plans as key destination countries for workers such as UAE and Saudi Arabia extended ban on flights from India. Newly arriving migrants in the Gulf countries under the VBM flights have to undergo mandatory quarantining, and the cost of it at the destination countries restricted workers' mobility from India. On the other hand, not all the returnees want to leave their home until the pandemic curve

is flattered and are waiting for travel and mobility restrictions to be eased. Other issues have also been observed, such as unscrupulous recruitment agents making false job promises for nurses, who are exempted from travel restrictions. Migrants in Gulf countries continue to suffer greater financial strain as they face job and wage loss. As we write this during the Covid-19 second wave in India, almost all Indian labour-receiving countries in the Gulf have imposed a travel ban from India. In Kuwait, for example, only outbound flights are allowed to select states in India. In case of UAE, a complete travel ban has been imposed. Recently, the Kerala Government has started to issue vaccination certification with passport number, with the hope that this will enable migrant workers to get travel clearance in the future.

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Chapter 12

Internal Migration and the Covid-19 Pandemic in India



S Irudaya Rajan and R. B. Bhagat

12.1 Introduction

The pandemic has led to mass destabilisation of economies and societies across the world. The exponentially rising cases of infections around the globe prompted national lockdowns and near-blanket bans on the movement of people from one place to another. This has had major ramifications the work-life spectrum, but most notably on the lives of migrant workers, especially in India.

In the wake of India's 25 March 2020 decision to impose a national lockdown, domestic migrants took desperate measures to reach home amid the pandemic and policies taken to contain it, at both the central and state levels. Migrants' often long treks home were made in the most inhospitable of conditions, frequently with tragic results (Rajan et al., 2020a, b). In the end, we witnessed what some observers describe as 'the largest movement of migrants since the partition' (Ellis-Petersen & Chaurasia, 2020).

This chapter examines how the pandemic affected the lives and livelihoods of migrants in India. In doing so, we also critically examine the response of the governments at the central and state levels, thereby providing insights into how we can avoid such a dire situation in the future. In order to understand how these events came to pass, it is important to comprehend the size of the internal migrant population in India.

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12.2 Internal Migration in India: Size and Characteristics

Migration within India has been a prevalent phenomenon throughout its history (Tumbe, 2018). The 2011 Census enumerated a staggering 450 million Indians as migrants based on place of last residence – a number representing 37% of the total population. In 2001, their number was at 309 million, with about 140 million added during 2001–2011 (Rajan, 2013). In the absence of a reliable estimate until the 2021 Census, we estimate a migrant population of 600 million persons (Fig. 12.1)¹ Based on the 2011 Census, around one-third of all internal migrants are inter-state and inter-district migrants, which makes them a population of almost 200 million. Of these 200 million inter-state and inter-district migrants, two-thirds are workers. This gives us an estimated migrant worker population of about 140 million today (Gupta, 2020). If we include intra-district migrant workers, the total number of migrant workers touches 200 million, excluding temporary and circular migrants (Bhagat et al., 2020). These migrant workers represent a range of occupations in both urban

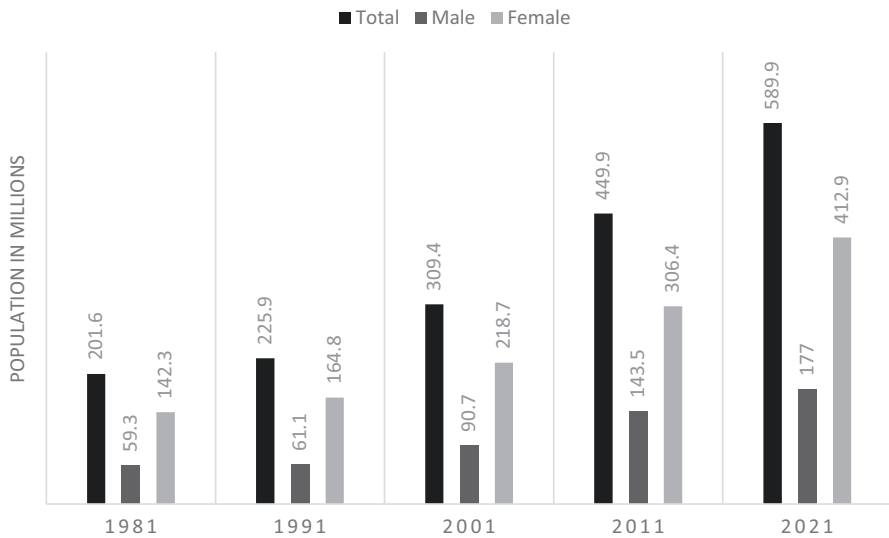


Fig. 12.1 Trends of internal migration in India, 1971–2011. (Source: Census of India 1981–2011; 2021 numbers based on authors’ projections)

¹The senior author came to this figure based on an estimated trend of additions to migrants through previous censuses. There was an increase of 140 million migrants from 2001 to 2011. In the intervening years, given government-led urbanisation programmes like the Smart Cities initiatives, internal migration would have increased in the 2011–2021 period. However, the rise in migrants often sees a slight lag given that individual migrants move first and then bring their families to their destinations. Therefore, in the absence of a reliable estimate in the 2011–2021 period, if we were to add the same number of migrants as seen in 2001–2011 period, we have a migrant population of almost 600 million. One of the defining characteristics of internal migration in India is that 7 out of 10 internal migrants in India are women (Rajan & Sumeeta, 2019a, b).

and rural milieus but are mainly concentrated in temporary, informal, and casual employment and are most vulnerable to exploitation (Keshri & Bhagat, 2013).

