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Precarious experiences of Indians in Australia on 457 temporary work visas

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Abstract
The study of temporary skilled migration in Australia is relatively new. As a rapidly emerging source of labour and settlers for Australia's immigration programme, temporary skilled migration will have a major and potentially long-lasting impact on Australia. Since the mid-1990s, temporary skilled migration (under the subclass 457 visa programme) has overtaken permanent migration to Australia. India is now the largest and fastest growing source of temporary skilled migrants. This is a major new development in Australian migration history; yet, to date, there has been little qualitative research into the subjective experiences, motivations and settlement patterns of Indian temporary skilled migrants in Australia, from the perspective of the migrant. This article presents findings from a 3-year qualitative study on the experiences of temporary skilled migrants from India living and working in Australia. It argues that many of the quantitative studies on this topic fail to offer a nuanced reading of these workers' experiences in Australia, in particular, their situations of vulnerability engendered by the recruitment process, visa conditions, unlawful employment practices and living arrangements.

JEL Codes: J15, J61

Keywords
India, migration, precarious work, vulnerable workers

Introduction

Guest worker migration programmes have been around since the post-war period in the United States, Western Europe and Australia. There is a significant literature that critically examines the respective countries' immigration policies, push–pull factors, labour market segmentation and its impact on the labour force, employment conditions

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and migrant–host society relationships (Castles, 1986; Castles and Kosack, 1973; Lever-Tracy, 1981, 1983, 1984). In brief, the prevailing argument is that while these programmes have often created new opportunities for migrants to improve their socio-economic positions, by and large, they have also resulted in their differential exclusion in the labour market and other areas of society (Castles, 1995). However, the consideration of exploitative practices and experiences of precariousness from the perspectives of temporary migrant workers has received little attention.

This article presents findings from a 3-year qualitative study on the experiences of temporary skilled migrants from India living and working in Australia. It argues that there is a pressing need to conduct more in-depth qualitative research with migrant workers in Australia on what is known as the 'subclass 457 visa programme', as research on this growing stream of migrants has so far been limited largely to quantitative studies and interviews with stakeholders. Research with Indian 457 visa workers suggests that there are three distinct sub-groups whose experiences and capacities to respond to difficulties differ significantly. These categories are white-collar professionals, blue-collar unionised workers in large- and mid-size workplaces and workers in non-unionised, subcontracting or small businesses. Of those in the last category, workers employed by 'co-ethnics' are the most vulnerable. The article presents an overview of our findings with workers more or less mapping onto these categories. After some introductory preliminaries, the first section discusses specific challenges faced by relatively privileged Indian information technology (IT) workers, who are predominantly in the employment of large Indian IT outsourcing firms. The second section presents two case studies of workers in the blue-collar manufacturing and construction sectors, and the final section presents case studies of individual workers employed in Indian restaurants in Sydney. While there are some similarities in their stories (especially between the blue-collar and restaurant workers), the final section of the article articulates some of the differences that are germane to the categories proposed above. The sources of precariousness are multi-sited and in many instances are directly linked to unscrupulous practices of some employers who exploit the structural constraints imposed on workers under the 457 visa programme, so as to exacerbate their vulnerabilities in occupations which are increasingly dependent on migrant labour.

Australia's temporary migration programme

Australia generally favoured permanent migration until the 1970s, but in order to address short-term deficiencies of highly skilled workers (mainly business and professionals), in the mid-1990s, the government introduced an employer-sponsored temporary migration scheme. In recent years, the scheme has been expanded to include a wide range of occupations and skill categories. The 457 visa allows employer sponsorship of workers (until 2010, without labour market testing) for periods between 4 weeks and 4 years. Unlike guest worker schemes elsewhere, the Australian scheme is markedly skewed towards professional, health- and trade-qualified workers, although there is also a large cohort of workers in less qualified occupations. A further differentiating factor is that all visa holders under this scheme (regardless of their occupational category) may bring their families and spouses have work entitlements. The programme is attractive to many from

developing countries because they may apply for permanent residency after 2 years in employment here. It is, however, a visa that has attracted some controversy in recent years, and has been subject to a parliamentary inquiry because of accusations that it has led to lower wages for local workers (who cannot compete with the minimum wages for which employees on 457 visas are willing to work); safety breaches on worksites; exploitation in the form of salary non-payments, debt-bondage, excessive employer rental charges for cramped and inadequate accommodation; and in the case of the IT sector, suggestions of large-scale displacement of the local workforce[1] (see, for instance, Toh and Quinlan, 2009).

Since the mid-1990s, temporary skilled migration has overtaken permanent migration to Australia (McDonald et al., 2003; Hugo, 2004). The number of primary visa holders (excludes spouse and children) in Australia in February 2013 was 107,510. This reflected an increase of 21.5% compared with the same date in the previous programme year. The top three citizenship countries for primary visa grants in 2012–2013 to 28 February 2013 were India (20.3%), the United Kingdom (20.2%) and the Republic of Ireland (10.0%). The top three industries for primary visa grants in 2012–2013 were construction (12.0%), health care and social assistance (11.8%) and other services (11.5%). Cooks were the number one ranked occupation for primary visa grants, followed by programme or project administrators and developer/programmers (Department of Immigration and Citizenship (DIAC), 2013).

In the 2011 Census, there were 295,362 Indian born people in Australia of a population of 21.5 million (ABS, 2013) and many on 457 visas. In 2012–2013, India become largest source country for the 457 visa category, representing 20.3% of new 457 visas granted, numbering 22,080 (DIAC, 2012, 2013). This was a 40% increase over the previous year and the highest level of 457 visa grants for Indian nationals (DIAC, 2012). Among the Indian workers sponsored under this programme, software and applications programmers, ICT business and systems analysts, registered nurses and cooks ranked highly (DIAC, 2012).

