

Video 5.2: Migrant workers and the separation between human and citizen

If we accept that stopping people at the border is unlikely to be effective, or is at least unlikely to be effective as a humanitarian gesture in preventing the exploitation of migrants, we then need to reflect on what the positive alternative might be.

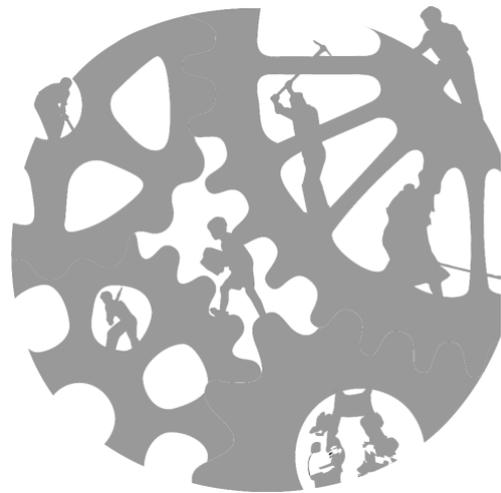
When it comes to thinking about alternatives to border protection, there are a couple of points that are really worthwhile emphasising. All of these points arise out of the fundamental division that makes migrant workers precarious and vulnerable. This is the division between the privileges that citizens of a particular country are afforded, and the vulnerable status that non-citizens, outsiders, and humanity in general are excluded from.

This fundamental divide between citizenship and humanity, insiders and outsiders, is crucial to understanding why and how migrant workers are exploited. It's also crucial when thinking about strategies, because many of strategies that could improve the rights and protections afforded to migrant workers ultimately boil down to ways of closing the gap between the privileges of citizenship and the vulnerability attached to humanity in general.

There are a number of concrete steps that we can contemplate when it comes to closing the division between citizens and non-citizens. One of the most important of these, which Sam alluded to last week, regards the fact that many legal migrant workers lack the capacity to change their employers. This is because their work and residency rights are tied to a specific employer, and as a consequence they're unable to effectively or easily express grievances when their employer ends up exploiting, excluding, or otherwise harming them. The ability to change employers is something that nearly all citizens enjoy as a matter of course, but it's not a right that many migrants have.

So when it comes to strategies for addressing abuse, one of the most simple and straightforward steps is to enable migrant workers to seek other forms of employment. The capacity to seek employment creates a bargaining chip or a platform for negotiation with a current employer. The possibility of employment elsewhere provides the migrant worker with a foundation from which to suggest that they may not want to be employed by their employer anymore. So giving migrant workers the right to change employers is a fundamental way of enabling them to exercise their interests, and to be properly paid and supported in their work.

Second, and I think directly related, it's important to emphasise that in a lot of cases migrant workers – either legal or illegal – don't get paid for the hours they work. Migrant workers are frequently asked stay back and help out around the house, or to work overtime in order to ensure that a construction deadline is hit, and so on. In these situations it's frequently the case that hours laboured are not reflected in pay received. So in terms of providing support for migrant workers, one of the simplest and most



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direct remedies we have available is to provide ways of seeking back pay or additional pay in situations where people have worked longer than they otherwise should.

Third, we need to recognise that in a lot of cases migrant workers are unable or unwilling, often for good reason, to draw attention to abuses or limitations in their working conditions. In this context the avenues to express grievances become crucial to challenging or changing the ways in which workers are treated. Now, avenues for expressing grievances may sometimes exist on paper, but they're not particularly useful in situations where there's no protection against retribution from angry or aggrieved employers. Grievances can sometimes be serious, particularly in relation to physical and sexual abuse, but there's very little that can be done when raising them becomes the basis for retribution from employers.

In all of these cases you begin to see concrete and practical steps which could close the gap between the privileges that citizens enjoy and the rights and protections that migrant workers are able to exercise. You are also hopefully starting to see the different dimensions of the fundamental division between citizens and non-citizens. The types of workplace arrangements, pay conditions and employment contracts governing migrant workers are substantially and deliberately different to the same types of terms and conditions that workers from the countries in question enjoy.

In all of these cases there's a need to close the gap. The protection privileges that citizens enjoy must be extended and afforded to migrant workers in various ways. And one of the biggest protections that might be afforded to migrant workers is the capacity to eventually become a citizen of the countries within which they work. Yet pathways to citizenship are frequently and automatically denied to workers who labour legally in countries for years and sometimes even for decades. When their labours are over migrant workers are expected as a matter of law to return to their home countries. For far too many there's no pathway for them to become naturalized, there's no legal right to become citizens of the countries within which they have worked for extended periods and whose societies and economies they have contributed to.

Migrant work is by design precarious. This precarious nature stems from the division between citizens and non-citizens. In a lot of cases, what should ultimately happen when it comes to protecting migrants is that migrants move from the status of non-citizen to citizen. And, hopefully, their families would enjoy the same privileges. Migration and labour are frequently solitary. People are expected to move without their families, and there's no expectation that their families can ever legally join them. So citizenship ultimately not only requires migrant workers to become citizens, but that that status be given to immediate family members – children, wives, husbands and so on – as well.

All these ideas are fundamental to protecting migrant workers, but it's crucial to recognise that they're not necessarily popular or easy choices to make. Sam and I mentioned previously that these types of additional protections go against enduring patterns of racism and xenophobia, which are foundational to the social hostility that migrants generate amongst the communities within which they reside. So it's important to recognise here that while the types of remedies that I have proposed are actually relatively straightforward in terms of legal provisions and regulation, they're far more complicated from a political and economic standpoint.

This is because they ultimately require the privileges associated with citizenship to be closed and additional protections afforded to migrants. This, in many cases, makes migrants less desirable because it makes them less precarious and less able to be exploited. Precarious and exploited migrant labour is foundational to the way in which the global economic system is structured, and protecting migrants,

giving them greater opportunities, giving them greater ways of expressing their interests, and organising in protection of their rights is ultimately something which is going to present a direct challenge to all who benefit from the current economic system, and to all who are on the inside of this division between human and citizen.

This transcript was prepared for the online course [Forced and Precarious Labour in the Global Economy](#) by Beyond Trafficking and Slavery (openDemocracy). It has been lightly edited for clarity. This course was originally released on the edX.org platform in 2018, where it has now been archived. As of 2021 it is available on [opendemocracy.net](#).