While India's internal migrants totalled 450 million, the majority are short-distance inter-district migrants within states (Fig. 12.2). As per the 2011 Census, there were 117.9 million inter-district migrants and 54.4 million inter-state migrants in India.

Kone et al. (2018) note that the proportion of long-distance inter-state migration in India is low compared to other developing countries such as Brazil and China. This is despite the fact that, unlike in China under the *hukou* system, there are no separate restrictive measures for internal migrants at their destinations. This is due mainly to the non-portability of social welfare schemes such as the Public Distribution System (PDS) for subsidised food grain upon which millions of families are dependent and the requirement of state domicile for government jobs – which makes employment-based migration for a large cohort of the employable population challenging. Additionally, migration costs form a large barrier for most migrants to engage in long distance migration between states in India. This becomes extremely important, as there is an increase in the incidence of migration of families instead of individuals.

While most migration occurs within the district for work and employment reasons, other categories of migration happen for education, marriage, and household movement, which are more intra-district in nature (Fig. 12.3). As noted earlier, marriage and household migration are based on the movement of migrants with their dependents, which is another, and under-discussed feature of internal migration and one that had major ramifications during the pandemic (Rajan & Sivakumar, 2018a, b).

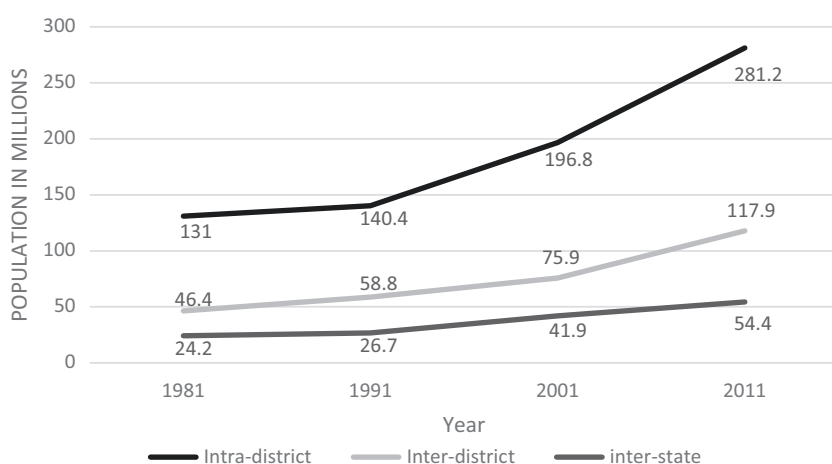


Fig. 12.2 Types of internal migrants in India, 1981–2011. (Source: Census of India 1981–2011)

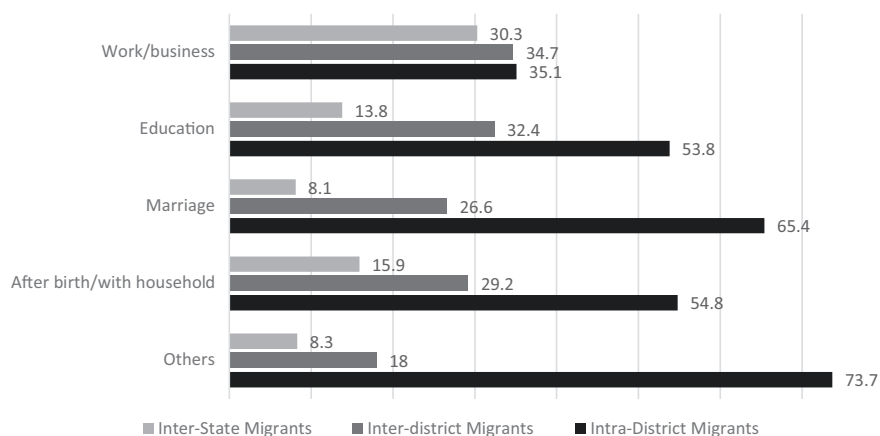


Fig. 12.3 Reasons for migration across migrant categories, 2011. (Source: Derived from Census 2011. Note: numbers given are percentages of total migrants)

Table 12.1 Temporary and seasonal migration rates by area and quintile levels, 2007–2008

MPCE quintiles	Rural	Urban	Total
Lowest	44.8	8.3	40.6
Lower	32.1	6.2	25.6
Medium	23.8	4.6	17.0
Higher	17.3	5.0	10.2
Highest	11.4	2.3	5.8
Total	26.4	5.5	20.5

Source: Keshri and Bhagat (2012)

12.3 Temporary and Seasonal Migration

Rural India is still heavily dependent on the agricultural sector as the primary source of employment. With agriculture closely linked to seasonality, the sector's cycle also determines a main component of internal migration within the rural-urban migration stream (mostly temporary and seasonal). It has been estimated that 21 out of every 1000 persons in India is a temporary or seasonal migrant, with the state of Bihar having the highest proportion of 50 temporary migrants per 1000 of the population (Keshri & Bhagat, 2013).

When analysing the patterns of temporary and seasonal migration, one finds that those in the lowest quintiles by Monthly Per Capita Income overwhelmingly constitute the bulk of the temporary and seasonal migrants in the country, especially in the rural areas. These patterns reveal that poorer agricultural workers move to the urban areas to earn a livelihood during the agricultural off-season (Table 12.1).

The incidence of temporary and seasonal migration varies according to social groups as well, with the propensity for engaging in this type of migration higher among the more marginalised social groups (Table 12.2).

