

Temporary migrant worker exploitation in New Zealand: A qualitative study of migrants' and stakeholders' views

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Abstract

Over the last two decades, New Zealand has increasingly relied on temporary migrant workers (TMWs) to address labour shortages. This reliance has occurred as part of changes to the immigration system, including working visa conditions and growing diversity in the nationalities and occupations of TMWs entering New Zealand. Correspondingly, there has been a continuous increase in reports of TMWs' labour exploitation. Based on 131 semi-structured interviews conducted in 2019, we outline multiple factors that enable TMWs' exploitation. We analyse both TMWs' and stakeholders' views, and within the latter group, we look at both the demand and supply sides. We discuss related matters, including policy initiatives addressing the issue.

Keywords: temporary migrant workers, exploitation, temporary visas, co-nationality/co-ethnicity, employer-sponsored visas

Introduction

Over the last 20 years, several industries in New Zealand (NZ) have come to rely on temporary migrant workers (TMWs) to fulfil crucial labour shortages. Before the borders closed in 2020 due to the global Covid-19 pandemic, this was evidenced in a substantial increase in migrants coming to NZ and media (and other) reports of their exploitation. Recent headlines read: "A plywood box in a liquor store backroom, home for one of New Zealand's estimated 3000 modern day slaves" (Bathgate, 2021), "MBIE investigating Waikato dairy company Maharaj Farms after migrant worker claims boss didn't pay him for 20 months" (Burrows, 7 August 2021), "Auckland restaurant owner to pay \$125,000 over worker exploitation" (2021). The list

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can go on. The first successful conviction on combined charges of human trafficking and slavery in NZ, in 2020, is evidence of the seriousness of the issues. The charges were brought against Joseph Matamata and related to Samoan TMWs. Matamata was found guilty on ten charges of people trafficking and 13 charges of dealing in slaves; he was sentenced to 11 years in jail.

The NZ Immigration Act 2009 defines exploitation as non-compliance with the Minimum Wage Act 1983, the Wage Protection Act 1983, the Employment Relations Act 2000, and the Holidays Act 2003. The Immigration Act further defines a situation of exploitation where workers are prevented or hindered from leaving their employment. Awareness of TMW exploitation in NZ has occurred parallel with substantial changes in immigration policy and patterns over the last 20 years. Successive governments have sought to manage temporary arrivals for work and study while retaining relatively stable residence approvals. Migrant exploitation has been most prominent within three temporary visa schemes—essential skills work visas, student and post-study work visas, and working holiday visas. As part of the 2017 coalition agreement for the Labour-NZ First Government in 2018, the NZ government launched a TMW exploitation review. The review culminated in several policy initiatives and ongoing efforts to address exploitation.

The present paper draws on research we undertook in 2019 for the Ministry of Business, Innovation and Employment (MBIE) into the exploitation of TMWs in NZ. We were tasked with researching migrants' experiences and key stakeholders' views on why exploitation occurs and what can be done to address it. Our research inquiry contributes to the literature on labour exploitation more generally and TMWs' exploitation in particular.

We start by outlining and describing the key features of temporary migration and how it relates to migrant exploitation. We then explain how the data was collected. The subsequent section discusses TMW exploitation in NZ, seen through the lived experiences of TMWs themselves, followed by exploring key stakeholders' perspectives on the issue of exploitation. We discuss our key observations and findings.

Temporary migration and its links to migrant exploitation

Since the early 2000s, consecutive NZ governments have introduced a range of migration policies that facilitate migrants entering on temporary visas to fill labour shortages, especially in the low-wage sectors of the economy (Bedford, 2004). Across a range of industries, including farming, hospitality and tourism, retail, healthcare, transport and logistics, construction and others, people on temporary visas have become a key part of the labour force. In governance terms, these developments reflect the introduction of increasingly managerial approaches to migration, focusing on targeting the economic impacts of migration through particular schemes for selection and regulated conditions of work, life, settlement, and departure for migrants (Collins, 2020). A growing focus on temporary migration schemes reflects a human capital emphasis in migration policy that has been dominant since the late 1980s (Spoonley, 2006). This also reflects an embrace of differentiated status for migrants that accord varying rights depending on migrants' ability to meet government criteria for work, study, or residence.

