

Which Projects Count?¹

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ABSTRACT

The central contention of Valeria Ottonelli and Tiziana Torresi's book *The Right Not to Stay* is that some migrants, i.e. those who wish only to migrate on a temporary basis, require special rights in order to protect them and their capacity to achieve the goals that they have set for themselves. Such temporary movers can rightly be understood to have *projects*, that is to say life-shaping objectives, which can best or only be served by opportunities to migrate temporarily. It is the job of the liberal democratic state to offer such movers specific accommodations, to protect their capacity to be successful in these projects. The special accommodations that Ottonelli and Torresi defend are reasonable, I shall suggest, for migrants who are engaged in temporary labor migration projects as they describe them. However, I shall suggest, they are not as obviously appropriate for the projects of migrants whose temporary moves are not voluntary in the way Ottonelli and Torresi describe, nor for those who also migrate temporarily, but not for labor-related reasons, including international students, family caregivers, snowbirds and other retirees, and those who are protected by "Temporary Protected Status" or similar visas. In part, I argue, the mistake lies in a too narrow construal of what counts as a "project" in need of protection by the liberal state. I suggest that if the focus is on genuinely temporary movers, it is important to consider a wider range of them in order to best understand how a liberal democratic state ought to protect those who are temporarily in their midst either non-voluntarily, or for reasons other than tourism, in pursuit of a wider range of potential projects.

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1. INTRODUCTION

The central contention of Valeria Ottonelli and Tiziana Torresi's book *The Right Not to Stay* (2022) is that some migrants, i.e. those who wish only to migrate on a temporary basis, require special rights in order to protect them and their capacity to achieve the goals that they have set for themselves. Ottonelli and Torresi argue that political theory must take seriously that there are migrants who, as a matter of fact, desire only temporary migration opportunities, and therefore that to the extent that political theory of immigration has ignored this fact of the matter, it does not offer policy proposals that attend to their needs. So, say Ottonelli and Torresi, it is crucial to consider how best to protect such temporary movers, and articulating how to do so is the task they set themselves. Such movers can rightly be understood to have projects, that is to say life-shaping objectives, which can best or only be served by opportunities to migrate temporarily. It is the job of the liberal democratic state to offer such movers specific accommodations, to protect their capacity to be successful in these projects. These accommodations are made with respect to rights protecting work conditions, welfare access, and mobility across borders. That is to say, workers in general are entitled to rights in these categories, but such rights must also be tailored to the special needs of temporary movers. The special accommodations that Ottonelli and Torresi defend are reasonable, I shall suggest, for migrants who are engaged in temporary labor migration projects as they describe them. However, I shall suggest, they are not as obviously appropriate for the projects of migrants whose temporary moves are not voluntary in the way Ottonelli and Torresi describe, nor for those who also migrate temporarily, but not for labor-related reasons, including international students, family caregivers, snowbirds and other retirees, and even those who are protected by "Temporary Protected Status" or similar visas. In part, I argue, the mistake lies in a too narrow construal of what counts as a "project" in need of protection by the liberal state.

In what follows I begin by considering the nature of the "project" that informs Ottonelli and Torresi's analysis, and how a focus on temporary migration projects builds on and interacts with the existing literature on temporary labor migration. Those who engage in temporary migration projects, say Ottonelli and Torresi, can reasonably be understood to have done so *voluntarily*, so long as key conditions are met. In response to their outline of the relevant conditions, I query whether most labor migrants meet the "voluntariness" requirement that they set and consider the extent to which Ottonelli and Torresi's view applies to those who not-entirely-voluntarily migrate temporarily. I continue by articulating, just briefly, the

rights that they defend for those engaged in temporary migration projects, and then outline four other significant categories of temporary movers, whose interests may not be as well served by the rights that Ottonelli and Torresi describe. I suggest that if the focus is on genuinely temporary movers, it is important to consider a wider range of them in order to best understand how a liberal democratic state ought to protect those who are temporarily in their midst either non-voluntarily, or for reasons other than tourism, in pursuit of a wider range of potential projects.