Table 12.2 Temporary and seasonal migration rates^a among social groups, 2007–2008

Social group	Rural	Urban	Total
Scheduled tribes	49.0	6.5	45.2
Scheduled castes	29.9	6.7	24.8
Other backward classes	23.9	6.5	19.5
Others	18.0	4.3	12.2
Total	26.4	5.5	20.5

Source: Keshri and Bhagat (2013)

^aMigration Rates refer to the number of temporary and seasonal migrants per 1000

As we see, the incidence of temporary and seasonal migration is highest among people belonging to Scheduled Tribes in India – 45 migrants per 1000. Similarly, while not as high, those belonging to the category of Scheduled Castes show a high migration rate of almost 25 per 1000. People belonging to these two categories are amongst the most marginalised sections in society. However, the effect is far more pronounced in rural than in urban areas, with the rate of 49 per 1000 among the Scheduled Tribes and 30 per 1000 among the Scheduled Castes.

These migrants are essential for the basic functioning of both urban and rural industries as they engage inessential labour in a number of formal and mostly informal occupations in major sectors such as agriculture, manufacturing, and construction as well as in brick-kilns and textiles (Deshingkar & Akter, 2009; Srivastava & Sutradhar, 2016).

These characteristics, therefore, make it clear that a large chunk of the migrant population was already living in vulnerable conditions and livelihoods. The pandemic and its subsequent response put this fact under a glaring spotlight.

12.4 The Government Response: Story of Missteps and Half-Measures

As the infection started spreading across the globe, the Government of India, as part of their initial response, put into place a one-day lockdown called the ‘Janta curfew’ on 22 March 2020. A few days later, it announced a nationwide lockdown from 24 March 2020, giving citizens only four hours’ notice to react. Overnight, transportation lines stopped, leaving passengers stranded and with nowhere to go. The subsequent days and months saw some of the most egregious scenes of desperation and misery in post-independence history. In the wake of the sudden shutting of businesses and industries, hundreds of thousands of migrants – mostly workers in precarious employment situations – and their dependents were forced to take the long road back, often in the most inhospitable conditions and on foot. This resulted in untold hardship, tragedy, and even death (Rajan & Heller, 2020).

Scenes of Distress During the Lockdown

The Central Government's four-hour notice of the national lockdown announced by the Prime Minister in a public address sent panic among migrant workers who feared being stranded with no livelihood at the destination and without a way back home. The scenes of utter despair at New Delhi's busy Anand Vihar Inter-State Bus Terminal, where thousands of migrants thronged for days to board a bus or train home, were broadcast around the world. Similar scenes were seen in places like Mumbai as well, as panic took hold during the continued lockdown. Many migrants felt they had no choice but to set out on whatever mode of transport they could find. Some had no option but to travel by foot, with tragic consequences – there were estimates of at least 200 migrant deaths on the road while trying to return home (Banerji, 2020). When Members of Parliament requested the data on job losses and deaths among migrants during lockdown, the government representative replied that they did not keep a record of this and had no data available. The government merely informed that they were among the over 10 million migrant workers who returned to their home states between March and June (Ministry of Road Transport and Highways, 2020) illustrating migrants' marginalisation from policy debates.

Millions of migrants returned to the villages from the big cities like Delhi, Mumbai, Ahmedabad, Pune, Bangalore, Hyderabad, and Chennai as the lockdown was extended. The exact number of returnees – whether returning by their own vehicle, cycling, or on foot – is not available from government sources. However, those using government-arranged transport – buses and *Shramik* trains – were said to number 10.5 million, according to data cited on 14 September 2020 by the Lok Sabha, Parliament's lower house. A large number of migrants returned to the two most populous and among the poorest states, namely Uttar Pradesh and Bihar. The state-wise distribution of return migrants is shown in Fig. 12.4.

12.4.1 Central Government Response

On 24 March, the Central Government announced the first phase of the national lockdown, which subsequently underwent three more phases with increasingly relaxed restrictions on economic and human activity. However, on 7 June, when it was evident that further lockdowns would not be possible, the central government started initiating various phases of 'un-lockdowns', opening various sectors of the economy and ensuring limited mobility within the country.

The suddenness of the initial lockdown left migrants – who, as mentioned earlier, live and work in informal conditions in both rural and urban areas – exposed, and the enduring scenes of great distress caught the nation's imagination. This put