The growth in temporary migrant populations leading up to Covid-19 related border closures has been remarkable. In February 2010, there were 157,761 work and student visa holders living in NZ, a figure that grew to 304,836 by February 2020 before borders closed in March 2020 (MBIE, n.d.). Temporary migrants then constituted approximately six per cent of the NZ resident population, reaching nearly 20% for those between 20 and 29 years. The key temporary migration schemes are essential skills work visa (61,350 in February 2020), work to residence visa (20,199), study (82,977) and post-study work (31,473) visas and working holidaymakers (38,358), although it is notable that partners of work visas (47,286) who also have work rights are a substantial part of the temporary migrant population. Following Covid-19 related restrictions on border crossing and immigration processing, both working holidaymaker and international student numbers declined substantially to 4,155 and 45,498, respectively, by 31 December 2021. In contrast, essential skills work visa holders have grown during Covid-19 to 66,270 by 31 December 2021, and the other categories listed above have remained stable or only declined marginally¹.

Australia and Canada, two other Anglophone settler-colonial countries NZ compares itself with, also rely on flows of temporary migrants entering for work and study purposes (Robertson, 2015; Vosko, 2022). While migrant workers under these schemes have temporary status upon entry, the policies regularly include the possibility of migrants obtaining residency rights, although this is not guaranteed or straightforward. Indeed, residence requirements constantly change; migrants who plan for long-term settlement can be left in a state of continuous uncertainty as they await outcomes of visa applications and the achievement of eligibility for residence rights (Robertson & Runganaikaloo, 2014). Collins (2018; 2019) suggested that these arrangements have a marked negative emotional impact on migrants, interrupting the desire or aspiration for migration and settlement with feelings of anxiety and frustration that can create compliance to problematic employment, accommodation, and related circumstances.

Unsurprisingly, reports of exploitation have accompanied increased flows of TMWs. Exploitation can take several forms, including charging excessive recruitment fees or job premiums by intermediaries, such as migration and education agents, the under or non-payment of wages, and excessive work hours. Other incongruous practices include the requirement for migrants to provide cashback payments in exchange for their employer's support for a visa that qualifies them for residency.

A key factor facilitating exploitation is 'tied' or 'employer-sponsored' visas that require migrants to work for a specific employer. Employer-sponsored visas have been identified as a key driver, for example, behind exploitation in British Columbia in Canada (Rodgers, 2018) and NZ (Anderson & Tipples, 2014). Tied visas can lead to unequal power dynamics (Chartrand & Vosko, 2020; Knott & Marschke, 2021; Strauss & McGrath, 2017; Vosko, 2022), thus increasing the potential for exploitation (Anderson & Tipples, 2014). Faraday (2014) argued that tied work permits "create a prime source of insecurity that [...] employers exploit"

¹ In September 2021, the NZ Government announced a one-off pathway to residence for temporary work visa holders and their families who had been in New Zealand for three or more years or met criteria around income or skills. The result has been a substantial decline in the number of people on work visas in 2022, to 108,921 in August, a trend that will continue until all applications for the residence scheme are fulfilled. Contemporaneously, the government has initiated an immigration 'reset' around an accredited employer scheme and a 'green list' of desirable occupations; the impact of these latter changes is yet to be seen.

(p.38). The potential for exploitation is also recognised by the United Nations (2013), with Secretary-General Ban Ki-moon noting in his 2013 report:

Many migrants, in particular low-skilled workers or migrants in a temporary or irregular situation, are vulnerable to exploitation and abuse in the context of employment. [...] Tying migrants to specific employers encourages labour exploitation, prevents migrants from finding better opportunities and is therefore both undesirable from a rights-based perspective and economically inefficient (p.14).

Studies have found that migrants on sponsored visas are less likely to challenge their exploitative working conditions or make formal complaints (Hedwards et al., 2017; Marsden, 2011). They often migrate with debt, family, and societal obligations and arrive in their destination country expecting to build a better future for themselves. However, in reality, many migrants experience high levels of vulnerability and precarity. Their vulnerability often intensifies because of the temporary nature of their visa status, which incongruous employers can take advantage of. Many remain in exploitive work conditions; they fear that complaining or lodging a formal complaint would negatively impact their employment status and, by extension, their visa status (Marsden, 2011). The threat of deportation, coupled with debt and family obligations, means they may see no “real or acceptable alternative” (Lewis & Waite, 2015, p.54). Migrant workers stuck on a ‘precarity track’ can find exiting this track difficult. Hence, they may be “perpetually unable to secure non-precarious employment” (Hande et al., 2020, p.713).