Among influential studies of the 457 visa in Australia, is research carried out by demographers (Hugo, 2004; Khoo, Hugo and McDonald, 2006). In 2003, Khoo showed that 457 visa holders were largely professionals from English-speaking countries, although at that time India, China and the Philippines were beginning to appear among the top 10 source countries, with India largely featuring workers in the IT sector. At that time, those arriving on 457 visas were still much fewer than permanent arrivals, although by 2009 that trend had largely shifted and now temporary migration rivals (and outstrips in some years) permanent migration. In 2006, Khoo et al. presented data based upon a large survey of 1175 temporary visa holders and a follow-up survey a year later with 267 of them to see how their situation had changed in that period. They found that the overwhelming majority of 457 visa holders were either satisfied or very satisfied with their experience in Australia (98.5%) one year after they arrived (Khoo et al., 2006: 20). Further research findings (Khoo et al., 2007) examined motivations of temporary skilled migrants to seek employment in Australia. Not surprisingly, when broken down by source country, migrants from India were less interested in 'lifestyle issues' (which were significant for British, Irish and Japanese migrants) as a key motivating factor in their decision to come to Australia for work, instead nominating better employment opportunities and higher wages as key factors

in their decision-making (p. 501). Australia is one of the few countries that offer a direct pathway from temporary work visa to permanent residency status after 2 years. This is one of the big drawcards for this visa scheme. Indeed, Khoo et al. (2008) published data which suggest that overall, 64% of 457 visa holders either had or intended to apply for permanent residency status (p. 205). Of those from India (and other South Asia), the figure was 89%. They also found that those with technical or no qualifications were more likely to apply than those with university qualifications (Khoo et al., 2008: 205).

Among the findings pertinent to our study are that migrants working in the service sector were more likely than others to have the view that foreign workers were not treated the same as locals on work conditions and pay (Khoo et al., 2006: 8). While the overall survey result was that 14% of migrants felt unequally treated, 'more than half of migrants in personal services, and at least 30 per cent of migrants in education and the hotel and restaurant sectors' were of the view that they were treated less favourably in terms of pay and conditions than local workers. Furthermore, some 20% of IT workers held similar sentiments. These are important findings for our study, as the most problematic cases of worker mistreatment we came across tended to cluster in the hospitality sector. Our qualitative research in the IT sector also more or less mirrors these statistics.

While quantitative research is important, good, in-depth qualitative research is required to get at the nuances that underpin some of these trends (see, for example, Oke, 2012). Furthermore, at the sharp end of workplace exploitation, while statistically the numbers are very small, the difficulties encountered are such that serious attention is warranted. To give an example, while only 1% of those surveyed by Khoo et al. reported being unhappy with their experiences, this represents something close to 1,400 Indian 457 visa holders. In addition, the survey methodology they employed involved a survey posted to the worker either via the employer, or to the worker's home address. However, when researching marginal populations, return rates for surveys are always low. For example, in the case of exploited Indian kitchen hands, an employer is very unlikely to pass a 'satisfaction survey' onto their workers. In many cases, workers are housed in employer accommodation – sometimes in the actual workplace. In other cases, workers in situations of vulnerability may be nervous about completing surveys in case information they have provided could somehow get back to authorities and this jeopardise their positions or even visas. Therefore, we suspect that if anything, difficulties such as underpayment, mistreatment, exploitation or discrimination at the extreme end of the spectrum are likely to be significantly under-reported.

Unfortunately, besides a few notable exceptions (Biao, 2007; Caspersz, 2008; Connell and Burgess, 2009; Segrave, 2009; Toh and Quinlan, 2009) in-depth qualitative research into temporary work visas in Australia is rare. This is quite contrary to trends in scholarly research on labour migrants in other parts of the world, where anthropologists and sociologists have been extremely active in this field. Important influences on our study include Cohen (2006) and Osella and Osella (2000) and their work on masculinities and labour migrants from Kerala in the Middle East and Xiang Biao's work on Indian IT workers in Australia, especially his reflections on gender and dowry and their role framing the experiences of male IT professionals (Biao, 2005).

Much of what we know about exploited migrant labour in Australia has come from union sources and investigative journalism (see Australian Manufacturing Workers'

Union (AMWU), 2006). *The Australian* and *Sydney Morning Herald* both published in-depth reports at various times since 2005 on the conditions of exploited migrant labourers on 457 visas, concentrating in particular on industries such as the construction, agricultural and hospitality sector. In addition, recent Australian research in the fields of industrial relations and human resource management has also highlighted from the perspectives of government officials and union representatives the reasons why 457 workers are susceptible to poor and sometimes dangerous employment terms and conditions. For instance, Toh and Quinlan (2009) suggest that 'worker's ignorance of legal entitlements, indebtedness, reliance on employer sponsorship to remain in the country and aspirations for permanent residence placed them in an acutely vulnerable position' (p. 467). While our findings reaffirm these conditions, we further examine the sociocultural dimensions of situations of exploitation from the perspectives of the 457 visa holders.

Methodology

An in-depth qualitative study was felt to be of potential benefit to the field through its ability to capture the lived complexities and nuances of the temporary migration experience, and motivations for settlement or non-settlement and engagement with Australia, from the perspective of the migrant. Between 2006 and 2009, in-depth open-ended interviews were undertaken with Indian 457 holders in blue-collar occupations (manufacturing and construction), in hospitality work (mainly chefs and kitchen hands in Indian restaurants), and in the IT sector. Approximately 40 individual interviews were conducted, and where the possibility presented itself, some ethnographic work was carried out with a small group of blue-collar workers – involving participation in family and social gatherings and union activities.[2]

A key challenge for both qualitative and quantitative methodologies, including ethnographic approaches, is gaining access to vulnerable and exploited participants. We found it relatively easy to access participants in the IT sector by way of advertisements in the Indian community press, posters in spice shops and Indian restaurants and snowballing. As a population, IT workers on 457 visas are largely English speaking and come from urban centres in India. As middle-class educated professionals, they were in a much more empowered position, employment-wise and thus less frightened of repercussions if they report negative issues to a researcher. They were also aware of the idea of academic research and why it would be useful and safe to talk to researchers. Furthermore, they were also much more available on weekends and evenings for interviews.

