

The elusive triple win: addressing temporary labour migration dilemmas through fair representation

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Abstract

Temporary Labour Migration Programmes (TLMPs) are controversial because they are caught in a dilemma between global and domestic justice. From a global justice perspective, TLMPs expand opportunities for workers in poor countries to access labour markets of rich countries and they improve the situation of origin countries through remittances. From a domestic justice perspective, TLMPs violate principles of domestic equality because they always afford migrant workers more restricted rights than those enjoyed by citizens and long-term residents of the host country. Although this dilemma cannot be fully resolved, we argue that TLMPs can be morally justified and recommended if they are characterised by 'fair representation' in policy design and implementation and also meet certain democratic legitimacy conditions. TLMPs can be justified if they provide triple benefits for destination and origin countries as well as for migrants themselves, yet the relevant benefits can only be achieved cooperatively through transnational governance in which each of the three groups of actors is fairly represented. This conclusion is supported by our interpretation of the democratic principle of including all affected interests. Under such conditions, some rights of temporary migrant workers in host countries can be regarded as a legitimate outcome of negotiations, while others need to be fixed in advance under a democratic principle of equal protection of all subjected to the laws. Democratic legitimacy also requires that migrants enjoy protection and participation rights as citizens of their countries of origin as well as local citizenship in their countries of residence.

Keywords: temporary migration, global justice, democratic legitimacy, dilemma, representation, triple win

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1. Introduction

Europe and the USA are, once again, debating the expansion of temporary labour migration programmes (henceforth TLMPs), especially for admitting lower-skilled migrant workers (see e.g. Bier 2021; European Commission 2022; The Economist 2020). We define TLMPs as policies that grant migrant workers temporary residence and work permits upon arrival and do not guarantee an ‘upgrade’ to permanent residence after some time. All such programmes offer temporary migrants a restricted set of rights compared with workers with an unlimited right to stay (citizens, long-term resident foreigners, or those enjoying free movement rights). This article makes a novel contribution to long-standing debates about the ethical desirability of TLMPs. We propose a new normative framework that addresses the underlying moral dilemma of how to balance global and domestic justice concerns through a process of fair representation in the design and implementation of TLMPs, and that also justifies variations in the specific content of such policies. We mean by fair representation in this context that decisions (on policies and their implementation) must be taken by bodies in which the interests of all directly affected parties (i.e., host countries, source countries, and temporary migrants) are represented directly and separately so that none can be overruled.

TLMPs have a long and global history (e.g. Hahamovitch 2003) and they are today the dominant form of labour immigration policy-making in high-income countries (e.g. Ruhs 2013). Research and policy debates about TLMPs have evolved over time, as has the terminology used to describe and discuss them. Most research on ‘guest worker’ policies in the USA (most notably the *Bracero programme* in 1942–64) and Europe (the *Gastarbeiter* programmes from the 1950s up to the mid-1970s) concluded that these programmes largely failed because they did not achieve their stated policy aim of preventing permanent settlement of many supposedly temporary workers and generated a range of adverse impacts, including the vulnerability of temporary migrant workers to exploitation and the emergence of labour market distortions and segmentations (Piore 1979) along with the growth of a structural dependence on the continued employment of migrant workers in the host country. The slogan ‘there is nothing more permanent than temporary foreign workers’ was a popular summary statement of the perceived failure of these policies in democratic high-income countries (Castles 1986; Martin and Teitelbaum 2001). At the same time, the large-scale guest worker policies of the Gulf States, which imposed severe limitations on migrants’ rights and were more successful in ensuring the temporariness and return of migrant workers, were widely considered as unacceptable in democratic countries.

The early 2000s saw the emergence of new research and policy debates that moved beyond ‘what went wrong’ and the ‘inevitable failure’ of TLMPs (Castles 2004) to questions about whether and how new TLMPs can be designed to avoid the adverse consequences of past guest worker policies (Martin 2003; Ruhs 2006). Much of this debate was driven by international organisations and initiatives concerned with liberalizing labour migration around the world, especially for lower skilled workers. For example, the *Global Commission on International Migration*, a body encouraged by then UN Secretary General Kofi Annan in 2003, concluded that ‘states and the private sector should consider the option of introducing carefully designed temporary migration programmes as a means of addressing the economic needs of both countries of origin and destination’ (GCIM 2005:

16). Similarly, the World Bank and United Nations Development Programme (UNDP) called for the expansion of TLMPs, especially for lower skilled workers, because of the large benefits of migration for poverty reduction and human development (World Bank 2006; UNDP 2009).

In more recent years, research and policy debates about TLMPs have been expanded to include circular migration programmes which facilitate temporary but repeated stays of migrant workers (e.g. European Migration Network 2011) and international skills partnerships that combine temporary labour migration with skills training and development in origin countries (e.g. Clemens 2015). The recent *Global Compact on Safe, Orderly and Regular Migration*, adopted by the UN General Assembly in December in 2018, calls on governments to implement labour mobility schemes for ‘temporary, seasonal, circular, and fast-track programmes in areas of labour shortages’ (United Nations 2019). The need for cooperation between countries of migrants’ destination and origin in the design and implementation of TLMPs has become an increasingly important new feature in policy debates. For example, the EU Commission’s proposed ‘New Pact on Migration and Asylum’ calls for expanded cooperation between the EU and non-EU countries on labour migration (European Commission 2022).

This shift in research and policy debates over the past 20 years towards greater engagement with the question of how policy design might improve the outcomes of TLMPs, and towards a greater emphasis on the need for cooperation between destination and origin countries, has also induced a growing body of normative analyses of such programmes (Chang 2002; Mayer 2005; Bell 2006; Carens 2008, 2013; Miller 2008, 2016; Lenard and Straehle 2010, 2012; Ruhs 2013; Lister 2014). This article contributes to this literature. Our starting point is that, from a normative perspective, TLMPs raise a fundamental dilemma between global and domestic justice.¹

We do not want to enter here the dispute between rival conceptions of global and domestic justice and focus instead on practical implications that we think most minimally egalitarian theories would endorse. In this vein, we assume that any global economic justice perspective must be committed to reducing unjust disparities of wealth and resources not only within but also across countries. No matter whether one endorses a cosmopolitan perspective of global economic justice (e.g. Pogge 2002), a sufficientarian and responsibility-based one (e.g. Miller 2007) or a minimalist account like Rawls’ Law of Peoples (Rawls 1999), current levels of disparities cannot be justified and need to be addressed. Our argument could thus be endorsed both by those who reject an ideal of global *equality* of opportunity but acknowledge the need for *improving* opportunities for the citizens of economically worse off countries as a matter of global justice as well as by cosmopolitan egalitarians even if they may regard our proposal only as a modest first step.² Since TLMPs expand opportunities for workers in poor countries to access labour markets of rich countries, thus improving their and their families’ household incomes and human development, they seem to be *prima facie* a good instrument in a toolbox of global justice.

