Notions of Rights and Entitlements Among Peruvian Female Workers in Chile[1]

By Claudia MORA (Universidad Alberto Hurtado, Santiago, Chile) and
Nicola PIPER (Arnold Bergstraesser Institute at Freiburg University, Germany)

Abstract

Migration flows from Latin America to North America and Europe have been subject to much scholarly interest and its feminization has also been noted. Yet intra-regional migration flows in its gendered form have been subject to relatively little research. In the case of Chile, the country was known for several decades mainly as a country of emigration. However, since the 1990s and the end of the dictatorship, there has been an increasing influx of migrants, especially Peruvians. Migrants' vulnerability and marginalization from mainstream society are enhanced by their labour conditions and by different forms of social stratification that capture and classify them in ways unfamiliar to them. These conditions, as well as their situation in the country of origin prior to emigration, also influence their sense of entitlement and their notion of rights. While most migrants consider they deserve to be treated with respect given 'their human condition', not all articulate an entitlement to human rights, and even fewer articulate an idea of rights beyond labour rights that they are (or think they are) not in a position to demand.

In this article we will discuss the diverse notions of rights held by Peruvian migrants, linking their understanding and practice to a combination of the following factors: a) their social and cultural capital; b) the length of their stay in the host society; and c) their understanding of rights vis-à-vis their country of origin and destination. By addressing the literature on human rights and citizenship, we aim to develop a more comprehensive approach to migrants' rights. This analysis is based on research carried out in Santiago de Chile between 2008 and 2009. We conducted fifty in-depth interviews with Peruvian women workers and conducted a survey of the organizational landscape, interviewing key civil society informants.

Introduction

Migration flows from Latin America to North America and Europe have been subject to much scholarly interest and its feminization has also been noted (McIlwaine and Bermudez forthcoming; Guarnizo, 2008). A number of studies contend that labour migration has unlocked opportunities for an increasing number of migrant women to seek paid work that were previously not available to them. Yet for many, with greater economic opportunity comes greater social injustice and inequalities based on the intersection of gender, class and nationality (Bastia forthcoming; Piper 2008a). While attending to these issues, we shift the focus away from North America and Europe to intra-regional, or South-South, migration dynamics. This type of migration has gained some attention in recent years, albeit mostly in the context of the revived debate on the link between migration and development and is, thus, derived from the

specific interest in migration's or migrants' ability to contribute to development in their countries of origin (Bakewell 2009; Castles and Wise 2008; Adepoju et al. 2007). Here, we explore a different type of development, that is 'political development', by investigating the emergence and conditions of the possibility for migrants to demand their rights in destination societies, which are often very close (geographically and otherwise) to those migrants' places of origin, but that nevertheless still harbour migrant experiences characterized by vulnerability and social exclusion.

The main drivers of migration in the case of intra-regional flows are essentially the same as in the case of inter-regional (or South-North) flows: the majority of South-to-South migrants are labourers in search of better economic conditions and quality of life and are attracted to countries which enjoy greater economic and political stability. This migration often occurs between neighbouring countries and involves immediate cross-border (short-range, short-term) movements as well as migration to the urban centres medium-range, (longer-term)[2]. In the case of Chile, the country was known for several decades mainly as a country of emigration – mostly of political refugees. Yet, since the 1990s and the end of the dictatorship, there has been an increasing influx of Peruvian migrants, political refugees and labour migrants. While many are not lacking in human and cultural capital, most end up segregated in precarious types of work, women mainly in domestic service and men in the construction sector, largely on the basis of their national and ethnic origin, filling jobs locals often refuse to do. Although the percentage of the foreign born population is only 1.2% of the total 15 million Chileans (Census 2002), what has captured Chileans' attention is what makes this migration "new": its origin in other Latin American countries, and its drastic increase

in the inter-census period from 1992 to 2002 (105,000 to 184,000 foreign residents).

Intra-regional migrants in Chile are mostly from northern Peru but also from Argentina and Ecuador (and other neighbouring countries, albeit in smaller numbers). Peruvian migrants differ from the other two main flows in that there has emerged a distinct (and thus, visible) community with extensive networks in Peru and Chile residing in a bounded neighbourhood in downtown Santiago. Peruvians also face greater difficulties in accessing the labour market, mostly due to prejudice and stereotypes held by Chilean employers and society at large. Most Peruvian women are recruited through formal and informal channels to work in domestic service, in conditions that do not substantially better their economic and social marginalization, but that nevertheless often constitute an improvement over the economic conditions in their country of origin.

Migrants' vulnerability and marginalization from mainstream society are enhanced by their labour conditions and by different forms of social stratification that capture and classify them in ways unfamiliar to them. These conditions, as well as their situation in the country of origin prior to emigration, also influence their sense of entitlement and their notion of rights. While most migrants consider they deserve to be treated with respect given 'their human condition', not all articulate an entitlement to human rights, and even fewer articulate an idea of rights beyond labour rights that they are (or think they are) not in a position to demand.

In this article we will discuss the diverse notions of rights held by Peruvian migrants, linking their understanding and practice to a combination of the following factors: a) their social and cultural capital; b) the length of their stay in the host society; and c) their understanding of rights vis-à-vis their country of origin and destination. By addressing the literature on human rights and citizenship, we aim to develop a more comprehensive approach to migrants' rights. This analysis is based on research carried out in Santiago de Chile between 2008 and 2009. We conducted fifty in-depth interviews with Peruvian

---

[2] Although one has to distinguish here between "intention" and "actual behavior" when it comes to length of stay abroad. The plan to migrate temporarily might turn into permanent settlement; the plan to leave permanently might not work out and return or re-migration might ensue.

Type of Work	Education	
	High School (complete/incomplete)	College, Vocational, Professional Training (complete/incomplete)
Private sector worker	4	6
Domestic Work Live-in	15	13
Domestic Work Live-out	11	1

women workers and conducted a survey of the organizational landscape, interviewing key civil society informants.

Through a snowballing method of sampling, we selected migrants according to their educational level and type of work, in numbers proportionate to their distribution in the labour market, as shown in the table.