The blue-collar and restaurant workers were much harder to recruit. We believe we have touched only the tip of the iceberg in terms of the numbers of workers in these sectors facing dire circumstances of precarious and exploitative employment. Similar methods were used to recruit workers in these sectors; however, a couple of challenges presented. Among blue-collar workers, success was greatest in recruiting Tamil-speaking workers, as one of the researchers is a native Tamil speaker. Trust networks were very easily built up, ethnographic participant observation in their social and family lives was much more possible. The most vulnerable group identified in the study were individual workers in small Indian restaurants. Many of these workers were not English

speakers. Many came from rural India, especially the Punjab. Access to this group was challenging not only for reasons of language. The nature of their employment meant that they were working 7 days a week for more than 12 hours a day. Thus, there was little time to make friends outside of the workplace, making snowballing difficult. Few read the community press, and many lived above their restaurants. Many of these workers were subject to campaigns of abuse, threats and intimidation by employers and were generally fearful. Those we spoke to were fearful of being 'reported to the government' and thus risk losing their visas if they participated in the research. Shy of waiting in back lanes for kitchen workers to emerge, access was very difficult. As discussed in a later section, this fear of losing the visa was compounded by the fact that many of these workers had permanent migration pathways in mind. We were, however, very lucky that one of our advertisements elicited a call from a key 'gatekeeper'; a permanent Indian migrant who worked as a labour hire cook, undertaking shifts in Indian restaurant kitchens across Sydney. Because of his permanent residency status, he was not fearful of making contact regarding the research. He was extremely concerned about the conditions he had found his temporary migrant labour colleagues were working under. He had contact with 457 visa kitchen workers across a number of restaurants and was instrumental in providing introductions to a number of them. In two cases, he acted as interpreter.

457 visa labour hire workers in the IT sector

The IT sector informants in the study were generally mobile and well networked with one another transnationally. For instance, participant Vijay came from Palakkad district in Kerala but grew up in New Delhi and had worked in Mumbai, Bangalore, Chennai, Japan and Singapore in the IT sector. Through a former work colleague in Chennai, he found out about the position in Sydney. He arrived with his wife and 8-month-old daughter in November 2005 and now works for a Sydney-based Indian IT company which subcontracts IT workers to various Australian businesses. At the time of the interview, Vijay was working in the IT department of a large electronic firm, and his biography was fairly representative of many of the IT workers who provided interviews in the study.

Naresh, from Andhra Pradesh, also had work experience in places such as Mumbai, New Delhi, Chicago, Jakarta and Singapore before he came to Australia in early 2005. He found out about his present job with an Australian bank through a former work colleague in New Delhi. These networks put the already mobile, middle-class, urban Indians in a strong position to seek employment outside of India. However, by and large, Australia was not at the top of the list in terms of their career and lifestyle aspirations. As Vijay said,

> … most of my peers have ventured overseas. In terms of attractive locations, the US is the number one destination, followed by Europe, particularly English speaking countries and then comes Japan. Australia is not very attractive. One thing is because of the perception that the taxes are very high … potential for saving is not as good as the US or Europe. Money is the main motivator.

Naresh's narrative is an interesting reflection of the global sensibility of this class of mobile professional workers. Their networks span several continents which enable the flow of everyday comparative knowledge about visa, tax, employment and pay conditions across the world. As a group, they were much less concerned with so-called lifestyle issues, although this did come into their self-narratives about past placements and how this compares to their lives in Australia. Unlike permanent migrants, issues of lifestyle, such as where to bring up children, and family and community links were less important than fiscal issues. For most of them, financial incentives offered by different countries were a chief driving factor for seeking overseas appointments.

Xiang Biao's (2007) book entitled *Global Body Shopping* is an exemplary study of the precarious nature of work and recruitment in this sector. He undertook detailed research into IT labour hire practices in Australia (and globally), and the role of Indian recruitment agents. Similar to Xiang, the IT workers in our study were recruited primarily through professional agents operating multi-nationally. Most of the workers were not in direct employment of the organisation in which they were based on a day-to-day level. Instead, the majority of IT workers were recruited and employed by labour hire firms who sub-contract out for short- and long-term periods to Australian companies requiring IT services. In many cases, these workers were based with large Australian firms, some of which were IT focused themselves (such as Canon, Optus Telecommunication and Macquarie Bank). Some of these labour hire organisations were local, but, in most cases, were multi-national Indian firms such as Satyam, Infosys and Tata Consultancy Services. Organisations such as Satyam have bases in many countries, including Australia, and workers we spoke to had commonly circulated to different countries through these contracting firms. These 457 IT workers are effectively employees of Indian firms with an Australian base.

Compared with the other two categories of workers we interviewed in the study, the working conditions for IT workers were generally good; however, many of the key issues among this cohort had to do with their ambiguous status as 'employees' without a direct employer, and the sense of uncertainty this caused in terms of day-to-day life, relationships with permanent colleagues and who to turn to in difficulty or for complaints. The uncertainty of tenure was highlighted by many of our interviewees as always hovering in their minds. In a number of cases, what they thought was a long-term placement was cancelled after a few months duration, and they faced an unpaid period 'on the bench' until their labour hire firm was able to place them on an alternative project. This uncertainty of tenure also made it difficult for these workers to feel settled, especially those who had brought family.

A key aspect of labour hire that has been discussed in non-migration-related literature is the precarious nature of contract-based employment, and the ambiguous, both in legal and moral terms, relationship 'triad' between the labour hire firm, the employee and the employer/day-to-day workplace. Despite many of these IT workers working in one company for long periods – in some cases running into years – the ambiguous nature of their employment status – as contracted staff, rather than direct employees – had a negative impact on their everyday life as a worker. For example, relationships with local colleagues were minimal. It appeared that local employees of the client company were reluctant to 'invest time' in establishing friendships with these workers who were

understood to be temporary and not 'real colleagues'. There was also some resentment towards them from local IT workers who had seen colleagues displaced or downsized by their corporation and replaced by contract labour. The very presence of 457 visa workers made permanent workers feel a sense of insecurity in terms of their own jobs.

Career progression was also seen by Indian IT workers as more difficult because of the contract-based nature of their employment. Because they were contracted out on a job-by-job basis (even on projects spanning years), these workers articulated to us that opportunities were largely limited horizontal movement (from similar project to similar project) rather than vertical promotion within an organisational hierarchy. This meant that many felt their career trajectories had stalled since becoming contract labour on the international scene. Their client companies (where they were based at a day-to-day level) saw them simply as consultants and thus had little interest or investment in their development as employees or concern for their well-being. The traditional human resource (HR) function tended to be confined to permanent employees only. Thus, these workers missed out on formal performance development processes such as opportunities for training and up-skilling, professional mentoring, and supervisor-led career management towards career goals. However, by and large, their Indian (Australia-based labour hire firms) employing companies were not especially invested in the professional development or well-being of these workers either. This had an impact in the sense of what we might call the 'moral economy' of employment. There were a number of instances of buck passing between the client company and the labour hire firm over whose responsibility it was to deal with key issues relating to conditions and employment of the IT contractor/worker. Workers expressed a feeling that neither their client company nor labour hire firm were interested in them as anything other than bodies for hire, and that they had no one to turn to for professional and personal mentoring and advice. They spoke of feeling as though they existed in a bubble, caught between two companies.