At the same time, most authors apart from strong cosmopolitans acknowledge that states have special responsibilities to secure more demanding standards of social justice within their jurisdictions³ and most conceptions of domestic justice require that those who reside in a state territory and are subject to a state’s laws enjoy a set of equal rights. In contexts of cross-border mobility and migration persons in transit, long-term residents

and citizens have different bundles of rights. Some differentiations of this kind are necessary in order to maintain the integrity and stability of democratic citizenship. TLMPs, especially those for admitting lower skilled migrant workers, however, typically constrain migrants' right to free choice of employment, access to the welfare state, opportunities for family reunification, and—most obviously—security of residence in the host country, all of which are restrictions that seem difficult to reconcile with egalitarian perspectives of domestic social justice. Those who support egalitarian welfare states as the best approximation of social justice in the current world have therefore often opposed TLMPs.

We reject the views that domestic justice concerns require abolishing TLMPs and that global justice requires open borders instead of TLMPs. We argue that appropriately designed and governed TLMPs are compatible with domestic justice requirements and contribute to global social justice goals but that the dilemma will nevertheless persist in a mitigated form. When we say that the dilemma needs to be 'addressed' we refer to two steps: first, the need to acknowledge its strength instead of trying to dissolve it through conceptual analysis or by opting for one horn only and, second, the need to 'work through' the dilemma by exploring substantive and procedural conditions for acceptable responses.

The guest worker programmes of the 20th century could be hardly described as a contribution to global justice, since they were designed to maximise the benefits for host states and paid less regard to the interests of migrants and source countries even if the latter were assumed to emerge as beneficial side effects. New advocacy of TLMPs in the 21st century invokes instead a 'triple win' for all three categories of actors involved. However, host country interests have remained dominant in the creation and operation of TLMPs. We argue that in order for TLMPs to be defensible from a global justice perspective, the procedures for negotiating them must change by better representing the interests of migrants and source countries.

Most existing normative analyses of TLMPs are focused on issues related to policy design, especially on the question of which rights of temporary migrant workers can be justifiably restricted and for how long. For example, [Carens \(2008, 2013\)](#) suggests that it is justifiable to restrict some specific rights of temporary migrant workers including their access to non-contributory welfare benefits (such as social housing) for some time. [Ruhs \(2013\)](#), [Lister \(2014\)](#), [Barry and Ferracioli \(2018\)](#), and [Brock \(2020\)](#) similarly discuss a list of rights and their permissible restrictions under TLMPs. We take a slightly different approach in this article. We argue that TLMPs that realise 'triple benefits' through procedures of fair representation are not merely ethically acceptable but can also be normatively recommended provided they meet substantive and procedural conditions that we specify in this article.⁴ We take the concept of 'triple benefits' seriously and ask: What are the conditions for TLMPs to be justified on these grounds?

In our response to the dilemma of conflicting domestic and global justice concerns, we aim to overcome the opposition between those who argue that social justice within states requires immigration control and global utilitarians that aim to maximise welfare for individuals worldwide independently of their political membership. While the former view prioritises rights of destination states to choose whether to admit labour migrants, how many and under what conditions, the latter prioritises benefits for source countries and prospective migrants over standards of social justice in host countries. As an alternative we propose that destination states have global justice duties which they can partly

deliver through well-designed TLMPs that are compatible with their domestic obligations of social justice. The triple benefit should not be interpreted only in utilitarian terms as a strategy for enhancing the welfare of host countries, migrants, and their countries of origin, but also as the condition under which it is possible to simultaneously take into account domestic and global justice concerns.

Considerations of justice determine external limits for the moral permissibility of public policies and can provide guidelines for addressing policy dilemmas but they cannot answer the question of whether policy makers have the authority to adopt such policies. A second and additional element of our response is thus that the normative acceptability of TLMPs is not merely a matter of social justice but also of democratic legitimacy. We reject views that consider democratic inclusion of migrants only in relation to the host state (e.g. [Walzer 1983](#)) and argue instead that TLMPs should satisfy three principles (see [Bauböck 2018](#)). First, all relevant affected interests must be included through fair representation of destination countries, source countries, and temporary migrants. Second, in destination states temporary migrants must be included not as future citizens (as claimed by Walzer) but as subjects to the laws. This requires that they are granted equal protection by the laws and opportunities to contest these laws. The third principle is that temporary migrants are still citizenship stakeholders. They must be included as local citizens in destination countries and as national citizens in their countries of origin. These countries have duties to help them realise their life projects and to involve them in shaping the future of these societies. While the first principle has mainly procedural implications for who must be involved in designing and implementing TLMPs, the second and third principle suggest substantial conditions in terms of migrants' rights that such programmes ought to meet. As we discuss in the conclusion of this article, invoking principles of democratic legitimacy raises the important question of whether and to what extent our approach applies also to TLMPs that involve non-democratic states as host and/or origin countries of migrant workers.

We develop our argument in four steps. We begin, in Section 2, with a discussion of the 'anatomy' and sources of the dilemma at the heart of TLMPs, drawing on relevant empirical research. Next, Section 3 reviews existing normative responses to the dilemma raised by TLMPs and discusses difficulties with assessing whether TLMPs generate 'triple-benefits' for migrants as well as their countries of origin and destination. We then develop our normative argument on domestic and global justice conditions (Section 4) and democratic legitimacy conditions (Section 5) for TLMPs. The conclusion identifies and discusses briefly some of the practical challenges with designing and implementing TLMPs that meet the justice and democratic legitimacy conditions. We conclude that our proposed new approach to TLMPs can help to address, but never fully resolve the inescapable ethical dilemmas that such programmes raise under real-world conditions.

2. Anatomy of the dilemma: Expanded migration under restricted rights

Most TLMPs are unilateral programmes that are designed and implemented by destination countries. Where bilateral programmes exist (and their number has grown in recent

years, see e.g. [Chilton and Posner 2018](#); [Peters 2019](#)), most of the bargaining power has remained with host rather than origin countries. As a consequence, the majority of today's TLMPs are largely 'made' in host countries and designed to benefit primarily the interests of the host country's population. A primary objective of all TLMPs is to promote economic growth, partly through helping to fill labour and skill shortages. A secondary objective, the practical significance of which varies across countries and over the business cycle, is distributional, that is, to make sure that TLMPs do not harm (certain groups of) local workers.