A low-cost and flexible business model is apparent in many low-wage labour-intensive sectors where employers seek to cut costs to maintain a competitive advantage. Migrants working in low paid sectors, such as agriculture, cleaning, food, and hospitality, are among the most exploited (Lewis et al., 2015). Wills et al. (2010) found that “migrant workers are attractive to employers precisely because they are migrants” (p.6). Employers see them as working harder and for longer hours than host country nationals and as more reliable and compliant (Collins & Bayliss, 2020; Lewis et al., 2015). Incongruous employers view migrants as “workers who are ‘willing’, ‘fit’, ‘able’ or ‘suited’ to do badly paid” work (Schrover et al., 2007, p.534). Some research suggests that employers prefer to employ co-ethnic workers (Bloch & McKay, 2015) – a situation that can evoke social and cultural familiarity but can also support exploitation.

In a study of co-ethnic exploitation amongst Chinese migrants working for cash wages in Australia, Li (2017) observed that migrants did not have high expectations of prospective co-ethnic employers even before arriving in Australia. Notwithstanding, newly arrived migrants often turn to their co-ethnic community because of language and cultural familiarity. This is not surprising, bearing in mind that “[e]nclave businesses offer a compatible linguistic environment where there is no premium on English and can be the main route to employment on arrival” (Bloch & McKay, 2015, p.41). Li (2017) found that employers could pay co-ethnics less as “creating intrinsic rewards, such as providing sponsorship or job advancement, reduces the need for extrinsic rewards (wages and other benefits)” (p. 929).

The above studies demonstrate clear linkages between migration policy/regulations and the emergence of exploitation. Exploitative practices take place in the workplace, accommodation and other locations and are made possible by social and cultural factors as well as the economic needs of migrants. The restrictions set on temporary migrants play a significant role in creating vulnerability. Migrants seeking long-term residence rights, especially when the requirements for these constantly change and are subject to employer-sponsored visas, are at a significant

disadvantage in workplace power relations and their ability to negotiate fair wages and conditions.

Data collection

Our inquiry's topic invites a qualitative study as we are interested in why exploitation exists and how it comes about. To gain insights that allow us to address these questions, conducting interviews with multiple actors was appropriate. From January to May 2019, the first two authors completed 131 semi-structured interviews: 64 with current or former TMWs who had experienced exploitation while working in NZ and 67 with key stakeholders. We divided the stakeholders into two groups—supply side and demand side. The former comprised those who supported TMWs, including union representatives, lawyers, and community organisations. Employers and those facilitating migrant workers' employment (e.g., immigration advisors) belonged to the latter.

We recruited current or former migrant workers through paid advertising on Facebook and WeChat. We also posted details of the research on targeted Facebook pages established by migrant communities in NZ and translated into their language. We used a snowballing technique, appropriate for research when “the size and boundaries are unknown and for whom no sampling frame exists” (Tyldum & Brunovskis, 2005, p.18), to increase the number of participants. Key stakeholders on the supply side also shared details of the research encouraging migrants to participate. For example, they discussed the research on Facebook Live sessions and Humm 106.2FM, an Indian radio station in Auckland. This self-selected study comprised migrant workers who voluntarily participated in our research. While most interviews were in English, a few were in Hindi, Mandarin, or Spanish, using interpreters.

To understand stakeholders' insights into why the exploitation of migrant workers occurs and the consequences of exploitation for migrants, on the supply side, we interviewed unions (n=9), community organisations and migrant representatives (n=18), lawyers (n=10), and on the demand side, employers (n=14), industry representatives (n=6), immigration advisors (n=10). Of the 14 employers, 13 employed migrant workers legitimately under NZ's employment law, whereas the remaining employer openly talked about their previous experience in exploiting migrant workers. Interviews with employers contravening employment law are difficult to obtain; hence, we drew on the perspective of employers within key industry sectors employing migrant workers and/or who were negatively impacted by competitors employing TMWs.