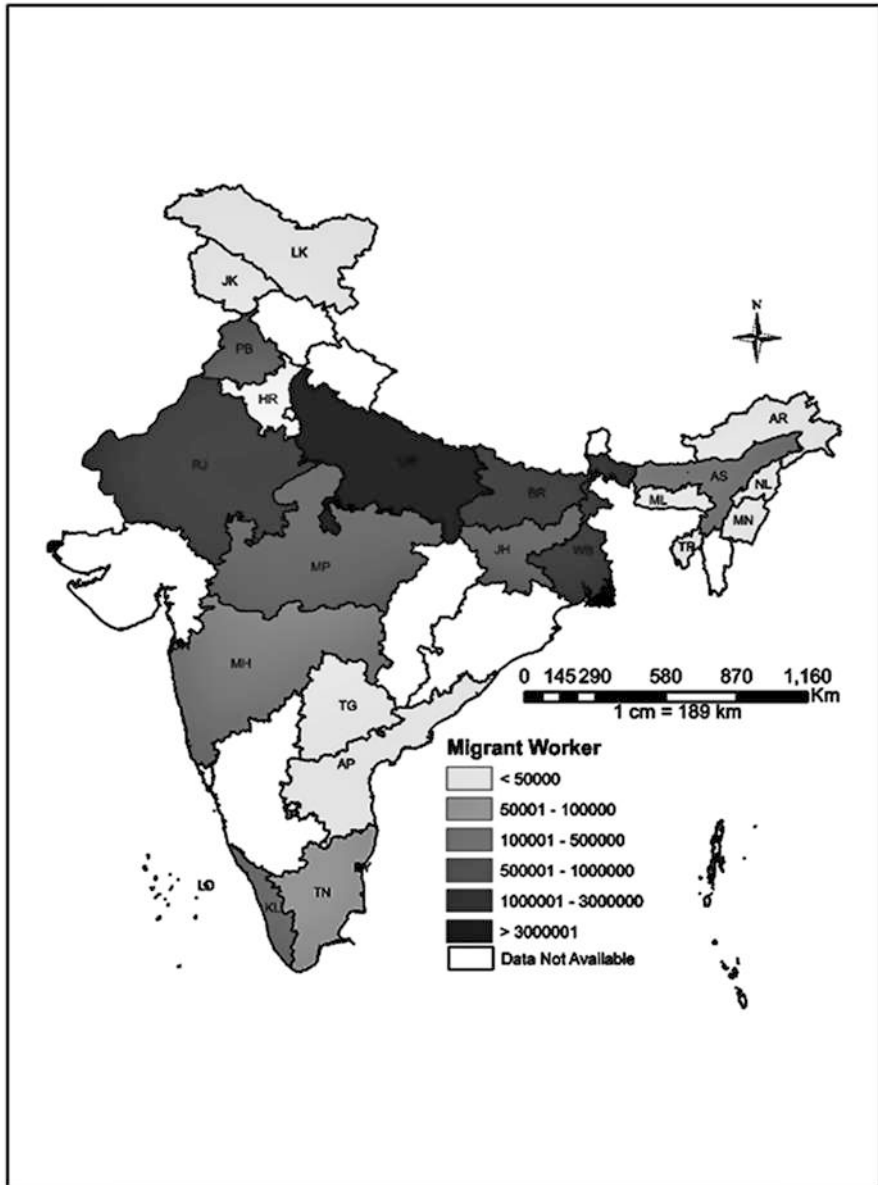


Fig. 12.4 Migrants returned to their home states after lockdown. (Source of data: Unstarred Question No. 197, Lok Sabha, 14 September 2020)

pressure on the Central Government to act. It was in this context that on 13 May, the government announced a raft of assistance measures under the moniker ‘Atmanirbhar Bharat’ or ‘Self-reliant India’, totalling Rs. 2 trillion (about US\$ 300 billion), or 10% of GDP (Rajan, 2020b, c). The scheme was detailed by the Finance Minister

and comprised five aid tranches; the second targeted migrant workers and small farmers. On 14 May, an addition Rs. 10 billion (US\$ 134 million) was announced for distribution to the states for migrant welfare under the Prime Minister's Citizen Assistance and Relief in Emergency Situations (PM-CARES) fund. Each state would be given a minimum of 10% or 1 billion (US\$ 13.4 million), with additional grants to be allocated based on the state's population (50% weight) and the number of positive coronavirus cases it has (40% weight). Given that India has 28 states and nine union territories, it is unclear how this division takes place (Rajan & Mishra, 2020). The measures for migrant workers within the 'Atmanirbhar Bharat' are detailed in Table 12.3 below and can be divided into short-, medium-, and long-term measures.

While these programmes were announced in the face of the pandemic and needed by migrants long before its start, the effectiveness of these schemes is yet to be assessed.

To address the plight of stranded migrants, the government intervened with the *Shramik* special trains and buses to help them reach their hometowns (Dutta, 2020). However, this service was not free and migrants were being charged exorbitant fares at railway stations – which became a source of political bickering. The Supreme Court of India intervened with an order stating that the migrants would not pay any fare, with Indian Railways to bear 85% of the ticket cost and state government to cover the remaining 15% (NDTV, 2020). At the same time, a total of 9.1 million migrants travelled on both trains and buses. As of 15 June 2020, almost 4450 *Shramik* trains had transported more than 60 lakh (6 million) people to their destinations (The Hindu, 2020).

The federal nature of the Indian system, however, allows for states to intervene in issues concerning migrants and workers. India's size and unequal economic and social development – especially with regards to differing windows of demographic dividends – has led to certain states being migrant receivers and others being migrant senders, with states like Uttar Pradesh, Bihar, and Rajasthan as gaining states in terms of its working age population and Kerala and Tamil Nadu as losing states (Rajan & Mishra, 2020). A look at these states based on this distinction also yields a larger picture of Indian state responses.

12.4.2 *State-Level Responses*

According to the 2011 Census, Delhi, Gujarat, Kerala, and Maharashtra have been the major destination states for migrants in India; Uttar Pradesh, Bihar, Odisha, Jharkhand, and Rajasthan are the sending states. Labour is a subject in the 'concurrent list' of the Indian constitution, which gives equal right for states to legislate on matters related to it. This federal nature of India's response to handling the migrant crisis led to a variety of reactions on the part of different states. Migrant-receiving states had to contend with issues like providing stranded migrant workers adequate shelter and essential facilities, and sending states had to contend with issues of large

Table 12.3 Provisions for migrant workers under the *Atmanirbhar Bharat* programme