While there are considerable variations in the policy design of TLMPs around the world ([Ruhs 2018](#)), all such programmes are characterised by a fundamental trade-off: they provide opportunities for labour migration while at the same time restricting at least some of the admitted workers' rights (compared with the rights of citizens and long-term residents in the host country). By definition, migrants' right to reside in the host country is time-limited, at least initially. Many countries allow some migrants admitted through TLMPs to transfer to permanent residence status after some time (often after 5 years), but usually only if they meet certain criteria. In democratic countries, strictly temporary programmes, where there are no opportunities at all for migrants to upgrade to permanent residence status, are generally limited to lower skilled (including seasonal) admission programmes. In non-democratic countries, such as the oil-rich Gulf States, strictly temporary programmes are also used for medium and higher skilled migrant workers.

Most TLMPs, except those for admitting highly skilled migrant workers,⁵ also restrict a range of other rights of migrant workers (e.g. [Ruhs 2013](#)). The majority of TLMPs issue work permits that limit the employment of the admitted migrant to the employer specified on the permit. Changing employers may be possible after some time, but it usually requires a new work permit application. From the host country's perspective, a fundamental rationale of TLMPs is to help reduce labour and skills shortages in specific occupations and/or sectors. If the admitted migrants were free to take up employment in any occupation or sector of the host country's labour market, TLMPs would not be able to meet one of their fundamental objectives. Some countries (such as Ireland) have introduced policies that allow temporary migrant workers to switch employers freely within certain sectors or occupations after some time (e.g. 1 year after admission under the TLMP). However, even when the initial tie between worker and specific employer is lifted, the restriction of employment to the occupations or sectors perceived to be in 'shortage' typically remains.

Most TLMPs also restrict migrants' access to welfare benefits, especially to targeted and non-contributory benefits such as social housing and social assistance. Again, the extent to which access to welfare is constrained varies across countries but there are at least some restrictions in most countries. Two rationales are usually given by policy-makers. The first relates to material effects, specifically to the fiscal costs of providing temporary migrants with access to welfare benefits. The common policy objective of 'maximizing the net-benefits from labour immigration' typically includes 'minimizing the fiscal costs'—and in many countries this objective is pursued partly through restrictions of migrants' access to certain welfare benefits, especially for lower skilled workers (although typically not to basic public services such as primary health care).

A second reason for why many countries curtail, at least temporarily, some welfare benefits for migrants admitted under TLMPs relates to normative ideas, including perceptions of fairness and justice among the host country's population. Welfare states have been designed as inherently *national* projects that are based on a social contract between citizens and the state, and that redistribute from rich to poor among citizens and long-term residents. While the preferred principles for redistribution (e.g. need, reciprocity, or universal access) among existing residents vary across countries, when it comes to regulating newly arrived migrants' access to welfare benefits, there is a widespread view that 'prior contribution' and 'reciprocity' should be the guiding principles (see e.g. [Reeskens and van Oorschot 2012](#)). In other words, new migrants are widely seen as having to 'earn their rights' to welfare benefits in the host country. Restricting the social rights of new migrants admitted under TLMPs, especially their access to needs-based welfare benefits, is therefore not only perceived as an issue of costs and benefits but also one that raises questions about fairness and domestic justice ([Ruhs and Palme 2018](#); [Mårtensson et al. 2021](#)). These considerations may be less applicable when it comes to regulating migrants' access to public services such as health care and education. Recent research suggests that public attitudes in host countries are more permissive of granting migrants access to services than to benefits (e.g. [Eick and Larsen 2021](#)).

Many but not all TLMPs also limit migrants' rights to family reunion, although this varies considerably across programmes targeting high and lower skilled workers (for the latter, family rights are typically more restricted). In practice, a key policy tool to constrain family reunion is to require a minimum income threshold that migrants must meet to be able to bring their dependent spouses and children. How high this threshold should be has been a matter of considerable debate in many countries (e.g. for the UK, see [Sumption and Vargas-Silva 2016](#)). This indicates that a key concern many countries have about family reunion relates to fiscal costs (rather than to issues of fairness or justice that are important additional considerations in the case of temporary migrants' access to welfare benefits).

3. Normative responses and the elusive 'triple win'

The ethics of immigration debate in normative political theory has strongly focused on whether or under which conditions immigration control by destination states is morally justified or democratically legitimate. We deliberately set aside this debate, since TLMPs presuppose what [Carens \(2013\)](#) calls the 'conventional view' that assumes immigration control powers of destination states. If states were morally or democratically required to open their borders for global-free movement, there could be no regular migration programmes at all and thus also no TLMPs. Open borders advocates may reply that abolishing such programmes would indeed be preferable. In Section 4, we argue instead that under conditions of great disparities of resources and wealth between countries, global free movement would not allow states to reconcile their duties of domestic and global social justice, whereas regular migration policies can potentially contribute to both goals.

Scholars who accept that in a non-ideal world of great global inequality states need to be able to regulate immigration have contrasted TLMPs unfavourably with permanent

economic immigration programmes on the dimensions of human rights, equal membership, and/or exploitation. From a human rights perspective, critics have argued that TLMPs violate the fundamental principles of universality, indivisibility, and inalienability of human rights, and that rights restrictions under TLMPs are often incompatible with the UN Convention on the Rights of Migrant Workers and Their Family Members.⁶ Universalistic rights-based normative frameworks naturally oppose the idea of different categories of residents with different sets of rights (see e.g. [Taran 2001](#); [Weissbrodt 2008](#)).

A different but equally influential critique of TLMPs is based on the idea that a democratic community must provide all its residents with equal terms of membership and access to citizenship rights. Michael [Walzer \(1983\)](#) famously argues that if democratic communities are not prepared to admit migrants as equal members, they should not admit them at all. [Miller \(2008\)](#) makes a similar argument that also acknowledges that the requirement of equal membership and citizenship rights is likely to result in fewer migrant workers admitted.

A third line of normative arguments against TLMPs suggests that such programmes are inevitably exploitative. While exploitation can be defined and measured in different ways (e.g. [Attas 2000](#)), a common concern is that TLMPs expand employer power over migrant workers, thus undermining the protection of labour laws to the detriment of both migrant and local workers (e.g. [Freedland and Costello 2014](#); [Wright and Clibborn 2020](#)). For example, by limiting the legal employment of a migrant worker to the specific employer named on the work permit, TLMPs can make it difficult or impossible for migrants to escape exploitative working conditions unless they are willing and financially able to return home. Furthermore, the restrictions on temporary migrant workers' employment in the host country's labour markets can encourage some employers, especially in lower-wage sectors with poor working conditions, to develop a preference for migrants over local workers ([Anderson and Ruhs 2010](#)).

