Predatory Immigration Regimes

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Migrant Workers
150,000,000

Refugees & Asylum Seekers
28,500,000

Cross-border-trafficked people
600,000 - 800,000
Snapshot of U.S. Low Wage Labor Force

- 79% U.S. citizens at birth
- 9% Undocumented (Undoc.)
- 11.6% All other foreign nationals
- 0.3% temporary foreign worker programs
Undocumented workers as a share of the U.S. labor force

- 0%
- 1%
- 2%
- 3%
- 4%
- 5%
- 6%

International regulatory abyss

- No requirement of sufficient work visas
- No requirement to regularize
- Unratified protections for temporary foreign workers
- Stalled norm development
Fundamental ILO Conventions versus ILO Migrant Worker & Ag. Conventions

Ratification of “Core” UN Human Rights Treaties
# Predictable harms arising from immigration regime

## UNDOCUMENTED WORKERS
- Wage and remedy “discount”
- Criminalization
- Clandestinization
- Fear, shame, loss of hope
- Border harms (60%)
- Status discrimination
- Masks child labor
- Smuggling debt

## TEMPORARY FOREIGN WORKERS
- Employer-tied
- Blacklisting
- Confiscation of passports

## BOTH
- De jure exclusions
- Higher workplace injury and fatality rates
- Family disruption
- Heightened likelihood of forced labor, indentured servitude, debt bondage and human trafficking
- Lack of access to justice, including returnees
- Racial and ethnic discrimination
Interventions

• Legal arguments
  – Just and favorable conditions of work
  – Full employment under conditions safeguarding fundamental political and economic freedoms to the individual
  – Extraterritorial obligations
    – International humanitarian law as interpretive tool

• Shaming terminology

• Index - mix of legal and derived norms
Shifting the Shame

- Joseph Carens – moral obligation to regularize irregular migrants who have “established themselves firmly as members of society”

- Colin Grey – “integrated” migrants should be given a “non-oppressive status”

- Peter Singer – new ethic, need to reconsider the moral significance we currently place on national boundaries

- Sarah Fine – immigration controls should seek new prescriptions to correct for racist impact and racist colonial legacy

- Patty Tamara Lenard – need to respect decisions of guestworkers as “autonomous agents”

- Joel Trachtman – ethical distribution and liberty dictate ‘structuring borders to advance position of the least fortunate”

- Chantal Thomas – “presumption of sovereign exclusion need not be seen as immutable”
- Deportation Defense, Asylum
- Special Immigrant Juvenile Status
- Guardianship
- Domestic Violence, Trafficking-Victim-Visas
- Wrongful Discharge
- H2-A Recruitment Abuse
- Wage and Hour
- Policy projects