Interviews lasted between one and one and a half hours, they were transcribed and coded using the software program ATLASti. Here, we analyse data on migrants' notion, access, and practice of rights in Chile.

Although in this paper we draw primarily from our migrants' interviews, we also conducted a survey of thirty-four organizations in Santiago, identifying different types of programmes and services: A) services providers sponsored by the Catholic Church, with specific programmes tailored to migrants (job centres, work training, shelters); B) legal and psychological attention services, sponsored by local universities; C) refugee organizations, created with the first Peruvian flows of political refugees of the Fujimori regime; and, D) social and cultural organizations, promoting the cultural integration of migrants and providing information, referrals, and economic aid to the community.

A Social Science Approach to Rights
Bryan Turner (2006) and other social scientists have commented that the study and analysis of rights has predominantly been the province of legal scholars, philosophers, and political theorists, leaving other social sciences, comparatively speaking, rather silent on this subject. This has somewhat to do with the lack of engagement in normative issues by many social scientists.

Taking a normative approach, however, is not the only possible manner of engaging with the 'rights question'. A crucial contribution of social science to our understanding of rights is to perceive them as an expression of a socially constructed reality, thus treating rights potentially as subject to redefinition and re-evaluation over time and space. In other words, conceptualizing grievances as 'rights' and the actual claiming of rights are actions that derive from the changing aspirations of people, a change that could be induced by the migrant experience. Social movement and historical scholarship, focusing on collective action or contentious politics, has demonstrated this shift in the specific contexts of the civil rights, the labour and the women's movement (see Tarrow 2006 for a detailed literature review); far less, however, is known about changing definitions of rights in the case of migration as related to migrants' experiences at the intersection of ethnicity, class and gender, and their positioning in social hierarchies of origin and destination societies.

In this sense, we move our discussion beyond a legalistic notion and normative deliberations, by building instead on Nett's understanding of rights as "the primary condition of acting – to speech, motion, expression, being heard, represented[3]...." (1971: 218). Such approach to rights, therefore, involves a process of self-awareness, consciousness rising, and articulation which may be enhanced through collective

---

[3] Arguing that rights need to be conceived apart from the law, Nett distinguishes 'rights' from 'law' because the latter often works as an instrument of privilege, whereas rights discourse is used by social movements, such as the civil rights and the women's movements, in order to challenge law.

organizing and mobilizing. Gender and other forms of social stratification affect all of these processes, and so does place – or rather, changing places through migration.

Gendered Migration, Gendered Rights

Over the last few decades, major advances have been made in migration research leading to the acknowledgement that women constitute approximately one-half of the 190 million global migrants; that female migration in Latin America has increased significantly in the last several decades; and that throughout the world female migrants have experienced various forms of strain and abuse in the labour force such as de-skilling, sexual harassment, racism, violation of contract terms, underpayment, and violation of national/ provincial labour legislation provisions (UNFPA 2006; UNRISD 2005). Consequently, migration scholars have made important contributions to a theoretically rich literature on gendered aspects of migration. This scholarly body of work includes studies assessing gender relations in settlement patterns; the re-articulation of gender identities and family roles; the gendering of the labour market; and individual/collective agency as well as structural issues affecting gender, among others (Mora, 2009; Piper 2008; Asis 2004; Carling 2005; Kofman 2004; Andall 2003; Fouron and Glick-Schiller, 2001; Hondagneu-Sotelo, 1994, 2001; Mahler and Pessar, 2001; Salazar-Parreñas, 2001; Sassen, 1998). The question of whether migration constitutes an empowering aspect for gender relations has also been raised by feminists, with varying results arriving at slightly different conclusions (a debate well summarized by Bastia, forthcoming). Many have argued that the -by now- global trend towards rising numbers of female migrants does not automatically amount to increased freedom of movement or autonomy (Erel at al. 2003).

Social scientists or migration scholars have rarely investigated rights issues from a gender perspective. Our interest here is in migrant women's understanding of their rights and if, or how, they claim rights in the context of gendered dynamics of their migratory situation. In this regard, it is important to highlight that

migrants leave and enter already gendered societies and that adult migrants were socialized into accepting certain roles and behaviours in the 'home' country.   Once migrated, gender intersects not only with other social relations such as ethnicity or race but also with new class dynamics. This often couples with downward mobility of migrants in the host society and their migration status, the combined effects of which lead to migrants ending up in specific niches or (mostly informal) sectors of the labour market. For migrant women, the predominant form of labour is domestic work. Being confined to private households as their place of work (and often residence also), a situation of deep dependency ensues which has been described as a type of "modern slavery"[4] or "servitude" (Chin 1998). Taking all of these dynamics and issues together, "a complex map of stratification emerges with its own dynamics of exclusion/ inclusion and power relations" (Piper, 2008: 1).

Feminist researchers have in fact pointed out that the oppression of female migrants should be viewed as an intersection of various forms of subordination, including gender, class, ethnicity or race, and migrant status (see, for instance, Dua, 2007; McDowell, 2008; Nash, 2008). Bond observes, for instance, that: "(i)ndividuals do not experience neatly compartmentalized types of discrimination based on mutually exclusive forms of, for examples, racism and sexism. Rather, individuals experience the complex interplay of multiple systems of oppression operating simultaneously in the world" (Bond, 2003, p. 76). The author similarly suggests that the intersectionality approach must inform the ways in which advocates promote human rights around the globe (Bond 2003, p. 76). However, what has been missing in the literature on intersectionality is another ingredient: specific labour relations or the 'labour condition', which is particularly significant in the subordination of migrant women, who tend to be concentrated in precarious work in the informal and 'individualized' sector of domestic work. This in

---

[4] See **http://www.ohchr.org/EN/NewsEvents/Pages/Domesticworkslavery.aspx** (downloaded 14 February 2011).

turn has implications for their ability to claim rights.