Migrant exploitation in NZ

The migrants' views

Sai² came from a relatively wealthy family in northern India. After graduating with a Master's degree in Management and Human Resources in India, he worked for a multinational company. His parents encouraged him to work in the family business, but Sai wanted to gain overseas experience. He came to NZ to study marketing and sales at a private training establishment. After graduation, Sai worked for 12 months in a retail job, but this role did not qualify for a

² All names are pseudonyms.

further visa. He subsequently obtained employment in a liquor retail store. The owners, Indian heritage NZ citizens, required Sai to work a trial period which involved him working eight-hour days, seven days a week. Despite lasting several weeks, he was not paid for this trial period. He was also required to work in another of his employer's businesses—one of his tasks involved cleaning bathrooms. When he queried the additional work, he was told his employers were in the process of supporting his visa application, and this was the way it would be. Immigration NZ granted Sai an employer-sponsored visa. At the start, he was paid \$18.50 per hour as per his employment contract, but after four weeks, he was told he needed to pay between \$200 to \$295 a week back to his employers and that this was the way things were, and they could not afford to pay him otherwise. Sai never complained to Immigration NZ or the Labour Inspectorate, as he saw no point; his employer was always “one step ahead of immigration”. Sai was one of several in a similar situation working for the same employer.

Sai's story illustrates how migrant workers can become trapped in an exploitative situation. The ‘cash for residency’ or ‘money-go-round’ scheme wherein employees are required to return money to their employer (Stringer, 2016; MBIE, 2014) exists in exchange for employment that qualifies the migrant to apply for residency. However, Sai was not looking for residency, just overseas experience. Others recalled being sent text messages as a reminder or being accompanied to ATMs to withdraw the money they would pass to their employer. Kiara received an invoice attached to her payslip telling her how much she needed to pay back.

Over time, employers have become creative with money-go-round schemes to avoid detection. Some insist on immediate repayment, while others require payment at different times and for different amounts. Many like Sai only learnt of this requirement after they started working. When Rahul questioned his employer about this practice, he was told, “We supported your visa ... this is the market rate, visa rate”. His employer issued threats if he complained: “we will cancel your visa and we have lots of links in Auckland and NZ”.

Siddharth graduated from a private training establishment in Auckland and successfully worked for an Indian-New Zealander in Auckland. He left this job because he needed more hours and could acquire more residency points by working outside Auckland. Siddharth obtained employment outside of Auckland, working nearly 80 hours per week but was not paid for six weeks. His employer supported him to qualify for an employer-sponsored visa. Once the visa had been granted, the employer demanded \$15,000 in payment, threatening to report Siddharth to the police for fabricated crimes if he did not pay. Further, he began paying Siddharth but demanded he return a proportion of his wage. In this instance, the repayment of wages was facilitated by intermediaries threatening Siddharth and his family in India.

During Diya's job interview, her employer seemed like a “gentle person”. However, after assisting Diya in obtaining a work visa, he demanded \$10,000, withholding her passport until she paid the money. Diya borrowed money from her parents to repay her employer. Further, she was not paid for the 45 hours per week she worked in his restaurant. Over time, Diya's employer shifted from claiming to support her migration plans to threatening her once she started to question the situation at work and the lack of payment. On one occasion, the employer visited her house and threatened to assault her. After a safety order was imposed on the employer, Diya received a deportation warning letter since the employer had indicated she no longer worked for him. Following legal advice from a lawyer who Diya subsequently learned was also associated with the employer, she left NZ hoping to challenge the deportation order and exploitation from overseas before she returned. She was unable to address these issues in India and, with family debt and other issues emerging around her marriage, eventually fled

with her husband to a third country. Like many other participants in our research, Diya's case reveals how vulnerability to and experiences of exploitation take shape through a range of intersecting factors dominated by her disadvantageous legal and social position.

Employers often take advantage of migrants' lack of knowledge of NZ employment laws and their legal entitlements by telling them the rules do not apply to them and they can only pay them, say, \$10 an hour. Other ways they exploit TMWs include the non-payment of holiday pay and deducting PAYE (pay-as-you-earn) taxes but not paying the taxes to the Inland Revenue. When Daksh objected to being underpaid, his employer responded, "You want to maintain your visa? One condition—you work 50 to 52 hours, but we only pay you for 40 hours. Otherwise, withdraw your visa application".

