

# Optimal Design of Guest Worker Programs: An Introduction

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A large number of countries around the world have adopted guest worker programs for low-skilled workers. These programs—also known as temporary-worker programs—include initiatives that have brought seasonal farmhands to the United States from Mexico, industrial laborers from Turkey to Germany, and construction workers from India to the United Arab Emirates.

These programs are typically offered by relatively prosperous host countries seeking cheap, and usually low-skilled, labor from nationals of poor home countries. Although there are many differences between guest worker programs, most share a set of standard features.<sup>1</sup> Most notably, the programs usually allow noncitizens to work in a host country for a fixed period of time without a definite path to citizenship or permanent immigrant status. In addition, guest workers are not given the full slate of political and economic rights that citizens and permanent immigrants enjoy. Nor do they benefit from the special international regimes that govern political refugees. Guest worker programs also normally tie workers to specific employers and require the noncitizen to work in preapproved industries. Workers participating in programs with these features are employed in an enormous range of industries—including construction, agriculture, manufacturing, and household service—and countries around the world.

Host countries use these programs to meet demands for low-wage workers without having to make long-term commitments to the im-

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1. For a comparative analysis of the guest worker programs in different countries, see Law Library of Congress (2013).

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migrants. Low-skilled workers use these programs as a way to make a higher salary than what would have been available in their home country. But despite their appeal to host countries and migrants, guest worker programs have sparked controversy in academic and policy circles.

Supporters of guest worker programs argue that they offer enormous benefits to all involved. As the supporters point out, the workers are paid much more than they would receive from work at home, and they often receive training as well. Remittances also greatly benefit the sending countries; for some of them, remittances compose a significant percentage of national income. Host countries also benefit from inexpensive labor. In addition, guest worker programs have been praised for their ability to reduce global income inequality because they facilitate wealth transfers from wealthy states to people living in the poorest states. For instance, Weyl (2018) argues that Gulf countries' guest worker programs, which are often criticized, contribute more to global equality on a per capita basis than the transfer and foreign aid programs of the wealthiest countries.

Critics of guest worker programs argue that the programs exploit vulnerable workers from the developing world while stifling the development of economic opportunities and rights in the host countries. The critics note that the workers usually have no leverage and are often exploited by employers. Some employers even confiscate the passports of foreign workers so that the latter cannot escape even if they are not paid. Local authorities also do not always aid workers who are abused. Instead, host countries sometimes allow these abuses or otherwise turn a blind eye to them. The programs have been accused of suppressing wages and opportunities available for the poorest citizens in the host countries<sup>2</sup> and of creating permanent populations of second-tier citizens that are not integrated into national political life.

Still, there seems to be common ground. Most critics do not seem to want to abolish guest worker programs but instead to reform them and protect the rights of the workers. And evidence does suggest that reforms may help improve these programs (for example, Naidu, Nyarko, and Wang 2016). However, there is currently no international consensus about reform. The International Labour Organization has issued a number of guidance documents, most recently *Non-binding Principles and Guidelines for a Rights-Based Approach to Labour Migration* (ILO 2005), which appear to have had little influence on countries. Similarly,

2. However, recent research has called into question the validity of this claim (for example, Clemens, Lewis, and Postel 2018).

the United Nations sponsored the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (December 18, 1990, 2220 U.N.T.S. 3), but few of the major host countries have ratified this treaty. Given the limited influence of these efforts, the question for public policy remains whether there are constraints that could be placed on guest worker programs that would protect workers from abuse without undermining the advantages that make those programs attractive to host countries in the first place.

The purpose of the conference we held at the University of Chicago Law School in the fall of 2016 and this special issue of the *Journal of Legal Studies* is to try to answer this question: how can countries implement new guest worker programs, or reform existing programs, to maximize the benefits of international labor migration while protecting vulnerable people from exploitation? We invited academics from a range of disciplines—including law, economics, philosophy, sociology, and public policy—to contribute their insights and proposals. The nine pieces of original scholarship they contributed use a range of methods to explore the design of guest worker programs around the world.

The articles fall into three groups. In the first group, authors approach the question from an empirical angle. Clemens uses survey and related methods to evaluate the claim, frequently made by human rights advocates, that guest workers are exploited or degraded. He finds little support for this view. Chilton and Posner look empirically at the role of bilateral labor agreements in governing guest worker systems. Ruhs analyzes migrant worker regimes across countries and finds a consistent trade-off between openness and rights: countries that are more open to migration tend to have greater restrictions on the rights of migrants. Gardner, taking an ethnographic perspective, contrasts the reality of migrant workers' lives and the legal regimes that purport to protect them.

In the second group, the authors take a philosophical perspective. Barry and Ferracioli argue that host countries have a moral obligation to respect the basic rights of migrant workers. Arneson is broadly supportive of guest worker programs on egalitarian cosmopolitan grounds.

In the third group, the authors propose reforms of existing guest worker programs. Casella and Cox propose a system that combines an auction of visas to firms and transfer of the visa to the migrant worker. Ginsburg and Simpson propose trust circles to enhance monitoring of guest workers and other migrants once they have entered the host coun-

try. Sadeh proposes an international reputation mechanism to enhance screening and the enforcement process.

Together, the articles provide a broad range of perspectives on an issue of major social and political importance, as global migration continues to occur on a massive scale. The economic pressures to develop guest worker programs are likely to continue, as will political pressures to reform them. Our hope is that this special issue will help inform the debates and will stimulate further creative thinking about institutional design.

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