On the issue of migrants' rights, existing studies have mostly focused on international human rights standards (Cholewinski 1997, Satterthwaite 2005, Elias 2007) or on formal and substantive citizenship (typically in context of Northern destination countries) (Canefe 1998; Castles and Davidson 2000) and to a lesser extent on collective migrant rights activism (Piper 2008b). Most of the former studies take a "top down" or state-centric perspective by focusing on rights through state (legal and other) provisioning, and the latter strand shifts the focus to the meso level of organizations and their role in advocacy. Our approach starts from the "bottom up", highlighting how migrants' individual understanding of rights develops as the result of their pre-migration experience as well as by the actual migration itself, given that the entire migration process is essentially shaped by gender, ethnicity and class.

The linkage of social positioning and notion of rights is hinted at by a study carried out for the ILO on intra-regional migration in Latin America suggesting that migrant women tend to suffer an underdeveloped sense of having rights which, as the authors suggest, is based on their gender and origin (where a sense of citizenship had not developed) (Farah and Sanchez 2002). A number of papers carried out under the auspices of the ILO's gender programme persistently find that migrant women often do not know their rights and that this is related to patriarchal systems where women tend to have low status, low educational as well as low skill levels. Thus, a lack of rights consciousness may be related to social stratification at the origin as well, since migrants may think that "this is normal treatment" because treatment at home is the same or even worse. A study on Bolivian women migrants (Farah et al. 2002:26), for instance, has shown that the lack of a rights consciousness is not the same among all migrant women from the same origin country: those of rural origins do not typically recognize the pattern of discrimination because it is common to those who live in rural Bolivia; however, women of

urban origins, who often enjoy a higher degree of education and knowledge of their rights, are the ones that recognize the discriminatory nature of their treatment. Whether or how the migrant experience leads to a conceptualizing of grievances or needs as 'rights' has not been explored sufficiently.

The Chilean context

In the case of Chile, the country's political stability and economic growth have been perceived by other Latin American countries as signs of prosperity (Martinez, 2003). Migration from Peru has increased more than 300% in the last few years. Migrants are attracted by the expectation of higher earnings, better life conditions and secure employment (Mujica 2004) once they arrive. Employers' demands for specific worker profiles shape migrant flows, most clearly in the case of Peruvian women who are recruited as live-in nannies. The majority leave their families in Peru. Geographical proximity and fewer immigration barriers than posed by countries in Europe or the United States make it easier and cheaper to move and return periodically to the country of origin or to pursue family reunification. A common language also makes Chile an attractive destination in the region (de los Ríos and Rueda, 2005).

Although South-South migration involves moving between neighbouring countries, different studies contend that immigrant arrival in the host society often involves an encounter with different political structures and organization of the labour market, and perhaps more importantly, with new forms of social stratification that absorb and categorize migrants in unfamiliar ways (Mora 2009; Duany, 1998). Bashi and McDaniel (1997) argue that immigrants arrive with their own conception of ethnic identity (as well as gender and class identities) but often, involuntarily, acquire a new ethnic and racial tag in the host country. Similarly, in their study of migration and transnationalization, Cordero-Guzmán et al. (2001) depict a process of enmeshment of migration with social stratification. Immigrants (perceived) phenotype, immigrant status, ethnicity, and national origin, are all elements in the

creation of racializing hierarchies that positions them at the lower end of social structures, determining their life chances and trajectories.

Race and racial formation in the context of migration in Chile are beginning to receive attention (Mora, 2009). As migration from neighbouring countries becomes a new, dynamic and growing trend with far-reaching economic, social, and cultural effects in the sending countries as well as in Chile, scholars have begun to address migrants' precarious status in Chile, especially regarding a labour market that is particularly gendered and racialized for Peruvian migrants. Highlighting vulnerabilities caused by the intersection of migration, gender, and race, Hill-Maher and Staab (2005) explored perceptions of Chilean employers who contended that Peruvian women were "more devoted, caring, and submissive" while also "backward, unclean, and dark". The authors argue that Chilean employers prefer Peruvian women because they are willing to work as live-in nannies, making fewer demands than local workers. They suggest that migrant women have filled the void in domestic care in a process that profits from their economic vulnerability and that draws from racial/gender images of Peruvian migrants[5]. In this process, gender stratification meshes in with racial hierarchies given that migrants are chosen precisely because of their perceived gender and racial characteristics. This is why feminist migration scholars have addressed the interaction of migrant status, gender, and racial labelling in the economic and social marginalization of migrants. In this context, however, more attention needs to be paid to the conditions fostering the emergence of a sense of having rights, or the kind of claims or grievances migrants frame as rights.

Gender, the Migrant Experience and Rights in Chile

As in other parts of the world, Peruvian migrants leave and enter societies via a variety of channels or migration schemes, responding to 'supply' and 'demand' structures which often follow gender stereotypes and roles. Rights and entitlements that are attached to, or the result of, specific modes of entry and positioning within the labour market, are therefore also gendered (Piper 2008a). In general, low-skilled workers, who form the majority of migrants, are more vulnerable to rights violations as opposed to the highly skilled, since the former tend to work in the informal sectors of the labour market, or in sectors where labour standards are not applied or not applicable even for local workers. There are common problems affecting both male and female migrants such as non- or under-payment of wages, unfair dismissal, bondage (withholding of travel documents), long working hours, and precarious working conditions.

On the whole, it has been noted that abusive and exploitative practices in male-dominated sectors are better documented and more visible since men usually work in groups in construction and agriculture and often in sectors that are organized by trade unions (which holds, however, not true as far as agriculture is concerned). Abuses against low skilled women migrants are less well known since they are likely to occur in a more invisible situation. Since women migrant workers often go into individualized and unregulated work environments (e.g. domestic service, entertainment), data on migrant women in invisible occupations are not readily available (Esim and Smith 2004:8). This results in cases of exploitation, violence and harassment of domestic workers, for instance, who are subject to very low public visibility, if any (as observed in the case of Italy by Scrinzi 2003[6]) which are largely unattended by formal mechanisms of redress and claims making.

The specific situation of domestic workers has been highlighted by the first UN Special Rapporteur for the human rights of migrants (see report on her visit to Canada, 2001). Their

---

[5] These are observations also made in other contexts such as Taiwan (see Pei Chia Lan, 2003).