Another way in which these 457 workers 'fell between the cracks' was with regard to settlement issues. Australian multicultural policy and service provision has not yet come to terms with the fact that temporary migrants now numerically outstrip permanent settlers. Yet, services by and large ignore temporary migrants as having settlement needs. They are largely viewed as fairly privileged, professional classes. Certainly, it is commonly assumed that Indians are well-educated and highly motivated migrants. Given their English language proficiency and social skills, they are also generally considered to be 'good migrants' who fit into Australian society with relative ease and are less 'needy' compared to other migrant groups when it comes to social and community services. However, this study has found 457 holders from India from all occupation groups have a number of under-recognised settlement issues. A lack of support and social isolation prevails, and many have few links outside the workplace with either the mainstream Australian community or the Indian community itself. Most rely on a small group of friends also on 457 visas.

Quite remarkably, all the informants indicated that when they arrived in Australia, they were not received by the representatives of the agents or employer. There was no arrival party or induction package. Nor, for the most part, was any assistance available in seeking accommodation, except for a few weeks of temporary accommodation in the case of some IT workers. There was a real sense that many of these workers arrived in

Australia with little knowledge of this country or how to navigate day-to-day realities here. Naresh said,

> Other than cricket, I didn't know anything about this place … when I arrived in Sydney, my friend came to receive me … not from the company … they don't receive … you have to come on your own, even if you don't know anybody here … they'll book you a hotel … that was it. Since my friend was there it was easy for me … without him, it would have been very difficult.

Many expressed feelings of severe social isolation, they did not know any of their neighbours and had no contact with work colleagues outside work. As a result, they tended to gravitate towards Indian community events and functions. Their primary source of community information was through local ethnic community media. Vijay said,

> It has been difficult, in my current workplace, most of them are Australians (Caucasians) … we seem to have different interests … nothing in common … as far as the professional interaction is concerned that's fine but nothing social.

Whereas other professional migrants or those who arrive under the humanitarian programme are in some ways cared for in terms of being accommodated, introduced to resources and settlement services and so on, those who are in the middle – such as 457 temporary skilled migrants – find they must fend for themselves. Moreover, as has just been argued, neither the Australian client company that is their daily base nor their agent company takes responsibility for the well-being of these migrants throughout their stay.

Blue-collar workers

Blue-collar 457 visa workers of Indian background faced much more serious challenges than their professional counterparts in the IT sector. A number of blue-collar workers employed in the manufacturing and construction sectors were interviewed. They were largely from South India, and many had limited English, although all had good trade qualifications and/or years of work experience prior to coming to Australia. For these workers, transnational employment facilitated an upward social mobility denied to them in the Indian context. The men interviewed were all in their 20s, half newly married and approximately half from rural village-based backgrounds. Not surprisingly, a key motivating factor for coming to Australia was the possibility to earn more money than they could in India or other more traditional locations for Indian migrant workers such as Singapore or the Middle East.

Although it was not an initial motivation, once in Australia, many were hoping to obtain permanent residence in Australia. They had known little about Australia before they came, other than 'it's a beautiful country, nice people and the salaries would be higher'. What was most interesting about their narratives was that migration existed firmly within the *popular imaginary* of their communities in India. The very idea of migration is universally understood to represent the possibility of opportunity beyond what they have in India. Working overseas was deeply embedded in the social psyche and in Indian history and is also encouraged by the Indian state. In all cases, influence of

family and villagers was significant. Often migration was a family 'project' in the sense that family members – fathers, uncles and older brothers – encouraged the worker to try their luck overseas. The economic success of each of these individual workers was understood to be intimately tied to the opportunity structures of all their family and close community. Most had cousins or siblings overseas in Gulf States such as Kuwait, Dubai and Saudi Arabia, and places such as the United Kingdom and Singapore. All those interviewed had significant family responsibilities such as helping parents financially, financing the education of younger siblings, paying the dowry of sisters, paying back debts and so on. There were ongoing demands for remittances to contribute to the day-to-day household income of immediate and extended family back home.

These blue-collar workers came mostly through agents whom they had paid quite substantial sums to secure employment and process visa documents. Among the South Indian blue-collar workers interviewed in the study, Singapore was a common pathway, a number of them having spent several years working there in key industries such as shipyard and construction work, before being recruited by agents looking to place skilled workers in Australia. There were a number of aggressive agents based in Singapore. They had largely small businesses, often Chinese, sometimes Indian background, agents who targeted Singapore's large population of foreign workers through word of mouth and posting flyers in worker's hostel accommodation in Singapore to recruit potential candidates for the 457 programme. These Singaporean agents typically charged around SGD12,000 (AUD10,000). Of this, half was required to be paid upfront by the employee and the balance deducted from their wages once in Australia. On top of this, they were required to pay the Australian Immigration Visa charge plus their airfares. The total cost of securing employment, visa and airfares was up to around AUD16,000 or AUD17,000 . This is in a context where these workers earned about SGD700–800per month.

Unsurprisingly, all the workers were forced to borrow from friends and family to pay their upfront deposits and other costs. In terms of borrowing from friends, the usual practice was to provide some form of collateral such as property or a car back in India. The loans are then required to be paid back with interest within a set period between one and two years. These were often transnational debt circuits. For example, one worker told us he borrowed some of the money from colleagues in Singapore (where pooling resources was common). Some of these workers also had family or home town links back in India. Others borrowed money from family and friends in India. Failure to make repayments would often result, first, in loss of face of the workers family in India, and more seriously, threatening visits from debtors who would, if not repaid, simply claim the collateral or other available items, putting the worker's family in emotional and financial stress.