Proposed intervention	Type of intervention	Term of implementation	Budget allocation	Details/outcomes
Food Security under the ambit of the Pradhan Mantri Garib Kalyan Yojana (PMGKY)	Food security	Immediate	Rs. 35 billion (US\$ 469.1 million)	Under this intervention, food security was announced for a likely 80 million migrant workers who are outside the ambit of the National Food Security Act of 2013 or those without state ration cards, who are to be provided with 5 kg rice each and 1 kg of pulses for all family members in the household for the next 2 months.
Increasing Funds for the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS)	Employment guarantee	Short-term	Rs. 400 billion (US\$ 5.3 billion)	Additional funds were announced to the Rs. 610 billion (US\$ 8.18 billion) MGNREGS budget aimed at generating 3 billion additional person-days of work. Earlier, on 26 March, a national average minimum wage was increased from Rs. 182 to Rs. 202 per day.
Announcement of the Garib Kalyan Rozgar Yojana (GKRY)	Employment generation	Medium-term	Rs. 500 billion (US\$ 6.7 billion).	In June 2020, the central government announced the <i>Garib Kalyan Rozgar Abhiyaan</i> to be implemented in 'mission mode' in 125 days over 116 districts of six states (Bihar, Madhya Pradesh, Uttar Pradesh, Rajasthan, Jharkhand and Odisha) that received the maximum numbers of migrant workers back. It will expedite implementation of 25 public infrastructure works and those related to augmentation of livelihood opportunities (Prime Minister's Office, 2020).

(continued)

Table 12.3 (continued)

Proposed intervention	Type of intervention	Term of implementation	Budget allocation	Details/outcomes
One Nation, One Ration Card	Food security	Long-term		The scheme 'One Nation One Ration Card' provides a universal ration card that has complete portability in any state and is also to be implemented in its full effect. It is likely to cover 83% of the targeted population, some 670 million beneficiaries by the end of 2020 and reach 100% by March 2021.
Announcement of affordable housing for migrants under the Pradhan Mantri Awas Yojana	Urban housing	Long-term		The Pradhan Mantri Awas Yojana (PMAY) will provide rental housing for migrant workers in cities that would rake in private funding under the Public Private Partnership (PPP) model.

masses of return migrants and provide them quarantine and other testing health facilities. Different policies were implemented in these states, but as we see below, they did not go far enough to address core issues.

Policy Responses in Receiving States

1. *Relief packages.* In the early part of the migrant crisis, governments all over the world were scrambling to provide immediate material support to their citizens. This was the case in India as well – the Central Government announced several programmes for immediate relief, culminating in the major \$300 billion package on 16 May 2020. However, when it came to state responses, the southern state of Kerala provided a template in addressing the issues of not only migrants, but also other vulnerable groups. It initially announced a comprehensive package of Rs. 200 billion (US\$ 2.6 billion) to cover migrant workers' basic necessities even before the national lockdown and the Central Government's assistance scheme were announced. Kerala's initiative was applauded by several countries around the world (Isaac & Sadanandan, 2020; Rajan, 2020c, d; Vijayan, 2020). Kerala was the only state to announce a comprehensive package of this sort.
2. *Shelter homes and meals for stranded migrants.* Kerala also took the lead in providing shelter and food for migrants stranded in the state. In early April, it was found that over 65% of all government-run shelter homes in India, housing more than 300,000 migrants were in Kerala itself. Moreover, community-run

kitchens ensured that migrants did not go hungry while stranded in the state (Rajan, 2020a). Similarly, the Maharashtra Government had allocated Rs. 450 million (US\$ 6.03 million) to setup of shelter homes for stranded migrants with funds from the State Disaster Relief Fund. The government also made provision for mid-day meals for stranded migrant workers registered at construction sites in the cities of Mumbai, Navi Mumbai, Thane, Pune, and Nagpur (Tare, 2020). The Government of Gujarat designated Covid-19 as a disaster under the State Disaster Relief Fund, with all expenditures for stranded migrant labourers to be covered by the Fund (PRS Legislative Research, 2020a, b).

3. *Food security at destinations.* Providing food security for a number of migrant workers stranded at destinations became an immediate point of concern in most receiving states. The highest number of Covid-19 cases was registered in Mumbai, which has a large population that live in slum-like housing conditions. The government of Maharashtra identified around 1.88 million holders of PDS or ration cards as being below the poverty line and were supplied wheat, rice, and coarse grain under the National Food Security Act at the nominal rates of Rs. 3, Rs. 2, and Re. 1, respectively (Ashar, 2020). Another 20,000 cardholders were covered under the Antyodaya scheme. About 1 to 1.5 million newly below-poverty-line cardholders were supplied subsidised rations through the public distribution system. The Government of Kerala also set up community kitchens for stranded migrant workers through local self-help groups that organised these facilities across the state.

Providing a Social Base: The Kerala Model to Revival

Kerala, with its approach to a holistic welfare of its citizens, won praise from around the world for its comprehensive response to the welfare of migrant workers. Apart from its response in the pandemic's immediate wake, it also took steps towards a post-pandemic revival of its economy and society through a welfare framework. For the poor and vulnerable, Kerala sought to ensure social security during this difficult time. Accordingly, 5.5 million people – elderly, differently-abled and widows – in Kerala were paid Rs. 8500 (US\$114) each and the government also provided a sum of Rs. 1000–5000 (US\$13.42–67) to 460,000 persons registered in the various labour welfare funds. In addition, 15 kg of rice and a kit of pulses and condiments were distributed free to every household. Free and subsidised meals served through community kitchens and *kudumbasree* hotels set up since the lockdown were initiated. Moreover, Kerala is implementing two focused schemes in the aftermath of this pandemic. The first, *Subhiksha Kerala* is a comprehensive programme aimed at ensuring food security and the second, *Vyavasaya Bhadratha*, will distribute Department of Industry grants totalling Rs. 34 billion (US\$ 455 million) to small, medium, and micro enterprises (MSMEs).