[6] This situation, however, is somewhat different in Asian "hotspots" such as Hong Kong where domestic worker organizations have been very active in staging highly visible demonstrations over a long period of time and increasingly so with support by local and global trade unions (Constable 2007; Law 2002).

situation is partly conditioned by a country's recognition of the domestic sector as an area of employment in terms of providing a legal migration status. However, legal status (work permit) does not automatically mean recognition by labour laws. In fact, domestic work is widely excluded from national labour legislation. In the case of Chile, domestic workers are included in the definition of workers by Chilean labour law, but granted fewer rights and benefits than other salaried workers, such as a lower minimum wage, longer working hours, and fewer social benefits. Hence, the high concentration of Peruvian migrants in domestic work reflects a double bind: they work in a precarious and isolated activity, and they are more likely to be abused as migrant women workers.

While labour rights are, obviously, central to migrant workers, health care, housing, security and education are part of the daily needs of Peruvian migrants. Access to employment is also an important right – access to other types of employment than domestic work, which is one of the most precarious forms of work. Migrants are not always in a situation to demand their fulfilment to the Chilean state or institutions, however. A key factor shaping their sense of entitlement or the development of a notion of having rights is related to their documented/undocumented status. Although Peruvians do not need a visa to enter the country (this is true of all nationals from neighbouring countries, except for Bolivians), there are nevertheless stricter requirements to work in the country. Upon entry, the immigration officer stamps the length of stay, which cannot be longer than three months if entered as a tourist. Within that time, migrants must find jobs, and once they have a contract, they can apply for a work visa, sponsored by their employer. They receive a temporary visa, which may be transformed into a permanent one after two years of work for *the same employer*. Though the procedure to obtain a permanent visa is fairly straightforward in bureaucratic terms, this framework is problematic as it forces the worker to stay with an employer for two years, and sets back the clock to zero if they change jobs in the event of

abusive employment relations or if they miss the payment of their social security taxes. Hence, the possibility of becoming undocumented always lurks in migrants' labour relations. Left out of the equation in terms of rights is the accountability of employers who must treat the migrant worker according to certain standards but are unlikely to be supervised, especially in 'private' homes, were most Peruvian migrant women work[7].

For migrants themselves, the need for a job often takes precedence over migrants' demands or grievances (see also Briones 2008). Peruvians fear the loss of their job if they ask for a written contract, as established by law, or present a formal complaint to the Labour Inspection, a state office that promotes and monitors the compliance of workers' rights – but by way of the workers having to be proactive, not by way of worksite inspection in the case of domestic work. Moreover, migrants fear stigmatization as a 'problem worker' which not only would affect their situation but that of the network of migrants often involved in their labour recruitment. That is why it is common to find recent migrants in more precarious labour situations, often with lower wages and partial payment of their social security taxes compared to older, more experienced migrants--many of whom have obtained a working visa and thus, are not tied to one employer.

Most migrants are conscious of the vulnerability that is behind their accepting just any job at any wages. At the same time, most reveal a raising awareness of workers' rights in the context of their migratory experience, given that working hours, paid holidays, and other workers' benefits are new to them. The knowledge and awareness of rights acquired

---

[7] This was precisely the argument made by the employer group at the ILO Congress in June 2010 during which the possibility of a new domestic worker convention was discussed. The employers argued against this convention for a number of reasons, one important of which the fact that the workplace is within private households which cannot be monitored by public authorities (Piper, participant observation, Geneva, 2010). Such arguments however, were also initially made in the case of domestic violence and marital rape and successfully refuted in many cases.

through time is clearly highlighted by Jocelyn (fictional name), a waiter from Tacna, who has been in Chile for three years:

> "When I first came I did not have a contract and I didn't know that, I mean, the benefits you get when you have a contract, like subsidy for your children, no, I didn't know and then I started to get information and I started demanding, I mean, the right to have a contract, I demanded and my employer did it, and paid me, I mean, I made him pay, I told him he had to pay me for the year I had worked without a contract… at first he said no… and I said he had to do it and pay all my social security taxes for that year and my child's subsidy… I told him that if he didn't pay I would go to the Labour Inspection. The neighbours knew me and knew I worked there so I demanded that right and yes, he paid".

Length of stay appears then as tied to a sense of having rights, a sense of entitlement to legal protection that can translate into demanding labour rights. Partly due to acquired knowledge and partly to the attainment of a worker's visa, the empowerment of migrants is also often tied to their human capital. Since up to 40 percent of women domestic workers have some level of training or degrees beyond a high school level, downward mobility, characteristic of Peruvian migration to Chile, tends to mark only the preliminary phase of the labour trajectory of migrants with college-level education or higher training.   Cultural capital contributes to an upward labour trajectory that involves a higher awareness and demand of rights (preliminary findings, FONDECYT project, Mora 2010-2011).

Marta, a graphic designer who has been in Chile three years, exemplifies this trajectory having started as a domestic worker and managed small upwards steps to her current position as a restaurant employee. While a domestic worker, she had an accident and broke her arm. Her employer did not want to pay her medical bills and she went back to Peru, only to return later and file a law suit against her employer: *"[I was in Peru] three months recovering, and when I arrived back I told her everything… and I went to court and won and she had to give me my severance payment because she didn't want to give me even that…".*

Interestingly, labour rights are mentioned by the majority of Peruvian migrants when asked if they have any entitlements in Chile. Health related services and access are not uniformly conceived of as rights, a perception that is enhanced by the common ill treatment migrants are subjected to in public hospitals. Access to education and housing is also perceived as a benefit new to them, and to be thankful for. Regular status is important also because it marks their eligibility for assistance and subsidies from a 'generous state'. Ana (fictional name), a live-in domestic worker for four years, highlights the 'newness' of having rights:

> "Here in Chile there are lots of good things because there, in Peru, not all of us have fonasa [health insurance], for example a domestic worker does not have health insurance, only private [industry] and public [service] workers… another thing is that they do not have a retirement fund… there, husbands have to insure their wives because they work for private industries, not like here. Here is different, I have realized that here they worry a lot about women and children too."