Most normative justifications and defences of TLMPs have been based on a 'realistic approach' to the ethics of migration coupled with a focus on migrant agency and global utilitarianism. For example, [Chang \(2002\)](#), writing about TLMPs in the USA, and [Bell \(2006\)](#), writing about TLMPs for domestic workers in East Asia, start with the observation that equal citizenship rights for migrant workers are politically unfeasible, and that the most likely alternative to TLMPs would be exclusion of migrants. Emphasizing the agency of migrants and the benefits of migration for individuals, Chang and Bell support TLMPs that restrict some of the rights of migrant workers, under certain conditions. Arguments for TLMPs based on global utilitarianism, that is, based on the idea that TLMPs can and do generate large economic benefits for migrants, their families and for sending societies more broadly—are typically motivated by concerns with poverty reduction in poor countries (e.g. [Pritchett 2006](#)) and/or reducing global inequalities (e.g. [Milanovic 2016](#)).

A key idea that is common to most existing normative justifications of TLMPs—and that also plays a central role in our own normative argument developed in the next two sections—is that TLMPs can generate 'triple wins' for host countries, migrants, and their countries of origin. We prefer the terminology of 'triple benefits' in order to signal that we count among benefits that TLMPs help states comply with duties of justice and build cooperative relations with other states, which would not normally be understood as 'wins' associated with purely self-interested goals. Our position differs from a utilitarian one in

that we do not advocate a policy design that is focused on maximizing overall benefits but one that creates fair conditions under which all actors can mutually endorse the benefits achieved by each of them. As we will argue below, this requires fair representation of their interests in negotiations on policies and their implementation.

Defining the meaning of benefits for host countries, migrants and origin countries, and establishing that they exist under TLMPs, is by no means easy. This is because the consequences of migration for individuals, communities, and countries as a whole are multi-dimensional and they can—and typically do—involve competing impacts (or trade-offs) for each of the three groups (host countries, migrants, and countries of origin).

For example, from the host country perspective, the employment of migrant workers admitted through TLMPs does not only generate a range of economic and social impacts (e.g. on labour markets, public finance, economic growth, housing, community cohesion, etc.) but has also distributional effects (e.g. different costs and benefits for different groups of people such as employers and workers). Moreover, we know that the impacts of labour immigration vary across time. For example, while immigration may lower the wages of some competing domestic workers in the short run, it may lead to an increase in these workers' wages in the longer run as labour demand adjusts to the immigration-induced increase in labour supply (e.g. [Dustmann, Glitz and Frattini 2008](#)). Some of these effects (e.g. labour market impacts) are much easier to define and measure than others (e.g. social effects). Finally, impacts will also differ across host country regions, which may lead to contrasting policy preferences, especially in federal states. These diverse consequences make it difficult to speak about an overall impact (or benefit) for the host country. To assess the overall effect, the various types of impacts need to be considered, their relative importance assessed (i.e., weighted), and trade-offs need to be managed—which is an inherently normative exercise as it involves decisions on what types of impact, and for what groups of people in the host country, should be prioritised.

There are similar considerations and challenges with establishing the overall benefit of TLMPs for origin countries. Labour emigration generates remittances which are thought to have mostly positive impacts on people left behind in origin countries (see e.g. [Acosta et al. 2006](#); [Clemens and McKenzie 2018](#)) and it can also be associated with a transfer of skills when migrants return. At the same time, the outflow of skilled workers can have adverse brain drain effects for certain types of countries (e.g. [Docquier and Rapoport 2012](#)) although these effects can become positive in the longer-term (e.g. [Clemens and McKenzie 2009](#); [Edwards 2019](#)). Most origin countries accept some responsibility for protecting the rights and welfare of their workers abroad ([Lenard 2021](#)). This can lead to trade-offs in perceived impacts and policy objectives vis-à-vis TLMPs: Origin countries benefit from remittances generated by TLMPs but this may come at the price of restricted rights for their workers abroad. As a consequence, establishing whether a particular TLMP generates an overall benefit for a specific origin country is not as simple as suggested by some advocates of TLMPs.

Finally, from the perspective of migrants, participation in TLMPs also involves a range of economic and social consequences for themselves and their families, and some of these impacts may be conflicting, which complicates an overall assessment of their benefits. Perhaps the most obvious example is the potential trade-off between economic gains from employment abroad and the sometimes severe loss of rights and freedoms—as is the

case with temporary migrant workers in the Gulf States. A second trade-off concerns family life. Migrant workers with families can experience family separation as a heavy burden. Often they face a dilemma between performing their duties of care (especially for minor children) or providing their families with better income through temporary migration. Here again, overall benefits are not easy to determine, even when assuming that temporary migrants make the choices that are best for them. Some of these choices may be made under conditions of insufficient information or self-deception and migrants can come to rationally regret them in retrospect. However, it would be unacceptably paternalistic to assume that it is in migrants' best interest not to participate in TLMPs. Instead, the goal should be to enable them to do so under conditions that will mitigate the trade-offs, for example, by securing their fundamental rights in the destination country or providing them with multiple re-entry visa that allow them to visit their family members at home.

If it is already hard to figure out the overall benefits for each of the three actors involved, it is even more difficult to weigh them up and aggregate them into an overall formula, as would be required by a global utilitarian calculus. We argue that this is also not necessary. As assessing different types of impacts of TLMPs (and migration more generally) is an inherently controversial and subjective process, we argue that the existence and magnitude of triple benefits of TLMPs cannot be determined without the involvement of representatives of all the affected actors (host country, origin country, and migrants themselves) in policy design and implementation. As regards the internal heterogeneity of interests within host and origin countries, it is generally the task of democratic processes to take internally affected interests into account by giving a plurality of actors a voice in shaping the national interest and policy adopted by governments. We propose thus a democratic procedural solution to the problem of indeterminacy of triple benefits.

Why, one may respond, are 'revealed preferences' not enough to demonstrate the existence of triple benefits of TLMPs? Doesn't the fact that migrants participate in TLMPs, and that origin countries seek to (and sometimes do) cooperate in TLMPs, show that such programmes generate benefits for all sides? We reject this argument because of the well-known existence of large power asymmetries between high-income host countries on the one hand, and lower-income sending countries and individual migrants on the other hand. All too often, destination states simply assume benefits for migrants and source countries in order to justify the pursuit of their own interests in TLMPs. However, the revealed preferences of actors in particular institutional and policy contexts (e.g. in the context of a TLMP unilaterally designed by the host country with no role for migrants or sending countries in the policy design) 'reveal' little about the same actors' preferences in a different institutional and policy environment over which they have some influence (as would be the case under a TLMP designed multilaterally).