Policy Responses in Sending States

The sending states also provided enormous assistance to their non-resident fellows who worked as migrant workers outside the state. Provision of food, arrangement of transportation, and monetary cash support were important assistance provided during the lockdown. Uttar Pradesh, Bihar, Odisha, and Rajasthan were prominent among states in providing support to the migrant workers originating from there.

In the early days of lockdown, the Uttar Pradesh government tried to ensure that states hosting migrants gave them adequate food and shelter. They also ensured that migrants who were travelling through the state were given adequate food and shelter as they made their way to their destinations (PRS Legislative Research, 2020c). Similar to Uttar Pradesh, the Government of Rajasthan (another important migrant-sending state) worked during the first phases of the lockdown to arrange for buses at inter-state borders to bring migrant workers home and also set up quarantine centres for them. The Government of Bihar allocated Rs. 1 billion (US\$ 13.4 million) from the Chief Minister's Relief Fund on 26 March 2020 to assist migrants stuck in other parts of the country (PRS Legislative Research, 2020c). Quarantine shelters were set up ad-hoc for the mass of returning migrants; however, reports of inadequate and unhygienic facilities led to major discontent among those who were forced to live there (Chakraborty and Ramashankar, 2020). The Bihar government also introduced measures for alleviating the suffering of migrant labourers who returned and were rendered jobless by the pandemic through cash transfers of a lump sum of Rs. 1000. Additionally the government operated 10 food centres in Delhi, which houses the largest number of Bihari migrants, and state-wide nodal officers were appointed to coordinate the relief measures.

Some state governments also took the initiative in providing employment support for migrant workers. The Odisha government, for instance, decided to pay Rs. 1500 to construction workers registered with the Odisha Building and Construction Workers' Welfare Board. It also approved local bodies such as Gram Panchayats (village councils) and Urban Local Bodies to oversee the welfare of returning migrants, registering and providing them with 14-day quarantine facilities as well as a cash transfer of Rs. 2000 (\$26.84) as an incentive for doing so (PRS Legislative Research, 2020c).

The Uttar Pradesh government announced free one-month rations for 16.5 million registered construction day-wage workers (Press Trust of India, 2020a), while the Odisha government has provided additional rice of 5 kg per head for 3 months and 1 kg of dal per card for 3 months free to 91,502 cardholders under the State Food Security Scheme. The Odisha State also distributed 1.016 million MT of food grains to beneficiaries under the National Food Security Act (NFSA) compared to normal monthly distributions of 194,000 MT (Press Trust of India, 2020b). In early April, the Odisha government extended food security coverage to all migrants who returned to the state regardless of whether they possessed a ration card or not.

On 16 June 2020, the Uttar Pradesh government announced it would set up the Uttar Pradesh Labour (Employment Exchange and Job) Commission to employ returning migrant workers in both the public and private sectors, with a particular

focus to upgrade skills and boost local economies (Varma, 2020). The Madhya Pradesh government followed by announcing the formation of a migrant labour commission along the same lines (Sharma, 2020). How these commissions address the issues migrant workers face on the ground, however, remains to be seen. To increase awareness about Covid-19 and its attendant issues, the Rajasthan government established a helpline for stranded and moving migrant workers and a *Jan Soochna* (public information) portal to disseminate important information regarding the pandemic as these migrants returned to their homes in rural areas (Patil, 2020).

As seen above, the varied state responses were, in essence, on-the-spot reactions to the deteriorating situation surrounding the disrupted lives and livelihoods of migrant workers. However, there were many overlaps in state responses as the migrant crisis unfolded in the wake of the national lockdown. What was sorely missing was active coordination among states and between the states and the centre. This was especially evident in logistical issues for ferrying migrant workers back home and tracing. While some measures were more effective than others, it remains to be seen if migrant workers will stay at the forefront of these states' policies as we move forward. However, the knee-jerk reactions of both the central and state governments were a testament to the lack of a framework for migrants in India. The pandemic provided an opportunity to address the issues by shining a harsh spotlight on it.

12.5 Missed Opportunities for Reform: The Structures that Impede Migrants

The pandemic-triggered migrant crisis brought clarity to a larger issue of exclusionary development in India, in both the rural and urban landscapes. Even though migrants form an integral part of both these landscapes, their welfare has often been relegated to the periphery of policy discussions. As we have shown, a number of migrants with temporary or seasonal jobs work in a variety of informal occupations across the country's urban and rural milieus. They are the most vulnerable among the migrant workforce in the country and are precluded from the country's already flimsy welfare mechanism (Rajan & Bhagat, 2021).

A close examination of how this has occurred brings about a clear picture of the issues plaguing India's internal migrants.