Rosa, a live-in nanny, adds*: no, in Peru we don't have any… well, here [in Chile] when you work they give you severance pay and they pay you for the time worked. There, in Peru they don't do that, I mean, here there are workers' rights as you say. In Peru we don't…*

Regarding the importance of a regular status to access social benefits, Ana continues:

> "What we don't have access to, I don't know if this is a right or not, for example to open a savings account because we don't have a permanent visa, we can't get a loan, we can't apply to housing subsidy, we can't have a credit card!…"

Juana, a compatriot currently employed in domestic work also assesses that *"…when you are a foreigner… when I went to ask, I remember, I went to ask for a subsidy. They told me that if you are a foreigner you first must have a permanent visa. With a temporary or other kind of visa you can't but once you have a permanent visa you can access all benefits that they have here in Chile. That's what they told me!...*

One of the most important barriers to the development of a sense of 'having rights' is the quotidian discrimination Peruvians face

because of their perceived race, social class and origin. Irma (fictional name), a domestic worker, captures the common litany of stereotypes Chileans hold on Peruvians: *"that Peruvians are dirty, that they stop anywhere to get drunk, that they are always picking fights, that all women are like that, loose.."* Yuri (fictional name), a street vendor is visibly upset when she recalls: *"there are people who ask me about Peru.. but others… have insulted me and have asked me to get out of the street fare because [it] is for Chileans… I treat everyone with respect so they don't have to treat me so badly, I am just working here for me and for my child in Peru…"*

'Humanness', being a person and having the basic right of being treated with respect is a notion heralded especially by undocumented migrants, although the majority of migrants, regardless of status, mention 'respect' and 'dignity' as the most important rights for them to have. Jacqueline (fictional name), puts it this way: *"the fact that we are workers ..what is it you call us? Nanas. We are people just like you… I said this to her [employer] we are people, and we are working for you just like you work so you can pay me, perhaps you get more pay than I do, sure! But you also have to work to make money, to pay us and that doesn't mean you are going to look down on us…"*

For migrant women, the process of entitlement, from 'respect to their human condition' to the demanding of labour and social rights is particularly cumbersome, given their concentration in the lowest echelon of the occupational hierarchy-domestic work – which does not come with equal rights by law, where they find themselves in a situation of isolation from other workers, and prone to employers abuse. In this scenario it is no surprise that Peruvian women are mainly aware of labour rights and feel entitled as citizens -albeit second class- only once they become 'regular'. Prior to achieving this status, migrant women do have grievances that are demanded in the language of basic human rights. Hence, access to entitlements is determined by formal and informal sets of rules and regulations defined by law, social norms and conventions.

An analysis of differentiated access to systems of rights or entitlements and the issue of how access in turn impacts on welfare, well-being and empowerment of migrants has allowed us to shed light on social inequality based on gender at the individual level. The next step is to envision harnessing of rights at a collective level.

Harnessing Individual Grievances through Collective Organizing

The most general meaning of justice, according to the feminist philosopher Nancy Fraser (2007), is parity of participation which requires social arrangements that permit all to participate as peers in social life. Overcoming injustice, therefore, relates to the removal of institutionalized barriers that prevent some from participating on equal footing with others. Characteristic of *political* injustice, then, is that it occurs when political boundaries function to deny participation to some people.

Many female migrants by virtue of being part of the reproductive sphere of labour lack recognition as worker – socially and legally by being (partially or completely) excluded from labour legislation. Domestic work is a case in point. Employer ideologies have played into this by constructing domestic workers as 'one of the family' not recognizing domestic labour as real work, fostered also by gender ideologies undervaluing care work (Ally 2005; Valenzuela and Mora 2010). This results in domestics often not understanding themselves as workers, and combined with lacking legal recognition, this poses limits to collective mobilization based on a worker identity which is the crux of unionization (Ally 2005). There is also another angle to this issue to do with 'de-skilling' or social downward mobility: according to a trade union leader in Southern Europe, those migrant workers who were highly qualified workers in their own countries often do not perceive themselves identity-wise as labourers at the destination despite performing such jobs, and thus do not claim the rights due to them as such (Scrinzi 2003: 83).

In addition to analyses on the 'labour condition', gender perspectives on, or critiques of, social network theory have further shown that women

tend to have less access to social networks, partly because many migration flows were originally led by men (Bastia 2007; Wright and Ellis 2000). Moreover, social networks are gendered in the sense that women tend to have less access to information and financial resources to facilitate their migration based on their different location within the labour market or different cultural norms (Dannecker 2005). Commenting on Bolivians in Argentina, Bastia writes that the "spatial organization of the sexual division of labour provides men with more opportunities for establishing stronger relations and bonding with co-workers" (2007:663). This has also serious implications for the political organizing of male and female migrants (Piper 2008b). In other words, in the context of feminized and gendered migration, this requires us to look into gendered dynamics of opportunities and obstacles for migrants to become political – i.e. their capacity, or capability, to do so. Looking at the various types of organizations in terms of constituency (sector-specific, by nationality/ethnicity etc.), gender becomes apparent as a determinant factor as far as access, type or organization, method of organizing and issues campaigned for are concerned. Non-union migrant activism on behalf of domestic workers in many Asian countries has, for instance, focused on making these workers visible and garnering society-wide respect for their work (Elias 2008; Lyons 2005).

Existing studies on migrants' collective organizing have classified non-union advocacy organizations along two main groups: 1) migrant associations (run by migrants themselves) and 2) organizations operating on behalf of migrants by concerned citizens (in cases where self-organizing is impossible for multiple reasons: because of the migrants' legal status, the position they held in the labour market or lack of freedom of association due to lack of democratic space provided by the destination country for such organizing) (Sim 2002; Ford and Piper 2007). The forming of collective organizations and networks between them, or ability to access existing organizations (especially those that are male-dominated) can be a problem for women migrants from places where gender (often in combination to caste,

class, ethnic or religious group) norms result in greater levels of inequality than in other places. As a result, migrant organizations run by and for male migrant workers may exclude women from their support systems and from male-dominated organizations and their networks.