We argue therefore that what counts as a benefit for each and all of the actors must be established through negotiation and deliberation in a cooperative policy setting and cannot be inferred from the revealed preferences of actors in a policy context where some have little to no power over policy design. Fair representation of interests in negotiating TLMPs and in their ongoing governance is crucial for determining what counts as triple benefits and how they can be achieved.

In a normative account we cannot, however, leave completely open what kinds of interests ought to be accepted by the other actors as morally justified and democratically legitimate in such negotiations. We address the question of justification in the next section and that of legitimacy in Section 5.

4. Domestic and global justice conditions for TLMPs

Before discussing whether TLMPs can be justified on grounds of the benefits they yield for the countries and migrants involved, we need to state two basic preconditions for any liberal justification of such programmes: participating migrants must have their basic human rights protected and their participation must be voluntary. Where these conditions are systematically violated, TLMPs would turn into forced labour migration.

The first precondition of secure basic human rights of migrants (Lister 2014: 113) refers essentially to the freedoms and rights included in the International Covenant on Civil and Political Rights as well as basic labour rights. As we do not set ourselves the task of elaborating a specific catalogue of rights of temporary migrant workers in this article, we emphasise here only that basic rights provide a necessary but not sufficient condition for justifying TLMPs. When it comes to most socio-economic rights of temporary migrants, we propose a different approach that leaves some leeway for negotiating special rights within constraints set by conditions of democratic legitimacy that we discuss in Section 5.

A second precondition for a liberal justification of TLMPs is that the migration involved is voluntary. In a forthcoming book, Ottonelli and Torresi (2022) criticise normative migration theorists for assuming that most migrants intend to stay permanently in their destination countries and ultimately want to become citizens of those countries (see also Ottonelli and Torresi 2012). They provide empirical evidence that this is generally not the case and argue that liberal host states ought to accommodate temporary migrants' life projects, which include an intention to return after reaching specific savings targets.⁷ Ottonelli and Torresi also argue that persons can be considered as having voluntarily chosen temporary migration even if such choices are made under conditions of a lack of opportunities in their countries of origin. Regarding as involuntary all migration that happens in contexts of large opportunity disparities would ignore migrants' agency and disrespect their life projects.

The emphasis on migrants' voluntary choices also leads these authors to reject enforced temporariness as a feature of TLMPs: 'The obvious cases in which temporary migration is non-voluntary are all those programs by which migrants are forced to return to their country of origin after a fixed period of residence abroad as guest workers' (Ottonelli and Torresi 2022). In our view, this stance is self-defeating, as it would imply that temporary migrants could only realise their goals if they were accepted into permanent immigration programmes and could freely choose whether and how long to stay. Instead of considering only what conditions in the host society would allow temporary migrants to pursue their life plans and remain free in changing them, we believe that TLMPs should aim to achieve a triple benefit and must thus factor in the interests of host and origin countries alongside those of the migrants. If they fail to do so, states will not be motivated to

provide opportunities for temporary labour migration in the first place. This does not imply that receiving states are morally free to choose how many migrants to admit and under which conditions. It only means that a general temporariness condition may be necessary and justified in order to achieve the triple benefit.⁸

An alternative view could consider TLMPs as second-best options under non-ideal conditions where state borders are not fully open (Chang 2002). Enforced temporariness would then only be acceptable conditionally because rich states fail to comply with their moral duties to open their borders for immigration from poor countries whose citizens enjoy fewer opportunities because of their morally arbitrary circumstances of birth (Carens 2013). If the goal is open borders, then one might consider free movement arrangements between states (such as those in the European Union) in the current world as approximating this ideal. By contrast, TLMPs can hardly be justified as a step towards open borders since they are premised on destination states' immigration control and impose limits on migrants' right to stay.

While we endorse the widening of free movement opportunities, we do not believe that this is an alternative to, or substitute for TLMPs. Free movement areas are typically created between countries with comparable levels of average incomes.⁹ In contrast, TLMPs open up legal migration channels between states set apart by great disparities with regard to their levels of economic opportunities and social citizenship. As mentioned before, the size of current income disparities across countries is deeply problematic for most theories of global justice. Yet, under these conditions opening borders for free movement to wealthy countries can be problematic for consequentialist reasons. Compared with regulated migration, completely free movement between high- and low-income countries can be more disruptive than conducive for sustainable development in origin countries. In the case of EU enlargement since 2004, even favourable conditions of regional integration and the availability of redistributive funds could not prevent that enhanced East-West labour mobility has led to considerable depopulation and loss of skilled workers in some new member states. The effects of these developments are being increasingly analysed and debated (Baas et al. 2014; Lutz et al. 2019; European Committee of the Regions 2020). Advocating free movement where disparities are much greater and where there are no regional integration mechanisms that can compensate for negative effects seems therefore rather inappropriate.

The other horn of the dilemma also provides support for this view. In democratic states, governments have a mandate to promote the common good of their citizens and residents and they cannot be expected to open up borders for free movement from states with vastly lower levels of opportunities and welfare. They must be able to show that admitting economic migrants benefits not only these migrants and their countries of origin but also their own populations. Where disparities are small, free movement can be defended on precisely these grounds; where they are large, only controlled immigration (which could still be large-scale) can potentially meet the triple benefit condition (Bauböck 2020).

Finally, unlike free movement, regulated migration makes it possible to address the interests of sending countries and migrants explicitly through governance mechanisms instead of expecting them to be taken care of by the 'invisible hand' of a free market that

guides the self-interested choices of individuals (e.g. migrants, host country employers, and recruitment agents) to produce socially beneficial outcomes.

Under non-ideal world conditions, immigration control may be a regrettable fact resulting from an unjust global order that maintains huge disparities of wealth and resources between countries (Carens 2013). Yet it is at the same time a fundamental premise of the concrete duties that states have under such conditions not only towards their own citizens but also towards people in poorer countries.

If the migrants participating in TLMPs do not have a normative claim to free movement, what kind of admission claims do they have? Unlike asylum seekers or family members of settled refugees and immigrants, temporary labour migrants do not have individual admission rights. Instead, their admission requires (different types of) consent by all three actors. Migrants themselves can apply and need to be accepted by destination states, or they can be invited through active recruitment and need then to consent. By contrast, because of the fundamental human right to leave any country, the source country must not control, and thus does not need to consent to, the participation of individual migrants in a TLMP.¹⁰ Instead, it is essential that source countries have a say in the general conditions under which their citizens live and work abroad and can act to protect them when their rights are violated.¹¹

This applies particularly to the case of low skilled labour migrants. Programmes for the temporary migration of highly skilled migrants or international students are less likely to be associated with exploitative conditions for migrants (although some degree of exploitation can also occur in these programmes, see e.g. Costa 2017). Here, interests of sending countries that ought to be taken into account concern mainly the potential brain drain effects that can occur under certain circumstances and a fair return on their investment into the human capital of these migrants.