12.5.1 Inadequacy of Legislation for Migrant Workers

To date, there is only one piece of legislation governing the conditions of migrant workers in India – the Interstate Migrant Workmen's Act of 1979, which is applicable mostly to contractor-driven migration. However, migrant workers make up a

Table 12.4 Major legislation on the welfare of unorganised sector and migrant workers

Plantation Labour Act, 1951	Regulates provision of labour and conditions of work in plantations, which have historically unorganised and migrant labour.
Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (RECS Act) and the Building and Other Construction Workers' Welfare Cess Act, 1996 (WC Act).	Regulates the employment and conditions of work for registered workers and offers social security benefits in the construction sector, which includes a large number of migrant workers.
Contract Labour (Regulation and Abolition) Act, 1970	Requires the employer to pay fair wages to the registered contractor, who then must pay wages to the registered workers.
Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1970	Stipulates that the contractor is responsible for payment of wages, adequate health and safety conditions, housing facilities, and migration costs to the registered migrant workmen.
Bonded Labour (Abolition) Act, 1976	Renders all forms of bonded labour illegal. (This Act was introduced in lieu of the fact that many informal sectors, such as manufacture of bricks, employ forced labour through debt bondage. Many of these workers are vulnerable migrants.)
Unorganised Workers Social Security Act, 2008	Looks to identify registered workers in the unorganised sector and provide social security benefits.
Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014	Regulates the activities of registered street vendors (mostly migrants) and provides them a right to pursue their activities.

large share of India's informal workforce, whose conditions and rights are governed by several labour laws with no focus on migrants. Table 12.4 summarises some of prominent Acts and their provisions.

These laws, however, are more conspicuous for their non-implementation, leaving workers bereft of legal means to ensure their rights. The urban exclusion of internal migrants was flagged earlier in a report by UNESCO (2013). It found that migrants were denied access to rights in the city (Bhagat, 2017), often working in informal work with inadequate social and economic security and denied basic access to healthcare and education for their children.

Migrants and the Right to Amenities

In late 2015, the Government of India, through the Ministry of Housing and Urban Poverty Alleviation (MHUPA), formed the Working Group on Migration to examine laws covering migrant workers. The Working Group submitted its report in early 2017 and noted the large contribution that migrants make to the Indian economy and society (Government of India, 2017a, b; Rajan & D'Sami, 2020). However, it also noted the vulnerabilities and the lack of economic and social security that they face

throughout the country. The report made a number of recommendations, such as increased weightage on social protection programmes; enforcement of labour laws; registration of migrant workers; ensuring adequate food security by the portability of the public distribution system; ensuring adequate access to healthcare and education for migrant children; increasing opportunities for skill development; ending the requirement for state domicile to acquire government job; and, policies aimed at migrants' inclusion into the formal financial system.

The Central Government has amalgamated the various labour laws into four labour codes, namely: (a) Labour Code on Wages; (b) Labour Code on Occupational Safety and Health; (c) Labour Code on Industrial Relations; and (d) Labour Code on Social Security. In 2020, the Occupational Safety, Health and Working Conditions Codes were passed by Parliament. These codes are a part of the rationalisation of labour legislation in India and subsumed 13 of the current labour laws that governed the health and safety conditions of establishments employing 10 or more workers. This included the Interstate Migrant Workmen's Act and the Contract Labour Act also. This has led to the annulment or dilution of existing welfare measures for migrant workers in the future.

Certain state governments also sought to use the pandemic as a pretext to amend certain major labour laws, which were later repealed after much pushback (Press Trust of India, 2020c). These states had also amended the critical Industrial Disputes Act to raise the threshold for layoffs and retrenchment from 100 to 300 workers in a factory and the threshold membership for trade unions from 15% to 30%. These measures aimed to attract investment into the state and kick-start their economies – which is a flawed assumption at best.

The Invisibilisation of Dependents

When we think of migration in India, we normally fixate on the migration to various destinations of men for work, but this is misleading. Migration often involves the whole family, and the dynamics of familial migration is a sorely under-researched phenomenon in the Indian context.

One major fact of internal migration in India, as mentioned above, is the overwhelming dominance of women in its stream, amounting to some 70% of total migrants. While marriage has been cited as the main reason for migration in the past, things are changing, and more women are migrating for work and also working after migrating as a dependent (Parida & Madheswaran, 2019). However, given the low female labour participation rate in India, that percentage is still very small. A number of women migrants are still predominantly dependents and the pandemic caused significant hardships to them as well. What was notable, however, was their absence in public debate despite the images of entire families on the road home. Women in the labour force work mostly in the informal sector and are completely overlooked in any discussion. In the current context, four out of every ten women in the country suffered from job loss, amounting to 17 million women (Rajan et al., 2021). This is a major part of the story that was missing from the picture presented.

The picture is the same when examining issues of dependents like the elderly, but particularly of children. Migrants move to cities not only for better work opportunities for themselves, but also for better prospects for their children. The pandemic, however, forced hundreds of thousands of children to head back to the villages along with their families, uprooting them from not only their homes but also access to better health and education (Banerji, 2020). It is feared that a number of students will be forced to drop out of school because they have to return to villages, which suffer from inadequate educational facilities. This will lead to incalculable loss to their human development and the nation's well-being.

The pandemic has raged through the country indiscriminately. The policies to contain its spread, however, have been extremely discriminatory – targeting the most vulnerable of the population and leaving their futures in darkness for the foreseeable future. The question from here is how we ensure that migrants get back on their feet and continue to contribute to the nation.

12.6 Concluding Remarks: Away Forward to Migration and Inclusive Policy

The implementation of the lockdown exposed the central government's lack of cognizance of the migrant population and their issues. The food insecurity of migrant workers emerged as the most visible deprivation, along with shelter. The non-portability of PDS services across state lines also became evident (Srivastava, 2020). We must ensure food security through portability of the ration card in the PDS schemes in the future. As a follow up measure, the Central Government announced the 'One Nation, One Ration Card' to ensure portability of food security entitlement across India. If implemented successfully next year as proposed, it will go along way towards providing food security for poor migrants.