In the case of Chile, migrant organizations are generally scarce and their efforts to harness rights in a collective manner are at best incipient. Among these are those organizations tied to the Catholic Church, which provide shelter to recently arrived migrants and function as placement agencies for domestic service work. Also, there are legal and psychological service organizations affiliated to various universities in Santiago, providing legal aid in the regularization process of migrants and attending to their mental health. There are cultural centres as well, fostering the 'cultural integration' of Peruvian migrants, and a few organizations born out of the political exile of Peruvians under former president Fujimori.

In our survey of thirty-four organizations in Santiago, we found that most adopt an *assistentialist* ('service provider') perspective towards migrants, paying sole attention to individual needs, more than taking on an advocacy role in demand and the advancement of collective rights. Most of the migrants who participate in these organizations are women who are mainly motivated by their search for employment and seek assistance in doing so, but many migrants are also involved in cultural activities promoting 'Peruvian traditions'. In the case of Church organizations, which are the most visible among the migrants, they prepare women for domestic service through organizing workshops on the type of labour expected from them but also on their rights as domestic workers. All in all, the migrant civil society organizations in Chile tend to foster the inclusion of Peruvian women in their gendered role, with an emphasis on the satisfaction of their immediate needs. In this regard, the bulk of the existing organizations are reactive service providers, rather than proactive advocacy organizations.

The coordinator of an immigrant service programme in an NGO gives a sense of organizations' perceptions of Peruvian migrants

when she states: *"the difficulty here is how we go about motivating migrants' participation because it doesn't look like it means much to them. We don't have the same "codes", it looks like participating is irrelevant to them. Their concerns are more related to housing and employment. Participating does not seem to be important to them…"*

Even organizations with a stronger orientation to lobbying for migrants' rights hold similar views and tend to provide services that reproduce a gender division of labour. A Catholic Church head of a migrants' service programme states: *"well, for [Peruvian] women we have different workshops, in addition to the 'school for nannies', like training in psychology, crafts… workshops to entertain them like folklore dancing, talks on various topics…"* She adds: *"we started this out of the need of Peruvian girls who come here to work, to know more about Chile because they just know things about Peru, like Peruvian cuisine, but here, food is different. And they did not know how to operate house cleaning devices, so we created a school for that… we wrote a guide and we provided an introduction on the 'Chilean housewife' and their psychology… we also have teachers of protocol, a cleaning teacher and in Chilean cuisine. They also have religion classes and we teach them how to maintain their regular migratory status…"*

This does, however, not mean that organizations are silent on the collective harnessing of rights; rather their work is just beginning in its focus on migrants' access to legal information as well as information on housing, employment, and educational rights. So far, however, the dominant perspective that has resulted is one that naturalizes the hierarchical (and patriarchal) positioning of Peruvian migrants.

Conclusions

Rights are no longer tied to citizenship in its conventional understanding, nor are they based on individual membership to a nation-state. To a certain extent, this notion has been incorporated into the Chilean regulation of immigrant status of peoples from neighbouring countries, with fairly flexible entries and re-entries granted with an ID; the recognition of basic rights to migrants regardless of status such as education and health; and a new agreement between Peru and Chile on mobility of social security retirement funds. At the same time, the South-South migration dynamics are not far from the South-North tensions over citizenship, human rights, and social exclusion of migrants. However, growing migration from Peru is also transforming the political space and ways in which rights and citizenship are exercised and claimed in Chile.

An important question posed by this research is that of rights consciousness and the conditions fostering its emergence, starting with the pre-migration stage. We find the length of the migratory experience, migrants' cultural and social capital, and the opposition to conditions in the country of origin, all greatly influence an awareness of rights and a sense of entitlement in migrants. The key issue at the initial stage for migrant workers, especially women, is information. As scholars of migration have noted, strangers to the destination society, migrants may be unfamiliar with the cultural language, laws, and practice, and so less able than others to know and assert their rights. Thus, traditions and culture could also discourage the exercise of rights and self-will.

Evidently, lack of awareness and self-perception as rights bearer hinders the development of the notion of having rights, leading to their demanding. Grievances, hardships or needs are not always conceptualized as such. What this study suggests, however, is that migrants hold a continuum of relevance and centrality of rights, and that such a grading scale shifts with their migratory experience (access to information, comparison with country of origin), and with their acquired capitals (social and cultural), widening the scope of rights claims as these features increase. In other words, what we can see is a diversity of notions of rights. Given that both experience at destinations and acquired capitals are clearly shaped by gender, we suggest that developing a notion and demand of rights are deeply gendered processes. And so is the harnessing of individual 'consciousness gaining' through collective organizations.

All of this means that rights' awareness and consciousness has to be understood as a process based on the migrant experience, shaped by the intersection of gender, class, ethnicity, social capital, labour relations as well as by collective organizing. By combining micro level insights stretching over the whole migration process (linking the origin and destination country) with meso level insights of organizations involved in migrant rights advocacy, a more holistic approach to our understanding of migrant rights emerges – beyond the legalistic/normative and state-centric/top-down realm.

References

Aderanti, A., van Naerssen, T. and Zoomers, A. (eds) (2007) *International Migration and National Development in sub-Saharan Africa*. Biggleswade: Brill.

Ally, S. (2005) "Caring about Care Workers: Organizing in the Female Shadow of Globalization" *Travail, capital et society*, vol. 38, pp. 185-207

Andall, J. (ed.) (2003) *Gender and Ethnicity in Contemporary Europe,* Oxford: Berg.

Araujo, K., Ossandón, L. (2002) *Migrantes andinas en Chile. El caso de la migración peruana*, Fundación Instituto de la Mujer.

Asis, M. M. B. (2004) 'When Men and Women Migration: Comparing gendered migration in Asia', CM/MMW/2003/EP.1, New York: UN Division for the Advancement of Women.