Although TLMPs require these forms of mutual consent and temporary migrants do not have individual admission rights, it does not follow that destination states are under no obligation to admit any temporary labour migrants at all. Even ‘weakly cosmopolitan theories’ agree that wealthy countries of the Global North share responsibilities for securing fundamental human rights and the satisfaction of basic human needs in the Global South (Miller 2016). Development economists have convincingly demonstrated that temporary migrants’ remittances contribute more to poverty reduction and human development in low-income countries than Official Development Assistance (e.g. World Bank 2017). Under these circumstances, opening up TLMPs can become an important way (though certainly not the only way) how rich states can alleviate poverty and improve the situation in other parts of the world.

Some readers may object that destination states cannot be duty-bound to do something that is anyway in their self-interest. Yet duty and self-interest are two rationales for action that do not exclude each other. Partners in a cooperative scheme participate because they expect to benefit but also have duties of fairness to ensure that the other participants benefit as well. In the case of North–South relations, there are additional asymmetric duties that rich countries in the North have towards poor ones in the South. If they can meet these at least partially through well-designed TLMPs without thereby damaging their self-interests, this removes an important cost and feasibility excuse for shunning their global justice duties and strengthens the case for TLMPs.¹²

Let's take stock of our normative conclusions so far. We have argued that TLMPs must secure migrants' basic human rights and migrants' participation in them must be voluntary and can be regarded so if these programmes match their own temporary migration projects. Migrants do not have individual claims to be admitted under such programmes but wealthy destination states still have global justice duties to provide ample opportunities for temporary migration. The triple benefit justification ensures that destination states can legitimately give priority to the promotion of opportunities and social rights of their own citizens and residents, but it obliges them also to take into account the interests of migrants and source countries in the design of such programmes. These conclusions do not agree with much of the existing normative literature that condemns TLMPs either from a perspective of domestic standards of equality or based on an open borders ideal. They also deviate from a global utilitarian perspective that is ready to sacrifice domestic social justice concerns. However, our normative conclusions so far are not yet very specific and still leave wide open the content of TLMPs and the conditions under which temporary labour migration can be regarded as satisfying a triple benefit justification.

5. Democratic legitimacy conditions for TLMPs

We explore therefore a second normative perspective that complements principles of justice with those of democratic legitimacy. This perspective brings several problems into focus. First, decisions on TLMPs adopted unilaterally by a destination state have large spill-over effects on other countries and their citizens. Second, once inside the country, temporary migrants are fully subjected to the host country's laws and coercive state power but they are not adequately represented in the making of these laws and, as pointed out by [Ottonelli and Torresi \(2012\)](#), they may actually not be interested in host country politics because of their plans to stay only temporarily. Third, temporary migrants are citizens of their countries of origin and may need to rely on these countries' governments for protection of their interests, but often find that their absentee status diminishes their political clout or that home country governments use them only instrumentally for their own economic or political purposes.

TLMPs raise therefore issues of democratic inclusion and representation, and the interests that the three actors bring to the negotiations must be vetted for their democratic legitimacy. There has been a vigorous debate among political theorists about competing principles of inclusion. We adopt a pluralist view and propose that democratic legitimacy requires combining three distinct principles, each of which has different scopes and domains of application ([Bauböck 2018](#)).

The first of these principles is the inclusion of all relevant affected interests. This principle responds to the question of whose interests need to be taken into account in a collectively binding decision. It applies specifically to extraterritorial spillover effects of decisions taken by one particular polity. In contrast to some authors (e.g. [Goodin 2007](#)), we do not think that this principle calls for including those whose interests are affected as citizens and voters in the polity taking the decision. Instead, it requires an adequate representation of interests in the deliberation before the decision and in the decision itself.

Some authors have argued that the principle applies only to negative effects, as outsiders can be assumed to agree to receiving a benefit.¹³ If a country does not comply with carbon emission thresholds and thereby harms the future of humankind it can be legitimately pushed by outsiders to change its policy, but if it reduces its emissions to levels below an agreed and fair threshold, then outsiders should not have a say in its internal decisions how it does so. The triple benefit of TLMPs requires a different approach. As we have argued above, benefits for migrants and source countries cannot be expected to come about as side-effects of TLMPs unilaterally adopted by destination states and pursuing only their economic self-interest. Instead, securing triple benefits requires cooperation. We propose therefore that the democratic principle of including affected interests calls for international decision-making procedures on TLMPs in which the interests of destination states, origin states, and migrants are fairly represented. What we mean by ‘fair’ in this context is that these interests are represented directly and separately in decision-making bodies (rather than being assumed to be taken into account by one of the other actors) and that all actors can shape the outcome (so that none can be overruled by the others). Negotiating TLMPs in an international arena will involve elements of bargaining as well as deliberation. The crucial condition is that the results of bargaining must not be shaped by the power asymmetries between the three categories of actors. Procedural fairness of this kind secures that all actors can mutually endorse the benefits achieved by each of them.

The second principle, which has—in our view wrongly—been considered as a rival to that of including affected interests is that of including all persons subject to the law and/or coercive political power. According to this principle, restrictions of individual autonomy by political authorities are legitimate only if they serve, at the same time, to secure this autonomy through constitutionalised liberties, and if individuals can contest these authorities’ decisions. This principle has generally a narrower scope than that of including affected interests, as it applies primarily within the territorial jurisdiction of a particular polity, but its domain of application is broader, as it does not merely concern the legitimacy of particular decisions but of the whole system of government institutions and their coercive powers.

Applied to temporary labour migrants, the principle identifies them as subjected to the law and authorities of the host society in a comprehensive way that gives rise to corresponding claims to inclusion. In contrast to most authors (e.g. [Abizadeh 2008](#)), however, we do not think that subjection is a sufficient condition for a claim to voting rights or full citizenship status. The case of temporary labour migrants illustrates this point. On the one hand, they are not transients like tourists, travelling business people, or border commuters who are also subjected to the law but whose presence in the territory is less essential for their life projects. On the other hand, they are also not like settled immigrants and residents in the country from birth who locate the centre of their future lives in the territory. For that reason, they do not have a claim to citizenship and voting rights in the host country. Yet they do have claims to equal protection by the laws to which they are subjected as well as to contestation of these laws.¹⁴ The ‘all-subjected principle’ is not compatible with the view that temporary migrants’ rights can be *entirely* derived from agreements fleshed out in negotiations representing all affected interests. Nor can the content of such rights be fully determined by considering how their life plans ought to be accommodated by host states, as [Otonelli and Torresi \(2022\)](#) propose. Both of these

considerations will play an important role in justifying deviations from a standard of equal rights for workers and residents in the host society. Yet before justifying deviations, we first need to assert a default standard of equality. The principle of equal protection by the law for all subjected to the law provides that standard. In liberal states, this principle will help to guarantee basic rights for temporary migrants, which we have already considered as a first condition for the justifiability of TLMPs. However, it does so by appealing to domestic standards of equality instead of universal ones that apply to all human beings anywhere, which should strengthen the acceptance and enforcement of such rights in host societies. Moreover, the equal protection principle points beyond a universal standard of basic rights by taking domestic constitutional rights as a reference point. The principle should, however, not be overstretched. Socioeconomic rights are in many ways differentiated according to particular needs and there must be some leeway for taking into account the specific interests of temporary migrants when negotiating such rights for them.