Once in Australia, these workers had the dual burden of deductions from their pay to repay agents fees, sometimes accommodation, in addition to repaying these substantial loans to friends and family. One worker reported having AUD33 left in his pay packet after all the deductions. At the time, he was also supporting his wife and baby who had accompanied him to Australia. To reduce rental costs, they lived in a two-bedroom flat in Western Sydney with two other (single) Tamil workers. He shared a room with his wife and baby.

As the case study below suggests, it was also quite common for further payments described as a 'service fee' to be demanded by agents in Australia for renewal of visas beyond the initial term, or for securing alternative employment contracts if the initial contract is cut short. Amounts charged ranged from AUD3,000 to AUD6,000 for these 'services'.

The study also identified a small number of Australia-based agents specialising in recruiting and placing 457 visa workers – aggressively recruiting and charging similarly high fees. These agents were typically of 'co-ethnic background' (Indian agents recruiting Indian workers). Some had links to the agent in Singapore who did the initial recruitment. In a number of cases, a Malaysian–Australian co-national of Indian background was involved in work re-placement and visa transfer arrangements for large fees.

The initial recruiting agents in Singapore appeared to be consistently misrepresenting the conditions of employment to the employee before leaving, and these conditions typically changed (to a much less generous set of conditions) once the worker arrived in Australia.

Sanjay's experiences (see Box 1) were fairly reflective of a number of Indian blue-collar workers interviewed. Balan was among a group of six research participants we interviewed on more than one occasion, and his story was very similar to Sanjay's. Balan was an articulate and enthusiastic young man in his late 20s from a village in Tamil Nadu. He is a highly skilled worker, with 9 years' experience as a boilermaker in a Singaporean shipyard. Balan came with a group of six workers recruited from worker's hostels in Singapore. A number of them had also worked in the Singaporean shipyards for several years. They were asked by the agent in Singapore to sign what they thought is a fair contract with a salary of AUD40,000 for a 40-hour per week job. The letter of offer was for 4 years and had the usual standard conditions around sick leave and annual leave and so on.

When they arrived in Australia, the Indian HR manager of this medium-size family business presented Balan and his friends a revised contract and given 24 hours to sign or face termination. The new contract stated that they would be required to work 11–18 hours per day (overtime without penalty rates), accept termination without notice and leave Australia if terminated by the company. On refusing to sign, their passports would be confiscated.

Box 1. Case study 1: Sanjay (from South India), late 20s.

- Sanjay was recruited by a Singaporean job placement agent to work in Sydney under the 457 visa.
- He was required to pay the agent SGD12,000 for securing the job. Half was payable before leaving Singapore, the remainder was deducted through his salary by his employer in Australia.
- He worked for 12 months in a metal fabrication company when his contract was terminated prematurely due to a business downturn.
- Sanjay then contacted a Malaysian–Australian migration agent who had offices in both Singapore and Sydney for assistance. He had come to know of this agent while in Singapore. Sanjay expressed a view that most Indian 457 workers would normally only go to an 'Asian' agent, rather than a 'local Aussie' agent.

(Continued)

Box 1. (Continued)

> - The agent charged Sanjay AUD3,000 to secure a job placement with a Brisbane-based company.
> - Sanjay had only been working in that company for a month and a half when the employer announced that Sanjay was no longer needed.
> - Sanjay was then without a job or any income and given 28 days by the Department of Immigration and Citizenship to secure another employer sponsor or leave the country.

He contacted his 457 visa friends in Sydney who put him in touch with the Union for assistance. The union was successful in securing him a new employer in Sydney. Sanjay contacted the migration agent to ask for a refund of his AUD3,000 but was refused. The agent told him that it was not his problem and that he should seek redress with his former (Brisbane) employer.

They had been promised accommodation by the Singaporean agent, who told them good-quality housing would be provided by the employer at low cost. Once here, they found themselves in a room at the back of the factory, no larger than a typical living room. Its walls were lined with bunks which housed five men, and within the space was a small kitchenette and bathroom. They were each charged AUD100 per week for this room, which was deducted from their salary (on top of repayments to the agent). To put this in perspective, AUD500 a week (which is what these men were collectively paying) would rent them a very nice three-bedroom house in a good part of Sydney. They were also promised that the employer would provide training and a local licence to operate specific equipment. On arrival, they found they had to pay for their own training and licences, which added up to quite a substantial sum. Despite the job entailing work on external construction sites, there was no induction or safety training once they commenced employment. There were other ongoing workplace issues, including

- Sick leave deducted from annual leave, despite medical certificates;
- Long hours without paid overtime: working 9 hours on-site then required to travel an hour back to their factory where they were expected to work several more hours on the factory floor;
- Safety breaches: being forced to work in unsafe conditions and required to do jobs they were not trained to do. Often this work involved dangerous tasks that required specialist skills they simply were not equipped with.

When they complained to their supervisor about their treatment, and questioned why their conditions were so much worse than their local colleagues', their employer told them that overseas workers do not have same rules of pay and employment as local workers. Until the interviews, they continued to be under the impression that there are special conditions for 457 workers that allowed employers to pay them less than the minimum wage and work without overtime. They believed the employer's version of events because it is usual, and legal in places such as Singapore (where they had worked) for foreign labour to receive lower salaries and conditions than locals.

They eventually became aware that their pay and conditions were probably in breach of what is legal in Australia, but had no idea how to deal with the situation as approaches to their employer had rendered nothing other than threats to terminate employment and send them back to India. With the help of a co-worker, Balan and his friends contacted the union who advised them of their work rights and to approach their employer with this information. Upon doing so, they were fired for joining the union and reported to the Department of Immigration to have their visas terminated. The union took immediate action and intervened in the situation with the employer, among other things, with threats of legal and industrial action involving other employees. Balan and his friends were out of work for approximately 3 months while this process worked its way through. In the meantime, the union held a number of public fundraising events for these workers, raising enough money for them to live on, and provided them accommodation in a flat until their situation was sorted. Eventually, the employer agreed to re-instate the workers and compensate them for unpaid wages. Balan and his friends, subsequently, left the employer and found work at a large construction company.