2. WHAT IS A PROJECT?

In *The Right Not to Stay*, Ottonelli and Torresi describe the projects that migrants can have: they are fundamentally labor projects. The migrants who form the center of their analysis aim to travel abroad to work for a temporary period of time, in a country where their economic prospects are better than they are at home. It is important to adopt the language of projects, they say, because it helps us to keep in mind that migrants, by migrating, are engaged in purposive activities in order to achieve their own objectives (3).² Such a project is taken on with “the purpose of sending money home, accumulating capital, and acquiring knowledge and expertise needed to advance specific aims once back in one’s country” (2). When taking on such a project, a migrant intends to return home, and the center of their lives and attention remains there for the duration of the project. Ottonelli and Torresi focus on what migrants intend to do rather than on their legal status in particular.³

Crucially, then, for Ottonelli and Torresi, the choice to migrate temporarily in these cases is not a second-best option because permanent migration is not permitted, or has failed, but rather is chosen by migrants “as limited in time and instrumental to goals and projects that they will pursue once back in their country of origin” (1). According to Ottonelli and Torresi, previous scholars appear convinced of the view that temporary migration is a second-best option, chosen by those who would prefer to move permanently. But, such a conviction is “disrespectful towards the origins and background of the migrants involved”, and, they say, as a matter of fact it is also wrong. They do not deny that some migrants participate in temporary labor migration projects as a second-best option—institutional mechanisms inevitably shape and constrain the

² Valeria Ottonelli and Tiziana Torresi, “Précis of *The Right Not to Stay*”, this volume. All quoted passages, unless otherwise specified, are from this text.

³ For another account of the importance of assessing the intent of migrants, see de-Shalit (2018). For a response that criticizes relying on intent, see Lenard (forthcoming).

options that migrants have—they state, however, that it is misleading to proceed on the assumption that such choices are second-best for all of them (2).

The question of how a migrant's *intention* is assessed is a thorny one, and Ottonelli and Torresi rely on three examples of migrants engaging in, for them, prototypical voluntary temporary migration projects: Ukrainian (mainly construction) laborers in Poland, Romanian caregivers in Spain, and Mexican migration to the United States. These examples are deployed to suggest in general that, where borders are relatively permeable, and where circular migration is permitted, migrants select temporary labor migration opportunities in pursuit of their projects at home. Migrants take advantage of more robust labor markets across borders, to work hard and earn money that can go far in their home country. Since migration across borders is easy in the cases they consider, and since at least in the two European cases, permanent residence is accessible to migrants who largely choose against taking it up, it is reasonable to infer their intention from their behavior, i.e. that they *intend* to labor temporarily. These examples are aimed at demonstrating to skeptics (like me) that the absence of a right to stay is not the sole factor explaining why migrants take up temporary opportunities, and therefore that advocating for their right to stay will *not* adequately respond to their needs and interests.

As I said earlier, adopting the language of *projects* is deliberate, to center migrants' intentions and objectives. It also serves to distinguish their work from earlier political theoretic work in the space of temporary labor migration: work that considers whether such migrant laborers are exploited, whether they ought to be granted a wider package of rights than they are, whether they are entitled to stay permanently, and more generally under what kinds of conditions (if any) temporary labor migration programs can be justly adopted as part of a more general immigration regime (Pritchett 2006; Lenard and Straehle 2012; Ruhs 2013). This earlier work, to which Ottonelli and Torresi are only partially responding, worries that the expansion of temporary labor migration opportunities comes at the cost of opportunities for permanent migration from Global South countries, that enthusiasm for temporary labor migration as a solution to global inequalities allows for problematic rights restrictions in host countries, and that the strategies that host states take to ensure that temporary labor migrants remain only temporarily are human-rights violating. These strategies often allow and enable the exploitation of highly vulnerable migrants (Attas 2000; Mayer 2005; Stilz 2010; Ypi 2016). The strong suggestion that Ottonelli and Torresi make is that, under these constrained conditions, temporary migration *should* be understood as a

second-best option, and therefore unlike the intentional temporary migration that their examples are meant to describe.