The third and final principle is that of including all citizenship stakeholders. It identifies those individuals whose lives are linked to a particular polity in such a way that they have a claim to full membership status. We argue that—unlike long-term settled immigrants—temporary migrants generally do not have a claim to citizenship in their host countries. They may, however, have a claim to citizenship and voting rights at the local level, since local citizenship is structurally open for all who take up residence in the municipality—as illustrated by local voting rights for mobile EU citizens but also for third country nationals in many European and South American states (Pedroza 2019). We think that offering local citizenship and voting rights to temporary migrants is important as it provides them with additional protection—symbolically through a status of temporary membership and practically through the attention that candidates have to pay to the interests of potential voters—even if these do not turn out in large numbers, as temporary migrants are unlikely to do.

More important is, however, the claim of temporary migrants to effective citizenship in their countries of origin. As temporary absentees they should not lose their voting rights and as a particularly vulnerable ‘diaspora’ group they need effective consular and diplomatic protection. Because they are and remain citizens, countries of origin also have special duties to assist them in realizing their life plans through facilitating remittances, return migration, and reintegration after return.

Principles of democratic inclusion can in this way fill some of the gaps that a normative account based on principles of justice leaves open. They reinforce our previous conclusion that the content of TLMPs should be determined by negotiations in which the affected interests of source countries and migrants themselves are fairly represented, and they explain why and in which respect temporary migrants can claim equal treatment with other residents in the host society and why they have claims to transnational citizenship, which include membership at the local level in the host country and citizenship rights in the sending state.

6. Conclusions

This article has argued that TLMPs are caught in a dilemma between requirements of domestic justice in migrant receiving states that call for maintaining equal rights and

standards of social justice for all subjected to the laws of the country and global justice duties of wealthy states to provide more opportunities for (temporary) migration from poorer countries. Where cross-country disparities of economic development and social rights are very large, free movement would undermine the capacity of states to deliver domestic social justice. Regulated temporary migration can, however, be a valid response to the dilemma if it provides benefits for receiving states, sending states, and migrants themselves.

What counts as relevant benefits is difficult to determine *ex ante*. The impacts of TLMPs on the three actors involve possible gains and losses for each of them. Moreover, achieving triple benefits also depends on cooperation between the actors and cannot be expected if each aims to maximise their own interests without coordinating with the other actors involved. We have therefore proposed that triple benefits can only be achieved if TLMPs are negotiated and governed in such a way that all affected interests are fairly represented. This conclusion is reinforced by our interpretation of the democratic principle of including all affected interests. Under such conditions, some rights of temporary migrant workers in host countries can be regarded as a legitimate outcome of negotiations, while others need to be fixed in advance under a democratic principle of equal protection of all subjected to the laws that extends beyond the protection of basic human rights. It has not been our ambition in this article to list those rights that are conditions for fair TLMPs. Our aim was instead to show that the domestic versus global justice dilemma can be addressed in this way even though it cannot be fully overcome.

While we have argued that well-designed TLMPs allow to pursue simultaneously the goals of domestic and global social justice, the dilemma will persist because any fair solution will fall short of what would be recommended from either of these perspectives when they are isolated from each other. A differentiation of temporary migrants' social rights and their lack of a right to stay remain problematic from a perspective of egalitarian domestic social justice. Similarly, if immigrants from poor countries can improve their opportunities only through TLMPs while the citizens of the global North benefit from extensive opportunities of free movement, this is a moral problem even for a weakly cosmopolitan perspective. We have argued that the preferred solutions of those who embrace only one horn of the dilemma (equal rights at the cost of immigration closure or open borders for immigration from poor countries) are deficient because they block feasible improvement that can be endorsed from both perspectives. Our proposal mitigates the dilemma by overcoming the need for a hard choice between domestic or global justice. We have not argued, however, that the tension between the two goals can be resolved through fairly negotiated TLMPs. In fact, we think this tension is productive for ongoing reforms.

To conclude, we highlight briefly three important practical issues and challenges that arise when trying to fairly negotiate and govern a TLMP along the lines we have suggested. Two of these challenges emerge from the problem of structural asymmetries of power between the three categories of actors that must be addressed to ensure procedural fairness. The first asymmetry is that between wealthy receiving countries and poor sending states, the second is that between states, which are by their very nature organisations representing collective interests vis-à-vis other states, and migrants that lack representation of their special interests.

One way of overcoming the asymmetric dominance of destination states in negotiations about TLMPs would be to involve international organisations (such as the International Labour Organisation or the International Organisation for Migration, two UN agencies) as convenors of the discussions, which could thus be conducted as multilateral negotiations where destination and origin states have formally equal powers. In such a setup, the international organisations' role would be to facilitate deliberations among what are meant to be equal parties in the negotiation, without actively supporting one side or another. While it would be naïve to think that the involvement of an international organisation as a convenor eliminates power asymmetries between rich destination countries and poorer sending states, it may go some way toward reducing them. This might be especially the case if TLMPs are negotiated between groups of destination and origin countries and/or if TLMPs are negotiated as part of wider migration policy agreements that include goals over which origin countries have more leverage (e.g. attempts to reduce irregular migration through cooperative policies between destination, origin, and transit countries).

The second challenge, which is how to best represent the interests of temporary labour migrants in multilateral negotiations about TLMPs, is equally important and difficult to address. The problem is that temporary labour migrants do not have their own organisations to represent them and are less motivated to spend time and resources for creating them than other categories of workers. Therefore, they need vicarious representation through, for example, NGOs.¹⁵ Involving NGOs in decision-making processes is often criticized by arguing that they lack democratic legitimacy. In our view, this critique is less convincing where direct representation cannot be achieved and when the issue at stake needs to be addressed through transnational governance rather than domestic government (Macdonald 2008). Identifying NGOs that are suitable for this purpose is, however, not a straightforward issue, as many of the existing civil society organisations dealing with labour migration are focused on representing specific groups of migrant workers or specific aspects of labour migration and protection.