In addition, the housing scheme – which is likely to take at least 1 year to finish – does very little or nothing to alleviate the ongoing suffering of the migrant labourer. With the lockdown cutting all sources of income, few support schemes have focused on short-term financial relief as the package fails to recognise the immediate distress of migrant workers. In light of the fact that the Indian economy is set to see a contraction in growth in the coming year (World Bank, 2020), certain immediate steps need to be taken in order to integrate migration with development (Rajan, 2020d).

The apathy of the central and state governments is most visible in the collection of reliable and real-time data on migrants in the country. Collected datasets are either too fractured or irregular and out dated like the Census and National Sample Surveys, which do an inadequate job of covering seasonal and temporary migration in the country. When asked in Parliament about the data on the number of migrant workers who suffered job losses during the pandemic and those who died during their journey home, the government callously replied that it had no data for either.

Not even a rough estimate was provided, laying bare exactly how marginalised the problems of migrants are in government policy. It is imperative to know the exact size and characteristics of the migrant population in order to come up with holistic and effective policies. This can be organized in numerous ways as suggested below.

The most basic way to ensure this is to have migrants voluntarily self-register at their destinations. These provisions exist in some laws, as mentioned earlier, but are ineffective. We need to have robust administrative data on the number of migrants in the country. This can be complemented with large scale datasets like the Census, the National Sample Survey, the Kerala Migration Survey (Rajan et al., 2020) and the Indian Human Development Survey to gain a disaggregated temporal view of migration.

A second initiative we could implement is issuing everyone who migrates to another state for work with a Migrant Smart Card, which can be swiped at bus or railway stations when they travel. This Smart Card would contain their socioeconomic details, may be linked to the Aadhaar or Ration Card as well as details about their work contract and employer's details so that they have a means of official restitution in times of disputes with the employers. This will identify the holder as a migrant worker to be given benefits as per their requirements. The use of this card would also provide a real-time look at migration within the country.

Finally, it is high time the Central Government invested in a pan-India migration survey, similar to the Kerala Migration Survey that the Government of Kerala has used to great effect to understand migration patterns and trends from the state over the years (Rajan & Zachariah, 2019; Zachariah et al., 1999, 2000). It is no coincidence that Kerala handled the Covid-19 migrant crisis best. In fact, current estimates based on train passenger travel data show only the tip of the iceberg.

The government missed a huge opportunity to announce at least an ex-gratia payment to every migrant worker in the form of a Rs. 25,000 cash transfer in the immediate period. This would be compensation for the lost man-days of work and wages for migrant workers during the two-month lockdown. Cash transfers are the most efficient way to stimulate the economy, seen even in the case of the US, which provided a \$1200 stimulus check for 3 months to taxpayers as part of a \$1 trillion stabilisation programme (Sullivan, 2020) Even if we were to send a sum of Rs. 25,000 to every inter-state and inter-district migrant worker, earlier estimated at 140 million, this would amount to a total of Rs. 3.5 trillion, which is about one-sixth of the package announced. This cash support would have been more far more helpful for returning workers to cover some of the income they lost during the lockdown period and would have provided some form of security to help overcome their desperation, making them self-reliant in the true sense of the term (Rajan, 2020c, d).

This cash could have also stimulated local economies by giving a sizeable share of the population the purchasing power it currently lacks. This would go a long way in the revival of 'animal spirits', as John Maynard Keynes once famously said, within the depressed rural economies, as immediate cash transfers will ensure spending that would kickstart a multiplier effect once economic normality resumes. On the production side, the government should ensure that proper financing and credit lines – among other stimuli – should open up for industries to revive once

again. This ensures that migrants have an incentive to return to destinations, which they currently will be wary of doing. Having migrants register for this cash support at the destinations would have also given the various governments an accurate estimate of the number of stranded migrants – something that we crucially lack at present.

Rural public works programmes like the National Rural Employment Guarantee Act have proved to be the most robust social security net during the crisis. Along with increases in the allocated budget and in person-days of work, it is also important to increase the days of work to at least 180–200 days of work per year, or at least 15 days per month. This may still cover only a fraction of their earnings from their work at the destinations. Furthermore, this is still a conditional arrangement based on registration for work and not an immediate measure. However, it is a rights-based security net that needs to be extended to urban areas.

Migrant workers have traditionally been on the periphery of government policy-making as they are an invisible voter pool (Rajan et al., 2019). Many cannot vote in their hometowns due to the nature of their work. The portability of voting rights could emerge an empowerment strategy for migrant workers and ensure a sustainable progress in the post-pandemic world.

12.7 Postscript

India has seen a very sharp rise in COVID-19 infections in the second wave that started in early February 2021 and peaked near the first week of May 2021, with cases reported to be more than 400,000 and deaths about 4000 daily. This was exponentially more severe than the first wave. Although new COVID-19 cases started declining after first week of May 2021, it has devastated more lives and livelihoods. The genesis of the second wave is attributed to the lack of Covid-appropriate behaviour, social and political gatherings due to religious activities and elections that were held in between. There was also the complacency that the country had overcome the COVID-19 health crisis. However, the government was cautious in putting strict lockdowns and restrictions, and transport services were allowed to be operational. The second wave, in spite of being severe and devastating, did not create a migration crisis as seen during the first wave with its visible and pathetic exodus of migrants. This is not to say that there was not a flight of migrant workers, but that it was slower and less visible. Unfortunately, most of the policy measures for migrants announced during the first wave have not taken any concrete shape and remains mere announcements mainly due to the fact that the second wave brought forth shocking inadequacies in India's medical infrastructure such as shortage of oxygen, hospital beds, medicines and vaccines. This demonstrates that policy measures are ad-hoc, partial and short-sighted instead of being long term, holistic and integrated.

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