What makes the pursuit of temporary labor migration projects intentional or voluntary in the right way? Ottonelli and Torresi describe the conditions under which choosing migration projects can be understood as genuinely voluntary: the choices must be uncoerced, they must be made under conditions of sufficiency, the conditions of labor must be provided clearly, and migrants must have genuine “exit options” if they wish to leave their employer. Sufficiency requires “the fulfillment of fundamental human needs,” which “include basic necessities like food, shelter, and personal safety, but also social dimensions of human existence, like the enjoyment of sentimental and familial ties, or the sharing of a common culture” (5). They continue, noting that among the clearest examples of non-voluntary temporary migration are those where migrants are *forced* to return home after the completion of their contract (6, n. 7). They do not focus much on the reality that most temporary labor migrants are indeed subject to the requirement that they return home after the completion of their project work, however, nor on how incorporating such a consideration would impact their analysis (Castles 2006; Lenard 2012; Ruhs 2013).

In my view, the conditions that Ottonelli and Torresi outline are relatively substantial, substantial enough that a great many of those who take up temporarily labor migration opportunities will not count as voluntary in the way that they describe. Crucially, Ottonelli and Torresi do not require that global justice be achieved in order for labor migrants’ choices to be treated as voluntary. Rather, they say, “the fact that someone’s life plan has been devised in circumstances of injustice is not a sufficient reason for discounting it as unworthy of accommodation” (6). This statement is correct; globally speaking, many life projects are (by force of circumstance) devised under conditions of injustice. Moreover, as Ottonelli and Torresi would certainly agree, those who operate under such conditions are no less agents in their own lives; the importance of treating those who face injustice as agents rather than as victims is well made in recent political theory of refugees, for example (Saunders 2017; Ziegler 2017).

I do not believe, although I am not certain, that Ottonelli and Torresi would discount choices made under constrained (rather than voluntary) conditions as “unworthy”. Moreover, it is surely the case that those who make their temporary labor migration choices under constrained conditions, and so do not meet the voluntariness requirements that Ottonelli and Torresi describe, are entitled to the accommodations they defend. But, by choosing to sidestep a more robust consideration of the kinds of cases that motivate the vast majority of political theoretic work in

the space of temporary labor migration, and the concerns that are raised therein, readers are left wondering about the applicability of their view to these sorts of cases. If I am right that life projects ought to be treated as worthy regardless of the conditions under which they are chosen, and that those who devise projects under such conditions must be regarded as agents, then it is ultimately not so clear what work the “voluntariness” condition is doing for Ottonelli and Torresi. In particular, it is therefore not clear that the work done to delineate the conditions of voluntariness is essential to making the case that special rights for temporary labor migrants are of crucial importance, if we are to take the needs and preferences of such migrants seriously.