Bakewell, O. (2009) 'South-South Migration and Human Development: Reflections on African Experiences', Human Development Research Paper 2009/07, UNDP

Bashi V. and McDaniel A. (1997) A theory of immigration and racial stratification*, Journal of Black Studies* 27, 668-682.

Bastia, T. (forthcoming) 'Migration as Protest? Negotiating Gender, Class and Ethnicity in Urban Bolivia', in: *Environment and Planning A*

Bastia T. (2007) "From mining to garment workshops: Bolivian migrants in Buenos Aires" *Journal of Ethnic and Migration Studies*, vol. 33, pp**.** 655–669Briones, Leah (2009*) Empowering Migrant Women: why Agency and Rights are not enough*, Ashgate

Canefe, N. (1998) 'Citizens versus permanent guests: cultural memory and citizenship laws in a reunified Germany', *Citizenship Studies*, 2(3), pp. 519–44.

Carling, J. (2005) 'Gender dimensions of international migration', *Global Migration Perspectives No. 35,* Geneva: GCIM. (**http://www.gcim.org/ mm/File/GMP%20No%2035.pdf**)

Castles, S. and Davidson, A. (2000) *Citizenship and Migration: Globalization and the Politics of Belonging* (Houndmills, Macmillan).

CASEN (2009) Social Economic Survey. MIDEPLAN. Ministerio del Interior. http://www.mideplan.cl/ casen2009/

Castles, S. and Wise, R. D. (eds) (2008) *Migration and Development: Perspectives from the South*, IOM: Geneva.

Chin, C. (1998) *In Service and Servitude – Foreign Female Domestic Workers and the Malaysian "Modernity" Project*, New York: Columbia University Press.

Cholewinski, R. (1997) *Migrant Workers in International Human Rights Law – Their Protection in Countries of Employment*, Oxford: Clarendon Press.

Colectivo Sin Fronteras (2004) *Niños y iñas inmigrantes en Chile: derechos y realidades*

Constable, N. (2007) *Maid to Order in Hong Kong – Stories of Migrant Workers*, second edition, Cornell University Press

Cordero-Guzman, H.R., Smith, R.C., Grosfoguel , R. (2001) *Migration, Transnationalization, and Race in a Changing New York,* Temple University Press.

Dannecker P. (2005) "Transnational Migration and the Transformation of Gender Relations: the Case of Bangladeshi Labour Migrants" *Current Sociology,* vol. 53, pp. 655-674

de los Ríos, J. and Rueda, C. (2005) ¿Por qué migran los peruanos al exterior? Documento CIUP, 45 pp.

Dua, E. (2007) "Exploring Articulations of 'Race' and Gender: Going Beyond Singular Categories," in S. P. Hier and B. Singh Bolaria (eds.) *Race and Racism in 21st Century Canada: Continuity, Complexity, and Change*, Peterborough: Broadview Press.

Duany, J. (1998) Reconstructing racial identity. Latin American Perspectives 25, 147-172.

Elias, J. (2007) "Women Workers and Labour Standards: The Problem of "Human Rights"', Review of International Studies, 33(1):45-57

Erel U. Morokvasic M., Shinozaki K. (2003) 'Introduction. Brigning gender into migraiton', in: M. Morokvasic-Mueller, U Erel and K Shinozaki (eds), Crossing Borders and Shifting Boundaries, vol, 1: Gender on the Move, Leske + Bude, pp. 9-22

Esim, S. and Smith, M. (eds.) (2004). Gender & Migration in Arab States – The Case of Domestic Workers, Geneva: ILO.

Farah, I.H. and Sanchez C.G. (2002) 'Bolivia: An Assessment of the International Labour Migration Situation – The case of female labour migrants', GENPROM Working Paper No. 1, Geneva: ILO

Ford, M. and Piper, N. (2007) "Southern sites of female agency: informal regimes and female migrant labour resistance in East and Southeast Asia" in Everyday International Political Economy Eds J Dobson, L Seabrooke (Cambridge University Press, Cambridge)

Fouron, G. and Glick Schiller, N. (2001) "All in the Family: Gender, Transnational Migration, and the Nation-State." Identities: Global Studies in Culture and Power 7:539-582.

Fraser, N. (2007) "Feminist Politics in the Age of Recognition: A Two-Dimensional Approach to Gender Justice" Studies in Social Justice, vol. 1, pp. 23-35

Guarnizo LE (2008) Londres Latina: La presencia Colombiana en la capital Británica, Universidad de Zacatecas and Miguel Angel Porrúa, México DF

Hondagneu-Sotelo, P. (1994) Gendered Transitions: Mexican Experiences of Immigration. Berkeley: University of California Press.

Hondagneu-Sotelo, P. (2001) Doméstica: Immigrant Workers Cleaning and Caring in the Shadows of Affluence. University of California Press: Berkeley.

Kofman, E. (2004) "Gendered Global Migration", International Feminist Journal of Politics, 6 (4), pp. 643-665.

Lan, P. C. (2003) 'Political and Social Geography of Marginal Insiders: Migration Domestic workers in Taiwan', in: Asian and Pacific Migration Journal, vol. 12(1-2): 99-126

Law, L. (2002) "Sites of transnational activism—Filipino non-governmental organizations in Hong Kong" in Gender Politics in the Asia Pacific Region Eds B Yeoh et al. (Routledge, London)

Lyons, L. (2005) "Transient workers count too? The intersection of citizenship and gender in Singapore's civil society", Sojourn, vol. 20(2): 208–248.

Mahler, S.J. and Pessar, P. (2001) "Gendered Geographies Of Power: Analyzing Gender Across Transnational Spaces." Identities: Global Studies in Culture and Power 7:441-459.

Martine, G., Hakkert, R. and Guzmán, J.M. (2000) Aspectos Sociales de la Migración Internacional: Consideraciones Preliminares, paper presented at the Symposium on International Migration in the Americas (ECLAC/CELADE/IOM, San José, Costa Rica, 4-6 September 2000).

