

## On International Migrants Day, remember that guest worker programs aren't the solution for immigration reform

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Although few in the United States have heard about it, Dec. 18 is known around the world as [International Migrants Day](#). It began in part as a way to commemorate and remind governments to adopt the [International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families](#), an international treaty created to protect the basic human rights of those who cross international borders—whether by choice or by force—in search of a better life. But it is also a day to recall the economic contributions of immigrants, by reminding us that most immigrants in the United States are workers—workers who toil alongside their native-born counterparts on agricultural lands, in factories, and in engineering labs. On this International Migrants Day, I am particularly hopeful that positive reforms to our immigration system may soon be enacted—reforms that will benefit and protect both immigrant and U.S. workers alike—thanks to the renewed discussions on comprehensive immigration reform that are taking place among the public, the media, on Capitol Hill and in the White House. And these discussions finally include skeptics, who until recently, considered legalization of the vulnerable unauthorized immigrant population to be unthinkable.

However, my optimism is tempered by the disturbing and uninformed comments being made by traditionally anti-worker sources like the libertarian, [Koch-brothers founded and funded](#) Cato Institute. In his Politico op-ed, "[Immigration reform should boost all skill levels](#)," Cato's Alex Nowrasteh argues that "greatly increasing lawful immigration" is the key to successfully reforming our immigration system. Cato's version of reform, an approach that increases immigration heedless of the labor market, unemployment rates, or wage growth, is not sustainable. The best way to determine the future flow of immigrant workers is through the creation of a permanent, independent commission, like [the one proposed by EPI](#) or the [Migration Policy Institute](#), an approach endorsed by the Council on Foreign Relations' bipartisan-led [Independent Task Force on U.S. Immigration Policy](#), and the nonpartisan [Brookings-Duke Immigration Policy](#)

Roundtable. A commission on foreign workers would figure out ways to improve immigration data collection and analysis, provide lawmakers with advice on how make the system more rational, transparent and responsive to changing labor market conditions, and promote broadly shared prosperity by working to ensure that new immigrant workers complement U.S. workers. This would increase productivity and wages, rather than displace U.S. workers by flooding the labor market in particular occupations in order to put downward pressure on wages and working conditions.

But other details of Nowrasteh's proposed solution are even more untenable. He argues that the country needs a "large and flexible guest worker program" to prevent a future flow of unauthorized immigration. He shows his fundamental misunderstanding of President Reagan's 1986 amnesty for unauthorized immigrants, known as the Immigration Reform and Control Act (IRCA), by claiming that IRCA ultimately failed because it did not supply enough guest workers.

In reality, IRCA failed to prevent future unauthorized immigration because it did not include an appropriate mechanism to securely identify authorized workers. First, it should be noted that through IRCA, both Congress and President Reagan took appropriate action by legalizing an exploited and vulnerable population of migrant workers, many of whom were recruited and lured to the United States by the promise of steady work and minimal enforcement. The flaw in IRCA's design was putting employers in charge of workplace verification, by requiring them to use their eyesight alone to review and determine the authenticity of a job applicant's 26 possible identifying documents (many of which are easily counterfeited). It was obvious back then that this would never work. If an employer "believes" (or asserts) a job applicant's driver's license or social security card looks real, for example, then the law permits the employer to make the hire without checking with DMV or the Social Security Administration to confirm if the documents are genuine. Furthermore, creating new guest worker programs or expanding the poorly managed ones that now exist will only worsen the problems that research organizations, unions, and civil and human rights groups have been combating for years. Many of those diverse groups—which include EPI, the Southern Poverty Law Center, the AFL-CIO, Farmworker Justice, Human Rights Watch and others—have identified how guest worker programs play a role in facilitating worker abuse and exploitation, labor and sex trafficking, wage suppression, and discrimination against native workers in the receiving county. Even when overt abuse does not occur, guest workers lack basic rights that would make them free actors in the labor market. For example, workers cannot switch employers, making them reliant on their employer for their visa status and virtually indentured. Thus, if workers complain about anything, or organize with other workers, the employer can fire them, rendering them deportable on the spot.

Nowrasteh has made it clear that these aspects of guest worker programs don't concern him. The hourly wage that must be paid to farmworkers in most states in the H-2A guest worker program is in the \$9 or \$10 range. On a panel last month however, I heard him suggest the program forces growers to pay farmworkers too much! Nowrasteh also claims the Bracero guest worker program during the 1940s to '70s "was the most effective guest worker visa in the history of government-managed migration," and laments the program ended because of "pressure from labor unions led by César Chávez and activist bureaucrats." Nowrasteh conveniently fails to mention the reason a civil rights hero like Chávez sought to end the program is because—as Farmworker Justice put it—it "became notorious for abuse and exploitation as well as the indignities of racism and discrimination inflicted upon the workers." (And former Bracero workers agree.) If this is Nowrasteh's view of an ideally managed guest worker program, I'd hate to know what a poorly managed one looks like.

On this International Migrants Day, we should commit to protecting migrant workers by reforming our immigration system in a way that honors their contributions and protects the basic labor and human rights of those who come to our country. The outline for a realizable solution to do this is clear. Immigration reform must include a pathway to citizenship for most of the unauthorized population, coupled with a reliable worksite verification mechanism that largely removes employers from the process, and uses a secure identifier and database that adequately protects workers' privacy. Worksite verification and enforcement will deter new flows of unauthorized workers, while a commission on foreign workers will advise Congress on the composition of new legal flows, based on the best available data on the labor market. When it comes to guest worker programs, they should be reformed significantly to prevent their use as a wage-busting strategy for employers or as a way to keep foreign workers indentured. There are many ways to repair the programs, for instance by improving labor market testing and fixing the prevailing wage rules. Or by making temporary visas "provisional," which under one reasonable proposal, would allow workers to freely switch employers after one year, and eventually allow them to self-petition for a green card, putting them on a path to citizenship and full participation in American society.