The exploitation of many we interviewed was systematic and targeted at those who were vulnerable because of their visa status and migration plans. In each case, employers were initially friendly – "I will help you with your visa" (Rudra). Exploitation began after they started working, although not always immediately. The level of exploitation increased when an employer-assisted visa was required, effectively bonding the worker to the employer.

Employers controlled their workers through mental or physical intimidation, spatial control (modes of surveillance such as CCTV systems) and threats to report them to Immigration NZ or the police, including for fabricated crimes, as discussed above with Siddharth. Exploitation took a considerable toll on our participants (see also Collins & Stringer, 2022). Daksh felt he had lost some of his youth; others described wasted years and the inability to progress in their careers. The impact was felt on their personal lives, financial situation, and physical and mental well-being. Several talked about depression, suicidal thoughts, and marital problems.

The stakeholders' views

Four key themes emerged in regards to stakeholders' views on factors contributing to TMWs' exploitation: the nuances of relationships based on co-nationality/co-ethnicity, the nature of visa conditions, labour shortages, and employers not always being the driver of exploitation. We discuss these next.

Co-nationality/Co-ethnicity

A migrant often turns—though this is not necessarily their first choice—to their ethnic community for assistance and employment. This type of belonging brings layers of cultural obligations making it "more difficult for people to leave if they're feeling kind of cultural obligations or expectations or kind of priorities within people's culture" (Lawyer, Stakeholder #49). The complexity of relationships is such that co-national employers can often be highly regarded within their communities, which "allows for exploitative behaviour which is readily accepted by the employee; this could be happening to a larger degree than we may think" (Lawyer, Stakeholder #30). Siddharth recounted how his employer would discuss his connection to a former prime minister and effectively disempowering him by emphasising his own influence on society (see also Stringer, 2016).

Conversely, advisors on the demand side did not view co-nationality/co-ethnicity as an independent variable but instead saw exploitation as part of a business model. The model, common in highly competitive industries such as horticulture, retail, and hospitality, relies—in pre-Covid times—on employing international students and post-study work visa holders.

Employee wages are a substantial cost, and to remain competitive, employers reduce wage costs. Employers in these highly competitive industries are often from the same co-national/co-ethnic group as the TMWs, making dependency relationships almost the norm.

Notwithstanding, the co-national aspect was also seen as a “win-win” and “mutually beneficial” relationship, even if employment violations occur (a range of stakeholders). Employers have access to a pool of cheaper workers, and, in return, the migrant has the opportunity to remain in NZ. As one employer (Stakeholder #1) questioned, “If a migrant is unemployed and earning nothing, and I offer him employment at \$10 an hour [well below the minimum wage at the time], how is this exploitation?”.

Visa conditions

TMWs on employer-sponsored visas are dependent on their employer for their right to work in NZ and further require their employer’s support for their residency visa application. Thus, many feel obliged to their employer and are thus accepting of sub-standard working conditions. The nature of the imbalance in the relationship between an employer and a TMW is that the migrant worker sees no choice but to engage in non-compliant work. Refusing could damage the employment relationship and have significant social and financial implications.

There were, however, differing views as to whether employer-sponsored visas were contributing to exploitation. Those on the supply side, particularly union representatives and lawyers, saw employer-sponsored visas as facilitating exploitation. One lawyer (Stakeholder #18) opined, “I think the government is quite aware that tying people to employers [...] increases the opportunities for exploitation because they’re bound to them.” Immigration advisors on the demand side argued that the restricted rights associated with work visas and bureaucratic complexity underpinned exploitation. In 2017, there was a shift to one-year visas for low-skill and wage workers in NZ, renewable for up to three years in total, although the Covid-19 pandemic interrupted the three-year limit coming into force in 2020. According to immigration advisors, the visa changes incentivised employers to maintain a low-wage workforce. Both employers and workers focused on the visa renewal process meaning migrant workers were distracted from developing their potential in their job. The visa framework also minimised their agency in negotiating with employers, thus laying the foundation for exploitation.