While their experiences mirror some of those of the hospitality workers we discuss in the next section, Balan's story highlights two things. The first is a social capital perspective, indicating the importance of links to the Indian community and the supports and resources such networks can provide. Even though their work hours were excessive and pay inadequate (and sometimes non-existent), they nonetheless had weekends off and the opportunity to build connections into the local community that in the long run proved their saviour. Second, the industry in which they work is a highly unionised one. The union was not, unlike some in Australia, xenophobic towards temporary migrant workers, and it had the resources and power to intervene successfully in this case. The following section on hospitality workers shows some similarities, but also stark contrasts with the preceding two groups.

Hospitality workers

Sydney, like other Australian cities, has a large number of Indian restaurants. Similarly to 'ethnic' restaurants in other parts of the Western world, they often have little to trade on other than reputation and good, cheap, food. In a situation of increasing pressures to keep costs down, it is not surprising that many of these restaurants have turned to the 457 visa scheme to find good Indian chefs and cooks to work in their kitchens at lower rates than local chefs would. Of course, this trend tends to be defended by these restaurants on the grounds that it is increasingly difficult to find good Indian chefs locally, but this is a somewhat circular argument as the import of 457 visa labour has driven down wages and conditions such that few locals (including Indian permanent residents) are willing to do this work.

Low, sporadic or sometimes entirely absent wages were a common feature, as were exceptionally long hours. All restaurant workers we spoke to worked long hours – typically 15 or more hours a day, 7 days a week. Few had time off, other than short periods between the lunch and dinner meal shifts. They worked long into the evening, deployed to cleaning duties once the kitchen closed and patrons departed. All told of being lured to Australia under the false impression that they would be working in good, well-paid jobs. All we spoke to had the experience of 'two contracts' – one they signed in India prior to departure and an amended one presented to them upon arrival with far less favourable

conditions. They were left with little option but to sign, having borrowed to pay agents, airfares and visa fees. Complaints about overwork and underpayment mostly went unreported. This was due to a number of factors, including poor English and education, fears of losing employment and visa, and physical and psychological intimidation by the employer. There is also a lack of awareness of the correct pay and conditions and little knowledge about how to seek redress. Complaints to the employer about conditions were usually met with threats of early termination and loss of visa. We present two compelling case studies below (Boxes 2 and 3):

Box 2. Case study 2: Mr Lal.

Mr Lal, in his mid 40s, was recruited though an agent in India to work as a cook and sweet-maker in a Sydney Indian restaurant. His employer sponsored his application for a 457 visa. Prior to obtaining the visa, Mr Lal was offered the position with the following terms, and he signed what he thought was a binding contract before leaving India.

1. Minimum of 5 years employment;
2. Remuneration of Rs 100,000 per month (about AUD3,000);
3. Proper accommodation and timely payment of salary;
4. Provision of minimum conditions of living;
5. About 8 hours a day and six working days a week;
6. The employer to bear all the expenses in respect of relocation and air travel.

Mr Lal arrived in Sydney in March 2006. However, he had to bear all the expenses for his travel to Sydney (on the promise that this would be reimbursed on arrival). Once in Sydney, his working and living conditions were significantly different from those stated in his original contract. The conditions he found himself working under were as follows:

1. He was working an average of 17–18 hours a day continuously and 7 days a week;
2. He was not paid throughout the duration of his employment;
3. The employer did not help Mr Lal set up a bank account or tax file number;
4. He was forced to sleep on a dirty carpet in a closed shop nearby without toilet facilities;
5. He made two trips to India (24 March and 4 June 2006) on the request of (and funded by) the restaurant owner in order to purchase food-making equipment. He was required to spend his own funds to purchase this equipment (cost) but on return to Sydney was never compensated, nor was he paid a salary during his time in away.

Upon returning from the first India visit, Mr Lal's work and living conditions did not change. When he asked for compensation for his India trip, the owner threatened to kill him and harm his family in India.

Box 2. (Continued)

When Mr Lal was sent away on the second trip to purchase the equipment, the employer terminated his employment and reported this to the Department of Immigration and Multicultural Affairs who subsequently cancelled his 457 visa on the grounds that he was no longer employed. This meant that he was unable to return to Australia from what he thought was a temporary trip.

Mr Lal comes from a small town in India. He is not particularly fluent in English nor is he familiar with the conditions stipulated on the 457 visa class. He appealed to the Department to have his Visa re-instated, but this appeal was not upheld on the basis that it was no longer valid as he no long had valid employment in Australia. Nor did the department offer any assistance in recovering unpaid wages and other money's owed. Back in India, he is not in a position to be able to seek redress through legal or union channels.

Although the Department of Immigration investigated his case, the word of his employer appeared to be taken at face value. Co-workers who may have acted as witnesses were pressured (via threats of harm to family back in India, and the threat of losing their own 457 visas) to speak instead in favour of the employer's version of events.

Mr Lal had sold his business in his home town in India and his family assets (his wife's jewellery) to obtain funds to secure this job. With his 457 visa now cancelled, he is unable to return to Australia, he reports that he is now virtually destitute as a result of the experience. He faces a desperate situation of poverty and debt to repay with no source of income.

Box 3. Case study 3: Mr Satesh.

Mr Satesh, in his late 40s, was recruited in India in 1999 to come to work in Sydney on the 457 visa. He worked for 3 years in an Indian restaurant as a head-chef and sweet-maker. During this period, Mr Satesh had a satisfactory work experience. In 2002, his employment contract ended and his employer allowed him to seek another job.

Thinking it would be a good opportunity to move his career forward, Mr Satesh then accepted an offer from a new employer in 2002 (another Indian restaurant) who was willing to sponsor him for a new 457 visa. Immediately after the visa was granted, his new employer dispatched Mr Satesh to India to purchase specialist kitchen equipment to set up a new restaurant. While in India between November 2002 and March 2003, Mr Satesh received no remuneration or support from the employer, despite being required to remain there to purchase the equipment. The employer promised that he would be paid on his return to Australia, however, no payment was forthcoming.

Upon his return to Sydney, he continued to be underpaid. He worked between 15 and 18 hours a day, 7 days a week for more than 18 months. He typically started work around 7:00 a.m. and worked through till after 10:00 p.m. without meal breaks of any kind. He was required to eat lunch while continuing to work. During busy periods such as Deepavali Festival, he was required to work even longer hours from 7:00 a.m. till 1:00 or 2:00 a.m.

