

CHNV AS A MODEL FOR A NEW GUEST WORKER PROGRAM

*Nicole Hallett**

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I. INTRODUCTION

On March 21, 2025, the Department of Homeland Security (DHS) announced that it would revoke the legal status of the 530,000 individuals who had entered the United States since 2023 on the Cuba, Haiti, Nicaragua, and Venezuela (CHNV) Humanitarian Parole Program effective April 24, 2025.¹ The fate of the program was already clear in the first days of the new administration. One of the first acts of the Trump administration was to end new applications for the program.² Although

* University of Chicago Law School.

1. Diana Ramirez-Simon, *Trump Revokes Legal Status of 530,000 Cubans, Haitians, Nicaraguans and Venezuelans*, THE GUARDIAN (Mar. 21, 2025, at 17:38 ET), <https://www.theguardian.com/us-news/2025/mar/21/trump-revoke-legal-status-cuban-haitian-nicaraguan> [https://perma.cc/3J8X-7PZS].

2. See Sergio Martínez-Beltrán, *Trump Orders End of Humanitarian Parole for Migrants of 4 Countries*, NPR (Jan. 20, 2025, at 23:48 ET), <https://www.npr.org/2025/01/20/nx-s1-5268986/trump-humanitarian-parole-immigration> [https://perma.cc/7WCL-34M9].

courts temporarily paused the program's cancellation,³ the Supreme Court subsequently allowed the cancellation to move forward.⁴ With the announcement, a two-year experiment with a new kind of immigration program has come to an end.⁵

Given the priorities and policy positions of the current administration,⁶ we are unlikely to see another temporary parole program of this magnitude in the United States in the near future. Yet, as immigration scholars, we cannot train our focus myopically on what occurs over the next four years. The problems that led the Biden administration to create the CHNV program⁷ will still exist in 2029 and beyond. The CHNV program was a novel solution to these problems, and we should evaluate its success or failure to determine whether to support such programs in the future.

I have a particular interest in assessing the CHNV program because I originally suggested a similar program a year before the Biden administration created it (though I do not mean to suggest that I am the only one who had the idea or that the administration got the idea from me). In a book chapter I co-authored with Angela Remus in 2022, we wrote that:

The United States should also consider whether it should create a new form of humanitarian protection outside of the existing asylum system that would not require applicants to prove the technical requirements of asylum. This form of protection could be nationality-specific and omit the requirement of proving asylum eligibility, akin to the Cuban Haitian Entrant Program (CHEP) The administration could parole individuals who meet certain requirements into the country

3. *See generally* Doe v. Noem, 778 F. Supp. 3d 311 (D. Mass. 2025), *stay denied*, No. 25-1384, 2025 WL 1505688 (1st Cir. May 5, 2025) (granting a temporary injunction to preserve the status quo and prevent immediate harm to potential participants during the ongoing legal review of the proposed program termination).

4. Josh Gerstein, *Supreme Court Allows Trump Administration to Cancel Legal Status for Half-Million Immigrants*, POLITICO (May 30, 2025, at 17:30 ET), <https://www.politico.com/news/2025/05/30/supreme-court-trump-immigration-parole-00376419> [<https://perma.cc/4W9F-R292>].

5. *See id.*

6. *See generally* Tara Watson & Jonathon Zars, *100 Days of Immigration Under the Second Trump Administration*, BROOKINGS: COMMENTARY (Apr. 29, 2025), <https://www.brookings.edu/articles/100-days-of-immigration-under-the-second-trump-administration/> [<https://perma.cc/XQC9-KWXL>] (detailing how the administration has shifted immigration policy toward an "anti-immigrant direction" by ending humanitarian parole programs, increasing interior enforcement through local law enforcement partnerships, and attempting to circumvent due process via the Alien Enemies Act).

