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# Work, Migration, & Identity: An Introduction to the Symposium

## **Cover Page Footnote**

International Law; Commercial Law; Law

## **Work, Migration, & Identity: An Introduction to the Symposium**

*Hiroshi Motomura*\*

Max Frisch wrote: “We wanted workers, but humans came.”<sup>1</sup> The noted Swiss author Frisch wrote these words over thirty years ago about guest workers in his own country, but they are equally apt in the United States today. This nugget of social commentary sets the stage for this Symposium on Work, Migration, and Identity.

The Symposium is a very ambitious undertaking in a number of ways. In spite of the predominance of law professors as panelists, this is an interdisciplinary event. The *Journal* has deliberately defined the Symposium topic in a way that cuts across the traditional boundaries of conversation. Accordingly, our contributors approach the issues with very different methodologies and with very different perspectives.

In particular, consider the different roles that “work” plays in the several contributions to this issue. The multiple roles of work should be evident whenever we think about work in connection with migration and identity. Work is sometimes significant as a part of ongoing debates about immigration. In this respect, work typically functions as a ticket of admission. This might be through some of the employment-based admission categories for immigrants, or it might be through programs designed to admit temporary workers. Difficult questions include how many people we should admit based on work, how long we should allow them to stay, and how we should treat them while they are here.

Focusing on this first role for work, Howard Chang’s article argues that programs for guest-worker admissions are only “second-best” because they are at odds with the open access to

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<sup>1</sup> MAX FRISCH, *Überfremdung I*, in SCHWEIZ ALS HEIMAT? 219 (1990) (translation by the author).

citizenship that liberal principles of justice seem to demand.<sup>2</sup> At the same time, there are serious limits of political feasibility, especially given the unacceptability of more liberal admission and citizenship policies. Under these circumstances, guest-worker programs are better than the status quo, Professor Chang argues. Mary Lee Hall's contribution focuses on the admission of temporary foreign agricultural workers under U.S. immigration law.<sup>3</sup> For them, work is an admission ticket, but it comes at great cost by way of sacrifices in health, safety, and labor and living standards. She explains how, perhaps counterintuitively, temporary agricultural workers admitted lawfully are in a much worse position than undocumented workers, as far as workplace protections are concerned. In a similar vein, Lenni Benson examines the "invisibility" of undocumented workers.<sup>4</sup> She examines the gap between the formal immigration law's rendering of these workers as outside the law and the much more textured world that these workers inhabit outside our field of vision. Professor Benson argues that the contributions of undocumented workers should secure for them much more recognition and protection than they now have in American law and society.

Work can also play a very different role in relation to migration and identity. Instead of seeing work as a means of admission, consider how work also is a part of belonging and, in turn, of identity. In this sense, work is not a means but an object of admission. Linda Bosniak addresses this question directly by exploring the role of work in citizenship, and how the relationship between citizenship and work differs, depending on the conception of citizenship one assumes—as legal status, as equal citizenship, or as political engagement.<sup>5</sup> She explains how this relationship is key to understanding recent developments in organized labor's attitude toward immigrants and immigration.

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<sup>2</sup> Howard F. Chang, *Liberal Ideals and Political Feasibility: Guest-Worker Programs as Second-Best Policies*, 27 N.C. J. INT'L L. & COM. REG. 465 (2002).

<sup>3</sup> Mary Lee Hall, *Defending the Rights of H-2A Farmworkers*, 27 N.C. J. INT'L L. & COM. REG. 521 (2002).

<sup>4</sup> Lenni B. Benson, *The Invisible Worker*, 27 N.C. J. INT'L L. & COM. REG. 483 (2002).

<sup>5</sup> Linda Bosniak, *Citizenship and Work*, 27 N.C. J. INT'L L. & COM. REG. 497 (2002).

Victor Romero writes of “work” in both of its meanings.<sup>6</sup> He first explains why high school education should be recognized as a form of work, and in turn why successful completion of high school should be a ticket to admission for undocumented young people. He then explains why these students, once admitted, should have access to postsecondary education in the United States. In this sense, one object of admission is work in the form of education—assuming that education is “work,” which is itself an intriguing question.

Leti Volpp also focuses on work as both a means and an object of admission.<sup>7</sup> She examines how the law regulates and constructs identities, with a particular focus on the problem of workplace narratives. These narratives may help obtain redress for exploited immigrants by providing them with a means to lawful admission and other remedies. At the same time, these narratives may also replicate detrimental discourses concerning immigrants’ identity and membership, especially in the context of economic globalization.

Finally, James Johnson places both meanings of work in the context of current developments.<sup>8</sup> Before September 11, 2001, policymakers and commentators seemed to share certain assumptions about the relationship between work and migration, and in turn about their relationship to identity. Policies and perspectives were heavily contested, but there was much faith in the fact (if not the desirability) of cultural and economic globalization. In this context, work was widely viewed as a ticket to admission and as an element of identity and membership. Clearly, our sense of national closure is stronger after September 11. Professor Johnson’s paper addresses how this sense of national closure undermines pre-September 11 assumptions about the relationships among work, migration, and identity.

Legal commentators, like perhaps all writers, are accustomed to thinking in traditional categories. It would be easy to have a

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<sup>6</sup> Victor C. Romero, *Postsecondary School Education Benefits for Undocumented Immigrants: Promises and Pitfalls*, 27 N.C. J. INT’L L. & COM. REG. 393 (2002).

<sup>7</sup> Leti Volpp, *Migrating Identities: On Labor, Culture, and Law*, 27 N.C. J. INT’L L. & COM. REG. 507 (2002).

<sup>8</sup> James H. Johnson, Jr., *U.S. Immigration Reform, Homeland Security, and Global Economic Competitiveness in the Aftermath of the September 11, 2001 Terrorist Attacks*, 27 N.C. J. INT’L L. & COM. REG. 419 (2002).

symposium about guest-worker programs or employment-based immigrant admissions, and it would be easy to have a symposium about the role of work in alternative conceptions of identity and belonging. This Symposium is an attempt to go much further, and to rethink and reshape those categories, in the faith that doing so will enrich the dialogue in each of them.