For these hours, he was paid a standard wage of AUD550 per week over this period. Despite the long hours, his weekly pay slip showed he only worked 40 hours.

(Continued)

Box 3. (Continued)

He was paid no overtime or penalty rates for public holidays. Nor was he allowed to take or was compensated for unused annual leave. He was accommodated above the restaurant in a small bedroom (which was also used by the restaurant as a storeroom) with another co-worker, for which he was required to pay AUD60 per week in rent. In addition

- Mr Satesh spoke very little English and had no understanding of his work rights and entitlements.
- He accepted his poor work conditions and low pay because he had no choice – he had left his job in India and was supporting his family – and couldn't see himself returning to India to start a career all over again.
- He had no one to turn to for advice, and his long hours in the restaurant 7 days per week meant seeking help was all but impossible.
- He is qualified chef and had worked for a number of years in 5-star hotels in India as a head-chef, yet was only paid a minimum wage (AUD32,000 pa) in Sydney and enjoyed no other entitlements.
- He was not provided with a formal contract of employment, only a letter of job offer stating that he would be accommodated, and paid at the award wage and due entitlements as stipulated under the award.

Recruitment of workers in the hospitality sector tended not to involve formal agents, and typically was direct from India. The usual pattern was that the restaurant owner would use family, town or village networks to identify potential individuals. In some cases, the owner would make visits to India to recruit. For example, Mr Lal, above, owned a well-known sweet shop in a small town in northern India where his employer had family connections. His employer approached him on a visit to India and offered him well-paid work, framing it as an exciting 'career opportunity'. Because of the direct employment approach, fewer of these workers had debts to agents, which eased their situation somewhat. However, this was far outweighed by the fact that their eventual pay and conditions were at the extreme end of the spectrum in terms of workplace exploitation.

What makes restaurant workers particularly vulnerable is the fact that they are typically isolated working with two or three other overseas workers. They live in a 'bubble', working long hours in the restaurant with little time to tap into support networks beyond the workplace. The sector is not particularly unionised – which is typical for small business employees, and moreover, the particular union responsible for this sector was not, at least at the time of the research, particularly good at engaging culturally diverse workers, or 457 visa workers. The DIAC, at the time of the study, did undertake 'spot inspections' on the workplaces in question, but would typically inform the restaurant owner before coming. Workers would be fearful to report their conditions to the department for fear of losing their job and being returned to India. Employers were also skilful at using 'divide and rule' tactics – ensuring that whenever a single worker complained, his other workers would contradict his story when questioned by authorities. This was achieved by making threats to the other workers that unless they upheld the employer's version of

events, their families would be in danger, or they would be fired. The threat of termination was used as a bargaining chip to extract longer hours from a worker, and threatened deportation was raised to divert disgruntled employees from reporting their situation to authorities. More than once, we heard stories of the lengths employers would go to 'lose' the employee to avoid paying back wages.

Discussion and conclusion

Co-ethnic exploitation

A pattern of what can be termed 'co-ethnic exploitation' surrounding issues of agents, debt-bondage and workplace exploitation emerged very strongly. This typically involved an employer, manager and/or agent of co-ethnic background leading the exploitative practices – for example, an Indian employer or agent exploiting Indian workers. The worst cases involved Indian owned enterprises such as restaurants. Understanding issues such as cultural attitudes and transnational links helped us to achieve a more fine-grained reading of the situations of exploitation we encountered. This texture in turn highlighted to us that questions of ethnicity and co-ethnicity are not incidental to understanding the phenomenon we were studying.

The phenomenon of chain migration involving intra-ethnic recruitment practices, and co-ethnic exploitation, is a double-edged sword. On the one hand, it represents a form of what Tilly (1999) describes as 'opportunity hoarding', where, in a situation of disadvantage and exclusion from mainstream economic opportunities, a migrant community 'hoard' opportunities in a particular sector, distributing them within a carefully maintained ethnic boundary, excluding outsiders from the resource. It is a form of solidarity that at one level actually provides opportunities to Indian workers who would, by and large, have only the remotest of chance of accessing employment opportunities in the mainstream Australian employment market.

Waldinger (cited in Komter, 2005) suggests that social capital of this kind admits advantages ensuing from 'relationships of mutual trust and co-operation' where co-ethnicity is presumed to make an individual more trustworthy, allowing people to profit from their informal networks (p. 135). However, it is also a form of highly bonded social capital that functions around ambivalent regimes of trust. Because of the lack of alternative opportunities, few English language skills and typically little experience beyond the ethnic group, these workers approach co-ethnic agents and employers more from a perspective of 'better the devil you know'. These vulnerable workers make a considered judgement, based on limited experience outside, about 'who you can rely upon', primarily because they believe they at least 'know how to deal with the Indian employers', even if they do not necessarily trust them outright.

This is a rather more ambivalent formulation of solidarity and trust than the typical social capital model allows for. It represents something more akin to a delicate balance negotiated between risk and trust. As Tilly (1999) suggests, not all instances of opportunity hoarding serve their occupants equally well. In some instances (as in the cases described), exploitation can deliver most gains to the entrepreneurs rather than to rank and file workers. So, on the one hand, these agents and shady employers do, oddly, pay a role in opening

up opportunities for co-ethnics in India wishing to work in Australia. Their role in this sense can be described as akin to that of people smugglers in opening up opportunities for asylum seekers – providing a 'service' that fills a gap – by offering passage to a Western country otherwise denied through official channels. Likewise, exploitative employers and agents playing on intra-ethnic solidarity and trust networks do open new opportunities, but the situation of cultural, social and economic isolation they create for their co-ethnic workers works to cement them into a situation of vulnerability ripe for exploitation.

A key question is not so much 'what happens' but how the protagonists justify their behaviour. We found that Indian employers justified their treatment of their 457 visa workers on the basis that 'this is what these workers are used to' in their own country. In this way, cultural attitudes, caste and class relations get transnationalised (Velayutham and Wise, 2005).