In the negotiation of TLMPs, migrants ought to be represented not only in discussions but also in the decision-making, possibly through some kind of veto power in matters concerning the rights of migrants. Multilateral TLMPs involving several host and source countries offer not only better chances for evening out power asymmetries between states but also for giving representatives of temporary labour migrants an effective voice in the negotiations. NGOs representing migrants and IOs acting as convenors of the discussions should also have a strong role at the implementation stage where they could be in charge of independent monitoring of these agreements.

A third important issue relates to non-democratic countries. Our approach may be described as semi-(non)-ideal theory in the sense that we presuppose a non-ideal context of global distributive injustice with large discrepancies of opportunity between countries in the global South and global North. At the same time, we have generally assumed that governments in destination and origin countries will adequately represent the best interests of their citizens and that they accept fundamental principles of democratic inclusion. Real-world liberal democracies often fail to meet these assumptions, but they are at least normatively committed to them. By contrast, non-democratic states involved in TLMPs

may reject the conceptions of domestic justice and democratic legitimacy that inform our normative argument. On the one hand, we accept that our normative argument has limited purchase for TLMPs concluded between governments lacking democratic legitimacy. On the other hand, non-democratic origin countries often place much emphasis on their commitment to protect their citizens abroad. Moreover, we remain optimistic that ‘model TLMPs’ worked out between democratic states and international organisations might provide new standards that could eventually also be accepted by non-democratic destination or origin states, which might adopt them to bolster their domestic legitimacy and international reputation.

While our analysis has largely—and intentionally—remained at the level of theory and basic principles, our proposal for new TLMPs that are characterised by fair representation in policy design and implementation and also meet certain democratic legitimacy conditions is relevant to ongoing policy debates around the world. Greater international cooperation, including on temporary labour migration, is at the heart of the UN’s recent Global Compact on Migration ([United Nations 2019](#)), an internationally negotiated but non-legally binding agreement. In practice, many European and other high-income countries have in recent years made efforts to strengthen migration policy cooperation with lower-income countries of migrants’ transit and origin, partly (or largely) because of a desire to respond more effectively to irregular labour migration. There has been increasing recognition, at least in some rich destination countries, that such cooperation needs to pay more attention to the interests of transit and origin countries and, therefore, also needs to include TLMPs that provide expanded legal labour migration pathways (e.g. [Lücke, Ruhs and Barlund 2019](#); [Maru 2021](#)). Our analysis proposes some of the broad parameters that would make such cross-country policy cooperation on TLMPs morally acceptable and recommendable. In particular, our proposal emphasises the importance of taking sufficient account of the interests and fair representation of migrants, an issue that has not been given adequate attention in recent political and academic debates about enhanced international cooperation on labour migration policies.

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Endnotes

1. This ethical dilemma arises more generally for immigration policies and can be stated in various ways. For example, Philippe van Parijs has called ‘the tension between maximal generosity towards the weakest among the insiders and maximal hospitality towards the many outsiders who are keen, indeed sometimes desperate, to immigrate’ ‘Europe’s most cruel dilemma’ (van Parijs 2022: 1). We are focusing here on how to deal with this dilemma when designing temporary migration programmes.
2. Confirming our intuition, Arneson (2018) offers a detailed discussion of the implications of cosmopolitan egalitarianism for the moral evaluation of TLMPs, arguing that this normative framework provides support for such programmes if these meet certain conditions.
3. David Miller (2016: 21) calls this a principle of compatriot partiality, but also a proponent of open borders as an implication of global justice like Joseph Carens acknowledges priority for compatriots as a principle of democratic legitimacy (Carens 2013: 275).
4. Lister (2014) regards TLMPs that secure certain basic rights not only as compatible with liberal justice but also as recommendable. However, he only considers benefits for host societies and migrants and advocates TLMPs unilaterally designed by host state governments that take liberal justice constraints into account. Our approach differs in considering fair representation of all interests in designing TLMPs as both necessary for securing the relevant benefits for all and as a condition for their democratic legitimacy.
5. Most countries (Sweden is a partial exception) have different TLMPs for admitting low- and higher-skilled migrant workers. TLMPs for admitting higher skilled workers tend to be more open and grant migrants more rights than TLMPs for lower skilled workers (Ruhs 2013).
6. See <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers>, last accessed 21 July 2022. The Convention has, however, not been signed and ratified by most immigrant receiving countries.
7. Intended temporariness is also foregrounded in the definition offered by the EU’s European Migration Network that defines temporary migration as ‘migration for a specific motivation and/or purpose with the intention that, afterwards, there will be a return to country of origin or onward movement’ (European Migration Network 2011: 14).
8. Claiming that a temporariness condition can be justified does not imply that it can or should always be strictly enforced. For example, governments must not deport migrants admitted initially under a TLMP if migrants’ circumstances have changed in a way that gives rise to new long-term residence claims (e.g. if the situation in the country of origin makes returning there dangerous, see also Lister 2014). In some contexts, it may also be in the interest of all three actors to let some migrants initially admitted on temporary work permits upgrade to permanent residence after some time (as some of the current TLMPs in high-income countries do). So we are not excluding this option as a possible outcome of a multilaterally negotiated TLMP.

9. They exist not only between relatively wealthy states, like EU member states, Australia, and New Zealand, but also among middle-income states, such as the MERCOSUR countries in South America, and low-income states in the case of ECOWAS in West Africa and of the East African Union (Acosta 2019).
10. See Lenard (2021) for a slightly different view that accepts in principle selective exit bans imposed by origin countries for the sake of protecting the rights of their temporary migrants abroad.
11. Since one cannot assume that source countries will always pursue the best interests of their citizens abroad, it is essential that migrants are represented in the negotiation and implementation of TLMPs directly and independently of their countries of origin.
12. David Owen suggests a slightly weaker conclusion. He argues that while an argument along these lines ‘... is not sufficient to generate an obligation on liberal states to admit labour migrants, it does provide pro tanto reasons for selections in admissions that best support the realization of global justice’ (Owen 2021). We believe that the global justice reasons for TLMPs are strong enough to support a proactive duty to set up such programmes and that doing so is also more realistic than expecting destination states to give priority to poor migrants from the global South in their regular economic immigration programmes.
13. See Bengtson (2020) for a rejection of the idea that only negatively affected interests must be included.
14. Trade unions that take a transnational approach could play an important role in defending temporary migrants’ labour rights and ‘industrial citizenship’ (Greer, Ciupijus and Lillie 2013).
15. Additionally, former temporary migrants could also represent current and future ones, for example in mini-publics that have to vet a proposed TLMP before it can be adopted by states. We thank David Owen for this suggestion.

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