7. *See infra* note 10.

temporarily and continue to renew the parole as long as the conditions in [their home countries] remain dangerous.⁸

I proposed such a parole program as a way of alleviating the burden on the asylum system at the border.⁹ The Biden administration, in announcing the program, relied on a slightly different rationale, stating that the CHNV program was designed to “improve border security, limit irregular migration, and create additional safe and orderly processes for people fleeing humanitarian crises to lawfully come to the United States.”¹⁰

It largely succeeded in accomplishing those goals. Numbers of individuals arriving at the border seeking asylum from the CHNV countries dropped precipitously after the program was implemented.¹¹ This drop in numbers was not entirely because of the CHNV program. Greater immigration enforcement by Mexico¹² and the “lawful pathways” rule that limited the availability of asylum for individuals arriving at the border without permission contributed as well.¹³ Yet a critical part of the plan to “limit irregular migration” was the availability of lawful pathways so that people did not have to make the dangerous journey to and across the border in order to seek protection in the United States.¹⁴

The decrease in migrants arriving at the border was only one effect of the program. While the program was based primarily on border security and humanitarian rationales, it also supplied the U.S. economy

8. Nicole Hallett & Angela Remus, *Rethinking Asylum Adjudication and Refugee Resettlement in the Context of Central American Migration*, in *TRUMP'S LEGACY IN MIGRATION POLICY AND POSTPANDEMIC CHALLENGES FOR BIDEN* 137, 152 (Mónica Vereá & Camelia Tigau eds., 2022).

9. *See id.*

10. *DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes*, U.S. DEPT OF HOMELAND SEC. (Jan. 5, 2023), <https://www.dhs.gov/archive/news/2023/01/05/dhs-continues-prepare-end-title-42-announces-new-border-enforcement-measures-and> [<https://perma.cc/S3KF-WKE3>].

11. *See infra* Section I.B.

12. Georgina Zerega & Iker Seisdedos, *The US and Mexico Agree to More Border Control to Stop the Migratory Wave*, EL PAÍS (Dec. 22, 2023, at 05:29 ET), <https://english.elpais.com/international/2023-12-22/the-us-and-mexico-agree-to-more-border-control-to-stop-the-migratory-wave.html> [<https://perma.cc/D344-65Y7>].

13. Circumvention of Lawful Pathways, 88 Fed. Reg. 31314 (May 16, 2023) (to be codified at 8 C.F.R. pts. 208, 1003, 1208).

14. *See DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes*, *supra* note 10.

with over 500,000 potential workers¹⁵ at a time of worker shortages.¹⁶ The U.S. economy proved far more resilient than many other economies in the face of the COVID-19 pandemic, in part because of the high rates of immigration during the pandemic years.¹⁷ In fact, Ernie Tedeschi has found that at least a fifth of GDP growth since 2019 is attributable to immigration.¹⁸ Unlike most undocumented immigrants, the CHNV program allowed beneficiaries to apply to work lawfully in the United States, which increased their employment opportunities.¹⁹ The program was not designed as a guest worker program, but it constituted a critical part of the United States' swift economic recovery from the pandemic.²⁰

With the end of the program, beneficiaries are at risk of being placed in removal proceedings and many will likely become part of the long-term undocumented population.²¹ Thus, while the program accomplished its goals in the short-term,²² the wisdom of the program in the long-term remains very much in doubt. But even if the CHNV program itself turns out to have been a mistake politically—because its cancellation was rendered inevitable by the results of the 2024 election—the CHNV program could still provide a model for what a new kind of guest worker program could look like: one that melds humanitarian and economic immigration, allowing the United States to fulfill its obligation to protect those fleeing danger and its economic interest in a ready supply of workers. It also could provide a blueprint for a more permanent program

15. *CBP Releases August 2024 Monthly Update*, U.S. CUSTOMS & BORDER PROT. (Sep. 16, 2024), <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-august-2024-monthly-update> [<https://perma.cc/Z7XH-U47H>].

16. Stephanie Ferguson Melhorn, *Understanding America's Labor Shortage*, U.S. CHAMBER OF COM. (Feb. 20, 2026), <https://www.uschamber.com/workforce/understanding-americas-labor-shortage> [<https://perma.cc/KU8M-L2EX>].

17. Ernie Tedeschi, *Immigration and the U.S. Economy Since the Pandemic: An Accounting Exercise*, BRIEFING BOOK (Apr. 1, 2024), <https://www.briefingbook.info/p/immigration-and-the-us-economy-since> [<https://perma.cc/6AKZ-JY2V>].