Let me focus briefly on the “sufficiency” claim that is central to meeting the voluntariness condition, in particular. Although it is hard to adjudicate this claim, I am of the view that the proportion of migrants whose choices meet the sufficiency requirements that Ottonelli and Torresi describe will be relatively small. I have not been able to find a precise breakdown of origin countries of labor migrant workers, nor of the conditions individual workers face that propel migration, but remittance data are suggestive here. In 2018, the largest remittance recipient countries were India, China, Mexico, the Philippines and Egypt (Ong 2019). Remittances to low and middle-income countries are at an all-time high (Ong 2019), and it is well documented that many developing countries receive more in remittances than they do in official development aid (ILO 2016). As well, of all international migrants, of whom roughly 70% are estimated to be labor migrants, nearly 40% were from Asian countries, including India, China, Bangladesh, Pakistan and Afghanistan (McAuliffe et al. 2019). The point is, a great many, and perhaps the majority, of labor migrants are not selecting labor migration from the conditions that Ottonelli and Torresi require in order for them to be described as voluntary, and as such the question of the applicability of their views to the situations that most labor migrants face is not made clear. Much will depend on the precise interpretation of the sufficiency claim that Ottonelli and Torresi defend—and what the metric is for concluding that “fundamental human needs” (described just above) are met. But as they are described, it is reasonable to suppose that migrants from the abovementioned countries do not meet the sufficiency condition; moreover, those most in need of migration opportunities are the least likely to meet such conditions, it would appear, and so it seems that in requiring sufficiency to be met, the choices of the poorest global citizens to engage in temporary migration are treated as involuntary. Since, as I said above, it is not so clear that the lack of voluntariness relates in any way to the special accommodations for migrant workers that Ottonelli and Torresi defend, however, there does not seem to be any urgent need to resolve this question.

To my mind, moreover, the choice to refocus the political theoretic discussion on those who engage intentionally and *voluntarily* in temporary labor migration projects, rather than the conditions that most labor migrants face, raises questions about whether and how their views illuminate the questions that occupy the attention of scholars engaging in the justice of such migration programs more generally. Ultimately, it seems essential that they engage more directly with the reality of temporary labor migration, namely, that it does not take place under the conditions they describe in the vast majority of cases. Given the reality that most temporary labor migration takes place under conditions of quite severe global inequalities, I am keen to know how the argument Ottonelli and Torresi offer responds to a central question in earlier political theory of temporary labor migration: in their view, and given the reality that attends temporary labor migrants currently, is it right to argue for more or fewer of such opportunities?

3. ACCOMMODATING TEMPORARY MIGRATION PROJECTS, UNDERSTOOD BROADLY

Otonelli and Torresi propose that liberal states, in virtue of their commitment to protecting the conditions under which citizens and permanent residents can pursue their “life plans”, are obligated to do the same for temporary migrants as well. Because those engaged in temporary migration projects have objectives that are sufficiently distinct from those of citizens and permanent residents, however, the rights that a commitment to accommodation gives rise to are unique to them. Otonelli and Torresi delineate a “special regime of rights” that is better able to protect migrant workers from “the vulnerabilities that derive from their life plans and facilitate their achievement” (8). These special rights are mainly focused on “welfare and work rights” (8), and include rights focused on “work conditions and terms of employment, welfare rights and mobility and return rights” (9).

Of the first set of rights, they say, migrant workers are surely entitled to the broad set of worker protection rights that are available to the citizens and residents of a country (9). But, they say, in light of their objectives to make as much money as possible, and to forego leisure time in pursuit of this objective, they ought in some cases to be exempted from at least some limits to their work time (9).

With respect to welfare rights, they suggest, more attention must be given to support the care-giving obligations migrants have “back home”.

One way to accommodate these is to permit migrant laborers to work intensively for extended hours, so that they can “collect” their holidays and use them to return home to reconnect with families that have been left behind (9). They suggest also that host states may be implicated in supporting assistance directly to the families of migrant workers in their country of origin, including with respect to “offering the support of teachers, counsellors, social workers and state subsidised caretakers who could provide help with the needs of children and the elderly” who are left behind (9).

Finally, migrant workers must be able to move relatively freely between their country of employment and their home country, so that they do not feel that, if they leave their country of employment, they will not be able to return to that employment (10). In other words, host states must facilitate movement, in particular the return of migrant workers, so that migrants are more likely to be successful in achieving their life plans (10). Otonelli and Torresi also explain that temporary labor migrants will benefit more, given their objectives, from access to labor unions than to political representation more generally, since their interests are with respect to the fair terms of laboring—something that unions are focused on achieving—rather than more general political representation. My own view is among those that are criticized by Ottonelli and Torresi, as too preoccupied with the political rights to which temporary labor migrants ought to have access, and the (for Ottonelli and Torresi, alleged) protective benefit such access may offer. However, it is useful to see that a view that emphasizes the importance of political representation need not reject any of what Ottonelli and Torresi say here—these rights can operate in tandem with the requirement that migrants gain access to political rights quickly in the host country. Moreover, these more general political rights are protective of migrant laborers whether or not they are voluntary in the way that Ottonelli and Torresi describe.