Labour shortages

Several industries face crucial labour shortages and rely on a steady stream of TMW. There is a short window of opportunity to harvest crops, and growers can find themselves precarious.

If a van load of illegal workers turns up, and you desperately need to harvest your fruit, what are you going to do? Say, ‘Oh no, we can’t do that because you’re being exploited, and I’m not allowed to employ you’. You have to take the workers” (Employer, Stakeholder #47).

One intermediary opined that it was the smaller operators who face very tight margins in a competitive market who were more likely to exploit their workers. Some operate two sets of accounts—a legal set for regulatory purposes and another that reflects the reality of their employees’ hours and how much they pay them (Contractor, Stakeholder #2). The difficulties in finding suitable workers led one employer to falsify employment documentation so his

migrant employees would qualify for a work visa. When he stopped engaging in this behaviour, he claimed he lost both his workers and business.

It's not always the employer

Employers are not always the instigators of charging premiums. Two employers in our study were each offered up to \$50,000 in cash to employ migrant workers by intermediaries from within the same ethnic group. They commented that the facilitation of this scheme is becoming a business. It is assumed that these employers would be open to exploitation because they are from the same co-ethnic group. One employer (Stakeholder #5) was called “a fool” and told he was “not a good businessman” for refusing to take the money. He reflected: “If I take that sort of money today, I can’t make that worker perform on his KPIs (key performance indicators) because I am for sale and I am not for sale.” This finding builds upon earlier findings by Stringer (2016) and MBIE (2014), who identified the emergence of such a formal system.

There was also the recognition that migrants can be complicit in or drivers of their own exploitation. This could be because of their desire to obtain residency in NZ or their vulnerability and lack of options. Many have family and debt obligations and do not want to fail in their migration plans. Not only does their desperation “drive them to accept the exploitation” (Union representative, Stakeholder #11), but in some instances, they facilitate their own exploitation by approaching the employer offering cash (Stringer, 2016). Sometimes they hide their actual situation from their family. There is a “certain inevitability about that you can’t stop people wanting to improve their status in life” (Union representative, Stakeholder #13).

Discussion

So far, we have addressed why and how TMW exploitation comes about. We outlined key factors and analysed both the views of TMWs and stakeholders. Yet, three related questions remain: Why don’t migrants do more to address their exploitation? What does migrant exploitation mean for other businesses? What policy-making steps are being taken to address the issue? We discuss these next.

Why don't migrants do more to address their exploitation?

Many TMWs are unlikely to complain because they recognise, they may have difficulty finding subsequent employment, and their new employment situation could be worse. The perceived value their employer offers them constrains them from reporting their experience or looking for new employment. Many are only likely to report exploitation after finding a new job or getting a residency visa. Ganesh arrived in NZ in 2014 and worked while on a student visa. His company treated him well, but his exploitation began in 2018 when he transitioned to an employer-sponsored visa. He described employer-sponsored visas as being “about fear”. He commented that if he obtains an open work visa, he will lodge an official complaint about his treatment. One union representative (Stakeholder #12) noted that many migrants see exploitation as part of their NZ experience. They also fear retribution, including physical, legal and financial for them and/or their families. Some employers, particularly those within co-national/co-ethnic groups, cultivate this fear as a means of control as reflected in Siddharth’s interview.

Several community participants, lawyers and union representatives noted migrants from East Asian and South Asian cultures, in particular, are less likely to report exploitation as this can be perceived as weakness or failure. Hence, some TMWs only report their circumstances when they become desperate and, even then, want to keep their job. This could be because of financial reasons, the job loss associated with a loss of status, or the uncertainty about whether their next job will be any better.

TMWs are also concerned about reprisals from their employers. Some employers seek to exercise their control over the migrant worker through threats of reporting them to Immigration NZ for either legitimate or fabricated reasons, such as workplace theft. According to one lawyer (Stakeholder #17), an employer “could just contact Immigration without even talking to the migrant about it and just say, ‘It is not working out, cancel the visa’ and Immigration is really heartless too, they will just kick that person out really quickly.” In this situation, Immigration NZ becomes “the ‘hook’ to keep them”. When pursuing allegations of exploitation, one lawyer noted that “the employer also makes up lies and they will just suddenly say this employee was stealing or this employee was drunk at work – it’s usually the same thing – it’s either they were a thief, or they were a drunk or high at work”.