18. *Id.*

19. *The Biden Administration's Humanitarian Parole Program for Cubans, Haitians, Nicaraguans, and Venezuelans: An Overview*, AM. IMMIGR. COUNCIL (Oct. 31, 2023), <https://www.americanimmigrationcouncil.org/research/biden-administrations-humanitarian-parole-program-cubans-haitians-nicaraguans-and> [<https://perma.cc/2X5A-JAUN>]; 8 C.F.R. § 274a.12(c)(11) (2025).

20. *See* Tedeschi, *supra* note 17.

21. Camilo Montoya-Galvez, *U.S. to Revoke Legal Status of More Than a Half-Million Migrants, Urges Them to Self Deport*, CBS NEWS (Mar. 23, 2025, at 16:24 ET), <https://www.cbsnews.com/news/u-s-to-revoke-legal-status-of-over-a-half-million-migrants-chnv/> (“The Department of Homeland Security said it will seek the arrest and deportation of those subject to the policy change if they fail to depart the U.S. in the next 30 days.”).

22. *See infra* Section I.B.

that avoids some of the pitfalls of previous guest worker programs and proposals.

In this essay I argue that while the CHNV program was not designed as a guest worker program, it shared many characteristics with such programs. Perhaps more importantly, the differences between traditional guest worker programs and the CHNV program suggest a blueprint for a new kind of guest worker program that incorporates the best elements of the CHNV program.

II. BACKGROUND

A. *The Origins of the CHNV Program*

The CHNV Parole Program was announced by the Biden administration as part of a larger plan to address migration at the U.S.-Mexico border after the end of Title 42.²³ The first Trump administration had invoked Title 42 of the U.S. Code in March 2020 under the authority of the Centers for Disease Control and Prevention (CDC).²⁴ Title 42 allows the federal government to restrict entries into the United States because of public health emergencies.²⁵ The invocation of Title 42 permitted the government to expel most asylum-seekers without allowing them to apply for asylum.²⁶ The Biden administration announced plans to end Title 42 in May 2022,²⁷ but this move was met with significant pushback, both politically and legally. Republican-led states and organizations filed lawsuits to prevent the policy's termination, arguing that it was still necessary for border security and public health reasons.²⁸ It wasn't until May 11, 2023, when the public

23. *DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes*, *supra* note 10.

24. *P.J.E.S. ex rel Escobar Francisco v. Wolf*, 502 F. Supp. 3d 492, 503 (D.D.C. 2020); Andrew R. Arthur, *HHS Issues New Title 42 Order in Response to Wuhan Coronavirus*, CTR. FOR IMMIGR. STUD. (May 22, 2020), https://cis.org/Arthur/HHS-Issues-New-Title-42-Order-Response-Wuhan-Coronavirus?utm_source=https://perma.cc/P6NG-CPNZ.

25. *See* 42 U.S.C. § 265.

26. *See A Guide to Title 42 Expulsions at the Border*, AM. IMMIGR. COUNCIL (May 25, 2022), <https://www.americanimmigrationcouncil.org/fact-sheet/guide-title-42-expulsions-border/> [<https://perma.cc/49RQ-3CA3>].

27. Public Health Determination and Order Regarding Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists, 87 Fed. Reg. 19941, 19942 (Apr. 6, 2022) (to be codified at 42 C.F.R. § 71.40).

28. *See generally* *Louisiana v. Ctr. for Disease Control & Prevention*, 603 F. Supp. 3d 406 (W.D. La. 2022) (enjoining the termination of Title 42 after finding that Republican-led states faced irreparable harm and that the CDC likely bypassed required notice-and-comment procedure).

health emergency declaration for COVID-19 officially ended, that the Title 42 asylum ban was formally terminated.²⁹

Despite the fact that the Title 42 ban ostensibly limited migrants' ability to apply for asylum,³⁰ the number of border encounters rose drastically during the years the policy was in effect.³¹ In 2020, the U.S.-Mexico border saw a brief decline in migration during the early months of the COVID-19 pandemic due to strict lockdown measures and travel restrictions, but the decrease was temporary.³² There were 1.66 million encounters at the border in 2021 and a record high of 2.05 million in 2023.³³