Co-ethnic employers measure what constitutes appropriate pay, treatment and conditions, not by Australian standards, but by the standards of the homeland, or sometimes a third country where their co-ethnic workers have often spent time, such as Singapore or the Middle East. These attitudes were further exacerbated by intra-cultural prejudices around servitude, urban versus rural hierarchies, which are used to justify the exploitative behaviour. Such employers have the advantage of being fully aware of the background situation and vulnerability of these workers and therefore know where to exploit their trust and how far they can 'push' the exploitation. The exploitation of trust comes into play at two levels: one at the level of kinship. Many of the workers were recruited through kinship or village-based networks. This is especially so in the restaurant industry. These connections are played upon to attract the workers in the first instance, but subsequently, there is a level of fear (sometimes threats to harm family) or simply shame (workers embarrassed to speak out for fear of upsetting family at home). At another level, trust is also significant in terms of ethnicity, drawing on discourses of ethnic solidarity and trust 'of your own kind'. Also co-ethnics who speak the workers' mother tongue are trusted over others.

Aggravated vulnerability

As with Toh and Quinlan's (2009) findings, the ability of these workers to seek redress or alternative employment or to demand better pay and conditions was significantly limited by a number of factors. This placed them in a position exceptionally vulnerable to exploitation. The factors aggravating their vulnerability included the fact that workers often signed (illegal) contracts that actually or purportedly (in terms of what employers told them the contract meant) dictated that they could not seek alternative employment, and if they did, their visa would cease and they would have to leave the country. Many employers instilled in migrant workers the fear that they would lose their visa. Because of this fear, most would not speak out and were reluctant to join unions. Furthermore, it was very difficult to source new work, and these workers had to do so within 28 days or the leave country. Unlike workers in the IT sector, there was no easy access to large employment agencies or labour hire firms in Australia to place workers in alternative positions. The agents who initially recruited them were usually small, and typically operated offshore. The current system offers some possibility for further

extension of a bridging visa of 2–3 months, but it remains a fact that it is difficult to find job in that time. Furthermore, most workers are not familiar with the intricacies of their visa conditions, relying mostly on what is told to them by their employers or initial recruiting agents. Accessing help from other migration agents in Australia is prohibitively costly, especially for a worker who has not been paid in months, and who works 7 days a week. While there are employment agencies in Australia to help re-employ 457 workers, they typically charge around AUD3,500 which most blue-collar 457 visa holders are unable to afford. Moreover, most workers tended to seek out Indian agents, who were charging at the upper end of the spectrum, and charging 'placement fees' as well as for services surrounding visa transition. Making the decision to leave or complain to authorities is a particular challenge for these workers as once their current employment ceases, they have no income (as they are not able to work on a bridging visa), have large debts to service and little or no savings – making it difficult to transition between employment situations. Workers interviewed in the study expressed a feeling trapped by this financial bind.

This group of workers were not especially fluent in English so found it difficult to understand the terms of their visa, and their workplace contracts, and they tended to rely on the (often untruthful) interpretation of the employer. Those with experience working in India and Singapore had low expectations in terms of what their rights as foreign workers are here. Even where they were fluent in English, for many the language, expression and terminology in the materials provided by the Department of Immigration were too complex for most of them to comprehend. Workers in the blue-collar and hospitality sectors tended to be less educated and had less knowledge of Australia and its systems. Hospitality workers in particular tended not to have a good network of co-migrants to draw on to find out information that would help. IT workers, for example, had a stronger network in this way, as did the workers in manufacturing and construction, especially those who had worked together in Singapore.

Family and kinship links also exacerbated their vulnerability. Many reported feeling trapped. The direct recruitment of restaurant workers from India often occurred via family links and 'trust networks'. In these cases, it was seen as confronting to complain about mistreatment in contexts where issues of family shame would come into play. Sometimes, there were explicit or implicit threats of harm to family should the worker seek legal recourse. Many had borrowed money from friends and family at home to pay agents fees and airfares. Losing one's job and visa means being sent back and still in debt. This was not only a financial issue, but an emotional one as well. It is deeply shameful to return to India having 'failed' in this way. Furthermore, many of these workers had significant financial responsibilities to assist family back home. Where the family pay the agents and passage fees, there is an obligation on the part of the migrant worker to remit money home to assist with things such as dowry for younger sisters (sometimes up to AUD30,000), education fees for siblings and living costs for parents. There is a great deal of guilt in being unable to fulfil these obligations, and this shame is exacerbated in the village context where it is not just shame in the eyes of family, but in the eyes of a whole community.

The research presented here tells a different story from findings from large-scale survey-based studies on 457 visa holders who find high levels of satisfaction

and positive living and employment experiences. Interviews among Indian 457 visa holders revealed experiences that differed markedly by sector and the nature of their employment tenure. Specifically, there were clear differences between workers in the IT industry employed under labour hire conditions, those in blue-collar unionised occupations, and those in the hospitality sector who had little union representation and faced a combination of factors that aggravated their situation of precariousness. The challenges accessing some of the most exploited workers and their reluctance to report this highlights the difficulties faced by those charged with policing the system. It also emphasises how important it is to 'dig beneath the data' with detailed qualitative research to capture the nuances at work.

Even though temporary skilled migration (457 visa class) to Australia is steadily increasing, the level of support services available for this group appear severely lacking compared to permanent migrants and 'local workers' (Oke, 2012). Moreover, the experiences highlighted in this article are not limited to Indian workers as there have been a number of well-publicised cases in the Australian media exposing similar problems faced by Chinese, Filipino, South Korean and Malaysian 457 visa holders. While the Australian government has sought to tighten the temporary skilled migration programme in recent years with enhanced monitoring and on-site inspection of 457 workplaces in order to prevent exploitative practices, unions argue these measures remain inadequate, with site inspections occurring in only a tiny fraction of workplaces. It is clear that temporary migrant workers need to be better informed of their visa status, labour entitlements and the range of support services available to them while living in Australia. Given that temporary skilled migrants have become a permanent feature in the Australian migration landscape, more needs to be done to improve their working and living conditions.

Acknowledgement

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Notes

1. See for instance, Joint Standing Committee on Migration (2007); and Subclass 457 Integrity Review conducted by Barbara Deegan (2008). These reviews have recommended stricter regulations on employers' hiring practices, labour market testing, inspection of work conditions and visa infringements. However, the rorting of 457 visa system was once making headlines, as it was revealed by the Immigration Minister Brendan O'Connor that there has been a spike in the number of 457 visa holders on low incomes especially in the accommodation and food services sector (March 2013).
2. Names of participants have been changed to preserve their anonymity.

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