The special rights that Ottonelli and Torresi outline and describe are aimed at protecting labor migrants engaged in temporary migration projects. However, there are many other clusters of temporary migrants who have “projects” and who may even meet the requirements of voluntariness more robustly than do most temporary labor migrants, and who may not be as obviously well served by the special rights that Ottonelli and Torresi are so careful to delineate and defend. Consider four additional temporary migrants who, I think, can reasonably be defined as having projects.

One category of temporary migrants who will clearly meet the requirements for temporary migration projects that Ottonelli and Torresi

describe are international students, who migrate for the purposes of accessing university or college-level education abroad. Estimates suggest that in 2017, there were over five million students studying abroad; trends suggest this number will continue to increase (Migration Data Portal 2020). Their reasons for doing this are multiple: they may like a change of academic scenery; the subject they prefer to study may not be available in their home country (or the expertise they seek may be located abroad); they may recognize that a foreign degree will be more likely to get them the employment they desire at home, a reality that may in part be the result of the same kinds of factors that render one labor environment more robust than another.

A second category of temporary migrants who may similarly meet these requirements are family caregivers who aim to migrate temporarily to support young families or to offer elder care, both for limited time periods. Here I am thinking, for example, of caregivers who take advantage of a Canadian visa stream colloquially referred to as the “parent and grandparent supervisas”, which permit long-term but still temporary stays to those who offer caregiving to young children in particular. In 2021, Canada accepted 30,000 visas in this category, up from only 9,000 in 2010; the trends suggest here, too, that the numbers of migrants travelling to pursue caregiving projects are likely to increase (O’Doherty 2021).

A third category of temporary migrants are “snowbirds”, or non-citizens who choose to reside temporarily or semi-permanently away from their home countries as part of their retirement. In many cases, such temporary moves are seasonal: Canadian snowbirds migrate to Florida and Arizona during the long Canadian winters, for example, and Americans migrate to Mexico. Those who are able to engage in this kind of migration are usually citizens of wealthy countries, who sometimes (but not always, as in the case of the Canadian snowbirds in the United States) rent or purchase second homes in countries that are less well-off than those in which they hold citizenship. Such individuals may not make up a huge proportion of temporary movers—estimates suggest that nearly half a million American retirees are living abroad (Kiniry 2021)—but these retirees too are voluntary migrants in the sense described by Ottonelli and Torresi, with clear and demonstrable *projects*. Some are seeking experiences in new cultures; others seek better weather; others seek to be near family.

A fourth category are Temporary Protected Status (TPS) holders (USCIS 2021) in the United States (similar visa types exist elsewhere). There are estimated to be roughly 400,000 such individuals in the United States (National Immigration Forum 2021). TPS holders are typically individuals who have fled natural disasters of some kind (though such status can also

be granted to those who are fleeing conflict), who reside in the United States temporarily, while the damage caused by such disasters is remedied sufficiently to permit a safe return. The pathologies of this program have been well documented, and I do not intend to consider them here (Frelick 2020). But I do wish to note that although TPS holders are not voluntary movers in the sense that Ottonelli and Torresi describe, it is nevertheless plausible to interpret the purpose of granting TPS status in terms of ensuring that, to the extent possible, their life plans are not put on hold as a result of conditions in their home country over which they had no control. To use Ottonelli and Torresi's language, they are given the space to pursue their projects. One might object (as a very helpful reviewer did) that TPS holders do not have "migration projects" in ways that are analogous to the labor migrants at the center of Ottonelli and Torresi's analysis, but including them helps to highlight that what matters is the *project* that migrants have and not, entirely, the conditions under which it was formed.