With the end of the Title 42 ban in May 2023, the Biden administration implemented a series of other policies intended to limit irregular migration at the U.S.-Mexico border.³⁴ One such policy was the Circumvention of Lawful Pathways rule, which made individuals ineligible for asylum if they arrived at the border without prior permission, either through the CBP One app or through other lawful pathways.³⁵ The CHNV program was one of those lawful pathways created around the same time the Circumvention of Lawful Pathways rule went into effect.³⁶

The program targeted individuals from countries that were experiencing high rates of migration to the United States: Cuba, Haiti, Nicaragua, and Venezuela.³⁷ To be eligible for the program, individuals needed to have a financial sponsor in the United States and pass health and background checks.³⁸ Beneficiaries received a grant of humanitarian parole, typically for two years, the ability to work, and the opportunity to

29. See Drishti Pillai & Samantha Artiga, *Title 42 and Its Impact on Immigration and Migrant Families*, KFF (Jan. 17, 2025), <https://www.kff.org/racial-equity-and-health-policy/issue-brief/title-42-and-its-impact-on-immigration-and-migrant-families/> [https://perma.cc/2AXV-YYTF].

30. See Arthur, *supra* note 24.

31. Ashley Wu, *Why Illegal Border Crossings Are at Sustained Highs*, N.Y. TIMES (Oct. 29, 2023), <https://www.nytimes.com/interactive/2023/10/29/us/illegal-border-crossings-data.html> [https://perma.cc/S6U4-FHLD].

32. *Id.*

33. *Id.*

34. DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes, *supra* note 10.

35. Circumvention of Lawful Pathways, 88 Fed. Reg. 31314.

36. *The Biden Administration's Humanitarian Parole Program for Cubans, Haitians, Nicaraguans, and Venezuelans: An Overview*, *supra* note 19.

37. *Id.*

38. *Id.*

apply for more permanent relief such as asylum.³⁹ The program permitted up to 30,000 individuals to be paroled in each month.⁴⁰

B. Effects of the CHNV Program

The primary effect of the CHNV Program—together with the other enforcement measures announced in 2023—was a drop in irregular migration at the U.S.-Mexico border.⁴¹ A Center for American Progress study found that after the program went into effect, the average monthly encounters with CHNV nationals in between official ports of entry decreased 65.7 percent, whereas the average monthly encounters with non-CHNV nationals over the same time period saw only a 2.9 percent decrease.⁴² From record highs, total border encounters fell from 250,000 encounters in December 2023 to just under 50,000 in December 2024, an 81% decrease.⁴³

Although it is difficult to disentangle the economic effects of the CHNV program specifically as opposed to the effects of migration in general, many of the migrants who came and were permitted to work legally during the 2023 to 2025 period came through the CHNV program.⁴⁴ CHNV beneficiaries entered the labor force in sectors facing chronic shortages, such as manufacturing, hospitality, healthcare, and construction.⁴⁵ These industries have historically relied on immigrant workers to fill low-wage, labor-intensive jobs, and the CHNV program helped meet these labor demands during a time when the U.S. economy was recovering from the impacts of the COVID-19 pandemic.⁴⁶ Beneficiaries of the CHNV program contributed directly to stabilizing labor markets, helping industries continue functioning without severe disruptions.⁴⁷ They helped alleviate labor shortages in industries that are critical to the U.S. economy, increasing productivity and maintaining

39. *Id.*

40. *Id.*

41. Tom K. Wong, *CAP Analysis Shows that Expanded Legal Pathways to Enter the U.S. Reduce Irregular Migration*, CTR. FOR AM. PROGRESS (Aug. 7, 2024), <https://www.americanprogress.org/article/cap-analysis-shows-that-expanded-legal-pathways-to-enter-the-u-s-reduce-irregular-migration/> [https://perma.cc/4WUR-UERX].

42. *Id.*

43. *CBP Releases December 2024 Monthly Update*, U.S. CUSTOMS & BORDER PROT. (Jan. 14, 2025), <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-december-2024-monthly-update> [https://perma.cc/S8S4-DFQD].

44. See Phillip Connor, *Industries with Critical Labor Shortages Added Hundreds of Thousands of Workers Through Immigration Parole*, FWD.US (Mar. 26, 2025), <https://www.fwd.us/news/immigration-labor-shortages> [https://perma.cc/LT8T-AAJ5].