Martínez, J. (2003) El encanto de los Datos. Sociodemografía de la Inmigración en Chile Según el Censo de 2002. (Serie Población y Desarrollo Nº 49. CEPAL/ CELADE. LC/L 2046-P)

McDowell, L. (2008) "Thinking Through Work: Complex Inequalities, Constructions of Difference and Trans-national migrants." Progress in Human Geography 32(4), pp. 491–507.

McIlwaine, C. and Bermudez, A. (forthcoming) 'The Gendering of Political and Civic Participation among Colombian Migrants in London', in: Environment and Planning A

Mora, C. (2009) Estratificación Social y Migración Intrarregional: Algunas Caracterizaciones de la Experiencia Migratoria en Latinoamérica. Revista Universum, no 24, vol 1.

Mora, C. (2008) The Peruvian community in Chile as a response to discrimination and exclusion. Special Issue of Peace Review. 20:3, pp 339-347.

Mujica, J. (2003) El desafío de la solidaridad: Condiciones de vida y de trabajo de los migrantes peruanos en Chile. Geneva: ILO

Nash, J. (2008) "Re-thinking Intersectionality," Feminist Review, 89, pp. 1-15.

Nett, R. (1971) "The Civil Rights We are Not Ready For: The Right to Free Movement of People", Ethics, vol. 81, pp. 212-227

Oishi, N. (2005) Women in Motion – Globalization, State Policies, and Labor Migration in Asia, Stanford University Press, Stanford

Omi, M. and Winant, H. (2002) (Originally published in 1986) Racial Formation, in: P. Essed and DT Goldberg, Race Critical Theories. Blackwell, Malden, pp. 123-145.

Piper, N. (2008a) 'International Migration and Gendered Axes of Stratification– Introduction', in: Nicola Piper (ed), New Perspectives on Gender

and Migration – Rights, Entitlements and Liveli-hoods, London: Routledge, pp. 1-18

Piper, N. (2008b) 'Political Participation and Empowerment of Foreign Workers – Gendered Advocacy and Migrant Labour Organising in Southeast and East Asia', in: Piper, N. (ed), *New Perspectives on Gender and Migration – Rights, Entitlements and Livelihoods,* London: Routledge, pp. 249-275

Salazar Parrenas, R. (2001) *Servants of Globalization: Women, Migration, and Domestic Work*. Stanford University Press: Standford, California.

Sassen, S. (1998) Globalization and Its Discontents: Essays on the New Mobility of People and Money. New York, NY: New Press.

Satterthwaite, M. (2005) 'Crossing Borders, Claiming Rights: Using Human Rights Law to Empower Women Migrant Workers', *Yale Human Rights and Development Law Journal*, vol. 8, pp. 1-66

Scrinzi, F. (2003). 'The Globalisation of Domestic Work Women Migrants and Neo-Domesticity', in: J. Freedman (ed), *Gender and Insecurity – Migrant Women in Europe,* Aldershot: Ashgate.

Sim, A. (2002) *Organising Discontent: NGOs for Southeast Asian Migrant Workers in Hong Kong.* Working Paper Series No. 18. Southeast Asia Research Centre, City University of Hong Kong, Hong Kong.

Sokoloff, N. (2005). Domestic violence at the margins: readings on race, class, gender, and culture. New Brunswick, N.J.: Rutgers.

Staab, S. (2004). "In Search of Work: International Migration of Women in Latin America and the Caribbean." *Women and Development Series* 51, ECLAC-GTZ Project 'Labor Policies from a Gender Perspective'. Santiago de Chile: CEPAL.

Staab, S. and Hill Maher, K. (2006) "The Dual Discourse About Peruvian Domestic Workers in Santiago de Chile: Class, Race, and a Nationalist Project." *Latin American Politics and Society 48* (1), pp. 87-116

Stefoni, C. (2002) Mujeres inmigrantes peruanas en Chile. Papeles de Población, julio-septiembre, no.13. Universidad Autónoma del Estado de México, México. pp. 118.145.

Tarrow, S. (2006) "confessions of a recovering structuralist", *European Political Science*, vol. 5, pp, 7-20

Truong T.D. (1996) 'Gender, international migration, and social reproduction: Implications for theory, policy, research and networking', in: *Asian and Pacific Migration Journal*, vol. 5(1): 27-52

Turner B.S. (2006) *Vulnerability and Human Rights.* Pennsylvania: Penn State University Press.

UNFPA (2006) *A Passage to Hope – Women and International Migration*. New York: UNFPA

UNRISD (2005) *Gender Equality – Striving for Justice in an Unequal World.* Geneva: UNRISD

Valenzuela, Ma. E. and Mora, C. (eds) (2010) "Trabajo Doméstico: un largo camino hacia el trabajo decente", ILO Santiago.

Vergara, M. (2005) *El trabajo de los Extranjeros en Chile y en la Ia Región. Aporte al debate laboral* Nº 17. Dirección del Trabajo. Santiago.

Wright, R., Ellis, M. (2000) "The ethnic and gender division of labor compared among immigrants to Los Angeles" *International Journal of Urban and Regional Research,* vol. 24, pp. 583–600

About the Authors

Nicola PIPER is Senior Research Fellow at the Arnold-Bergstraesser-Institut in Freiburg, Germany, formerly Associate Director of the Centre for Migration Policy Research at Swansea University (UK). She has published extensively on gendered migration, migrant rights and global governance of migration. Among her latest publications are the edited volumes *New Perspectives on Gender and Migration: Livelihoods, Rights, and Entitlements* (Routledge, 2008), *South-South Migration: Implications for Social Policy and Development* (with Katja Hujo, Palgrave Macmillan, 2010) and the co-authored book *Critical Perspectives on Global Governance: Rights and Regulation in Governing Regimes* (with Jean Grugel, Routledge, 2007).

Claudia MORA holds a Ph.D. in Sociology and is currently a faculty member in the Department of Sociology at Universidad Alberto Hurtado in Santiago, Chile, where she conducts social research and teaching in gender and social stratification, migration, and globalization. Her latest projects have explored Latin American intraregional migration, specifically the labor market insertion of Peruvian migrants in Chile, social exclusion, and migrants' citizenship.