These four categories of individuals are rightly understood as engaged in temporary migration projects, with the exception of TPS holders who fled their home state non-voluntarily. Even in this case, however, the cause of their migration is not (directly) coercive in the problematic ways that Ottonelli and Torresi worry about with respect to temporary labor migration. The point I am hoping to make here is that these clusters of migrants possess temporary migration projects, which are not directly focused on the labor market. Of course, the number of labor migrants far exceeds these categories of temporary migrants that I have delineated above, and it is reasonable to believe that focusing on the case of labor migrants is more urgent. But a full theory of the right not to stay, focusing as it does on the importance of centering migration projects, might reasonably be expected to cover a wider range of temporary migration choices. If the argument that Ottonelli and Torresi are making focuses on the pursuit of projects in general, rather than simply those focused on making money, then it will be worthwhile to consider what different sorts of special rights might apply to these individuals. The labor-market-focused rights are not adequate to the task.

Some of the rights will certainly be overlapping. For example, all of these migrants will benefit from protected mobility rights that permit returns of various kinds. Other rights may be relevant to labor migrants, but not apply to these additional cases. For example, some of them will not obviously require workplace-related protection—in many cases, international students are not permitted to work, and there is likely no reason to expect that snowbirds will do so either. In yet other cases, the rights may require modifications in order to apply appropriately. For

example, workplace protections will require modifications to apply to the case of in-home familial caregivers, who may require state protection in some cases. And in yet others, it may make sense to protect the relevant right, but the justifications for doing so will need tweaking. For example, many of these migrants would benefit as well from pro-active childcare support for young family members left behind. But, if the logic for defending this right is that migrant workers contribute to the host economy directly, then it will not serve to defend this right for any of these other temporary migrants. And finally, some of these categories of migrants may require the protection of entirely distinct sets of rights. Snowbirds may, under some conditions, be entitled to protected property rights for example; international students may be entitled to subsistence support while they are studying, in order to ensure their success; TPS holders may be entitled to the firm knowledge that their temporary status can, in a relatively short period of time, transition to permanent status. These final comments are merely speculations, to gesture at what a fuller theory of the right “not to stay” might entail.

4. CONCLUDING THOUGHTS

The Right Not to Stay is an important corrective to the political theorizing done so far of temporary labor migrants and the challenges they face. Ottonelli and Torresi have made a persuasive case that some labor migrants *choose* temporary labor migration in support of projects that are centered in their home country. Such individuals require the protection of special rights in order to make it more likely that their projects are successful. In this commentary to their important book, I have suggested, first, that most temporary labor migrants do not in fact seem to be voluntary in the sense that Ottonelli and Torresi emphasize. The result here is that more thinking must be done with respect to whether the rights that Ottonelli and Torresi describe are appropriate to the task of protecting labor migrants from the range of vulnerabilities they face, or whether, as many others have countenanced, attention to the value and importance of full political inclusion for temporary labor migrants remains warranted in most cases. Second, I have suggested that the category of migrants whose projects are merely “temporary” should be expanded—I gave some examples, including international students, jet-setting retirees, caregivers, and those entitled to “temporary protected status”—thus requiring that some thought be given to the rights to which they may be entitled in virtue of their distinct projects, and why. There is room, as I have articulated, to expand what counts as a “project” and therefore to consider how temporary movers,

whether labor is their focus or not, can be supported in achieving it. None of these observations is devastating, even if they suggest that the analysis offered in *The Right Not to Stay* applies more narrowly than the authors suggest. On the contrary, I believe that the articulation of general principles for accommodating temporary labor migration projects is an excellent starting point from which to evaluate more, and different, migration projects.

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