45. *See id.*

46. *Id.*

47. *Id.*

supply chains, particularly in construction and service industries.⁴⁸ Beneficiaries also paid taxes and were consumers, both of which increased economic growth.⁴⁹

High rates of migration in the post-pandemic period had positive effects on the U.S. economy and very few negative effects on U.S. workers. According to studies, high rates of migration in the post-pandemic period contributed 0.1% to GDP growth for 2022 and 2023 (it is too soon to have studies yet for 2024).⁵⁰ Moreover, migration did not have adverse effects on the wages or employment rates of native-born Americans.⁵¹ In fact, wage growth was higher in industries with higher numbers of immigrant workers.⁵² Job growth roughly doubled during the 2022 to 2024 period because of higher rates of migration⁵³ and wages continued to rise faster than inflation.⁵⁴

III. GUEST WORKER PROGRAMS

A. *Characteristics of Guest Worker Programs*

As traditionally understood, a guest worker program is a type of immigration program that allows foreign nationals to temporarily work in a country under specific conditions, often in sectors with labor shortages.⁵⁵ These programs typically involve workers coming to the country for a set period of time, often with restrictions on how long they

48. *Id.*

49. WENDY EDELBERG & TARA WATSON, NEW IMMIGRATION ESTIMATES HELP MAKE SENSE OF THE PACE OF EMPLOYMENT 1 (2024), https://www.hamiltonproject.org/wp-content/uploads/2024/03/20240307_ImmigrationEmployment_Paper.pdf [<https://perma.cc/3T6Z-NREV>].

50. Pia Orrenius et al., *Unprecedented U.S. Immigration Surge Boosts Job Growth, Output*, FED. RSRV. BANK OF DALL. (July 2, 2024), <https://www.dallasfed.org/research/economics/2024/0702> [<https://perma.cc/2ZF2-48ZA>].

51. American Immigration Council Staff, *Immigrants Do Not Displace US Workers or Reduce Wages*, AM. IMMIGR. COUNCIL (July 9, 2024), <https://www.americanimmigrationcouncil.org/blog/immigrants-do-not-take-americans-jobs-wages/> [<https://perma.cc/H5S2-953Y>].

52. Orrenius et al., *supra* note 50.

53. EDELBERG & WATSON, *supra* note 49, at 7.

54. Elise Gould, *Average Wages Have Surpassed Inflation for 12 Straight Months*, ECON. POLY INST. (May 15, 2024, at 08:55 ET), <https://www.epi.org/blog/average-wages-have-surpassed-inflation-for-12-straight-months> [<https://perma.cc/ZCT5-Z2ND>].

55. See Doris Meissner, *U.S. Temporary Worker Programs: Lessons Learned*, MIGRATION POLY INST. (Mar. 1, 2004), <https://www.migrationpolicy.org/article/us-temporary-worker-programs-lessons-learned?utm> [<https://perma.cc/3JQ8-MGWC>].

can stay, where they can work, and whether they can bring family members with them.⁵⁶

The most defining characteristic of guest worker programs is that they are temporary in nature.⁵⁷ Workers are allowed to come into the country to perform specific jobs for a limited time, after which they are expected to leave unless granted an extension or a change in status.⁵⁸ This type of visa does not generally offer a pathway to permanent residency or citizenship.⁵⁹

In many guest worker programs, the worker's visa status is tied to a specific employer or job.⁶⁰ The employer is generally required to sponsor the worker, meaning they are responsible for ensuring that the worker complies with the program's requirements.⁶¹ Many guest worker programs subject both workers and employers to strict legal requirements.⁶² Employers must ensure workers are paid at least the prevailing wage for the job and that they are not exploited.⁶³ Workers must follow the terms of their visa, including leaving the country when their work authorization expires.⁶⁴

Guest worker programs are often designed to meet labor shortages in specific industries.⁶⁵ If the demand for workers decreases or if there are sufficient domestic workers available, the program may be scaled back or adjusted.⁶⁶ Historically, they have not had a humanitarian purpose.⁶⁷ In other words, these programs are designed to benefit the economy in the receiving country not the workers themselves or their countries of origin.⁶⁸

56. See Richard Arneson, *Guest Worker Programs and Reasonable, Feasible Cosmopolitanism*, 47 J. LEGAL STUD. S169, S171 (2018).