What does migrant exploitation mean for other businesses?

Employers expressed how competitors underpaying their workers creates an uneven advantage for them, leaving them struggling to compete. One restaurant owner commented, “I can’t even produce for that” (Stakeholder #5). His strategy to remain competitive was to focus on quality and service to attract and maintain customers. Another (Stakeholder #4) who was being undercut by his competitor commented that the “irking thing” was that migrants working for his competitor would approach him, asking if they could work for him.

Employing TMWs has been positive for many employers, with some commenting these workers had unexpectedly given them an edge over competitors. One employer (Stakeholder #4) recruited a TMW and, through the migrant’s connections in the community, has employed other migrant workers, several of whom were not well treated by their previous employers. This employer reflected they “just get the job done”. His business has been able to “grow in comparison to competitors because competitors haven’t been able to get workers”. Further, other companies have asked him to refer migrants to them.

Such choices and decisions leave TMWs vulnerable to exploitation. Their very migrant status is associated with a considerable level of vulnerability and reduced (if any) bargaining power; the issues we described above bring an additional layer to this. Within certain employment niches, exploitation has become a “normal business practice” (Immigration advisor, Stakeholder #40).

What would be appropriate policy-making steps?

The NZ government has introduced several initiatives to address the exploitation of TMWs. Two key initiatives are the accredited employer scheme, and an open work visa for those being exploited, subject to an assessment process. From July 2021, migrants on an employer-sponsored visa who are exploited can apply for the newly introduced Migrant Exploitation Protection Visa (MEPV). Between 1 July and 31 October 2021, MBIE received over 350 complaints, of which 103 potentially met the definition of exploitation. Most of those who

applied worked in accommodation and food services (108) and agriculture, forestry and fishing (71).

The MEPV is a six-month open work visa. Migrants need to transition to other visas—work, student, or tourist—or leave the country before the end of the six months; an extension to the visa is not permitted. Of concern is the inflexible nature of the visa, which is apparent in the following scenario. Suppose a migrant on a three-year visa is exploited within their first year and transition to a MEPV. If they cannot find a job that qualifies them for another visa or if they do not want to study, they could be required to leave NZ up to 18 months earlier than if they had not applied for a MEPV.

The introduction of the 2021 Resident Visa also holds the potential to address the situation of exploited TMWs. The visa will allow anyone who has held a valid work visa for three years or more to be eligible for a residence visa (to be processed in 2022); some work visa holders with visas of less than three years with particular skills or in areas of skill shortage are also eligible. MPEV holders are eligible to apply. While the Resident Visa explicitly aims to provide certainty that will reduce exploitation, this is a one-time opportunity, and it is not yet clear whether the government will create a subsequent migration policy that addresses the structural causes of TMW exploitation.

Efforts to address TMWs' exploitation continue. In November 2021, the NZ Productivity Commission—an independent Crown Entity tasked with providing advice to the government—released its preliminary findings and recommendations on what immigration settings are needed to facilitate long-term economic growth. One of the preliminary recommendations is that the government address employer-sponsored visas. That same month, Parliament's Education and Workforce Select Committee announced an inquiry into migrant exploitation. Our research suggests that the removal of employer-sponsored visas would be beneficial in addressing one of the key causes of TMW exploitation, providing them with a level of labour market freedom more akin to citizen and resident workers.

In July 2022, an accredited employer work visa (AEWV) scheme was introduced wherein employers must be accredited to employ migrant workers. The AEWV replaces six former visa classifications, including the employer-assisted work visas (e.g. essential skill visas). Under this scheme, Immigration NZ will assess the employer, the labour market, and the migrant workers applying for positions. Like other workers, migrants benefit from increased freedom and from more monitoring and regulation of employers. However, under the AEWV scheme, migrants will still only be able to work for a single employer and need to apply to Immigration NZ for a variation of conditions if they seek new employment.

Conclusion

We offered an analytical account of TMWs' exploitation in NZ. We addressed the topic based on original data collected in 2019 and included perspectives of both TMWs themselves and stakeholders. We encourage more research into this important issue. After all, TMWs' exploitation is not just a business and policy matter; it is a human one.

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