57. Meissner, *supra* note 55.

58. *See id.*

59. *Id.*

60. Arneson, *supra* note 56, at S171.

61. Mary Bauer & Meredith Stewart, *Close to Slavery: Guestworker Programs in the United States*, S. POVERTY L. CTR. (Feb. 19, 2013), <https://www.splcenter.org/resources/reports/close-slavery-guestworker-programs-united-states> [<https://perma.cc/YS2K-DVPK>].

62. *Id.*

63. *Id.*

64. *Id.*

65. Meissner, *supra* note 55.

66. See Bauer & Stewart, *supra* note 61.

67. *See id.*

68. *See id.*

B. History of Guest Worker Programs in the United States

The history of guest worker programs in the United States is deeply intertwined with the country's economic growth, labor demands, and changing immigration policies.⁶⁹ In the early colonial period, the United States relied on European immigrants, indentured servants, and enslaved people to meet its labor needs, particularly in agriculture and industry.⁷⁰ There was no formal guest worker program at this time, but various forms of temporary or contract labor existed, such as indentured servitude, which bound workers to work for a certain number of years in exchange for passage to the colonies.⁷¹

By the 19th century, the United States began to industrialize, leading to a growing demand for labor, particularly in urban areas and manufacturing centers.⁷² Immigration surged during this period, with many workers coming from Europe.⁷³ These workers were not part of a formal guest worker program, but rather part of the larger wave of immigration to fill industrial jobs.⁷⁴

In 1868, China and the United States signed the Burlingame Treaty, which brought Chinese workers to the United States to work on the Transcontinental railroad.⁷⁵ Although thousands of Chinese laborers came to work in the United States under the treaty, public opinion quickly turned against the program, particularly after railroad jobs dried up.⁷⁶ The treaty was repealed as part of the Chinese Exclusion Act of 1882, which contained the first substantial federal restrictions on immigration since the country's founding.⁷⁷ Increasing nativism during this era led to the Immigration Act of 1924, which severely restricted immigration for the first half of the twentieth century.⁷⁸

69. *See id.*

70. Mary Sarah Bilder, *The Struggle over Immigration: Indentured Servants, Slaves, and Articles of Commerce*, 61 MO. L. REV. 743, 751–52 (1996).

71. *Id.*

72. *See* Bauer & Stewart, *supra* note 61.

73. *See id.*

74. *See id.*

75. Leila Higgins, *Immigration and the Vulnerable Worker: We Built this Country on Cheap Labor*, 3 AM. U. LAB. & EMP. L.F. 522, 529 (2013).

76. Andy Z. Lei, *From Railroads to Real Estate: The Legacy of Exclusion Revived in New Alien Land Laws*, 26 ASIAN-PAC. L. & POL'Y J. 102, 107 (2024); Higgins, *supra* note 75, at 532.

77. Higgins, *supra* note 75, at 108; *Ping v. United States (Chinese Exclusion Case)*, 130 U.S. 581, 609–10 (1889).

78. Muzaffar Chishti & Julia Gelatt, *A Century Later, Restrictive 1924 U.S. Immigration Law Has Reverberations in Immigration Debate*, MIGRATION POLLY INST. (May 15, 2024), <https://www.migrationpolicy.org/article/1924-us-immigration-act-history> [<https://perma.cc/J2GK-2JRB>].

World War II required the creation of a new immigration policy. With many American men serving in the military, there was a significant labor shortage in agriculture and other industries.⁷⁹ In response, the U.S. government negotiated an agreement with Mexico to allow Mexican workers to temporarily enter the country to work on farms, primarily in the Southwest, in what came to be known as the Bracero Program.⁸⁰

The Bracero Program lasted from 1942 to 1964 and brought over four million Mexican workers into the United States under a temporary contract system.⁸¹ While the program was intended to meet labor demands during the war and in the post-war years,⁸² Bracero workers became a key part of the agricultural workforce for decades.⁸³ The program was controversial, with criticisms over exploitation, poor working conditions, and low wages for workers.⁸⁴ Many braceros faced mistreatment, and the program became a point of tension between U.S. policymakers and labor rights activists.⁸⁵ Mass deportations, including the offensively named “Operation Wetback,” during and after the program’s end put a tragic coda on this early attempt at a guest worker program.⁸⁶

The modern framework for guest worker programs in the United States emerged through the creation of the H-2 program in the Immigration and Nationality Act of 1952,⁸⁷ which was subsequently split into the H-2A and H-2B visa programs in the Immigration Reform and Control Act of 1986.⁸⁸ The H-2A program allows foreign workers to come to the United States temporarily to fill agricultural jobs that cannot be

79. See generally MAE M. NGAI, IMPOSSIBLE SUBJECTS 137 (2014) (discussing how the Bracero Program was established as a wartime Migrant Labor Agreement to address labor needs by contracting Mexican nationals for railroad and agricultural work during World War II).

80. See *id.* at 127–66 (detailing the history of the Bracero Program of the 1940s, 50s, and 60s).

81. Merav Lichtenstein, *An Examination of Guest Worker Immigration Reform Policies in the United States*, 5 CARDOZO PUB. L., POL’Y & ETHICS J. 689, 692 (2007).

82. See Maria Elena Bickerton, *Prospects for a Bilateral Immigration Agreement with Mexico: Lessons from the Bracero Program*, 79 TEX. L. REV. 895, 901 (2001).

83. See *id.* at 905.

84. See *id.* at 909.

85. Robert Russo, *Collective Struggles: A Comparative Analysis of Unionizing Temporary Foreign Farm Workers in the United States and Canada*, 41 HOU. J. INT’L L. 5, 43 (2018).

86. See generally JUAN RAMON GARCÍA, OPERATION WETBACK (1980) (discussing the mass deportation campaign and its impact on Mexican laborers and U.S.-Mexico relations following the guest worker initiatives of the era).

87. See H. Michael Semler, *Aliens in the Orchard: The Admission of Foreign Contract Laborers for Temporary Work in U.S. Agriculture*, 1 YALE L. & POL’Y REV. 187, 193 (1983).

88. Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, 100 Stat. 3445 (1986).

filled by American workers.⁸⁹ The program requires that employers pay for travel expenses, ensure fair wages, and provide decent working conditions for guest workers,⁹⁰ though these requirements are often violated.⁹¹ The H-2B program allows temporary workers to be hired for non-agricultural jobs in industries such as construction, hospitality, and landscaping.⁹² The programs have been controversial in recent years, with some arguing that it is used to undercut wages and exploit low-wage workers.⁹³

Throughout the 1990s and 2000s, debates surrounding guest worker programs intensified.⁹⁴ On one hand, there has been continued pressure from industries like agriculture, construction, and hospitality for a reliable supply of foreign workers.⁹⁵ On the other hand, concerns about labor exploitation, job displacement for American workers, and national security have prompted scrutiny of these programs.⁹⁶ Recent proposals that have failed to pass Congress include an expanded agricultural worker program called AgJobs that was introduced in 2001, 2003, and 2019⁹⁷ and a proposal to create an H-2C program that would have allowed workers to do temporary non-seasonal work.⁹⁸ Political polarization between the parties on immigration made each subsequent proposal less likely to pass than the last.⁹⁹ By the time the COVID-19

89. 8 U.S.C. § 1101(a)(15)(H)(ii)(a).

90. CENTRO DE LOS DERECHOS DEL MIGRANTE, INC., RIPE FOR REFORM: ABUSE OF AGRICULTURAL WORKERS IN THE H-2A VISA PROGRAM 1, 11–12 (2020), <https://cdmigrante.org/wp-content/uploads/2020/04/Ripe-for-Reform.pdf> [<https://perma.cc/GNQ5-UWJM>].

91. *See id.* at 7.

92. 8 U.S.C. § 1101(a)(15)(H)(ii)(b).

93. Alice J. Baker, *Agricultural Guestworker Programs in the United States*, 10 TEX. HISP. J. L. & POL'Y 79, 100–01 (2004).

94. *1990s-2000s: NAFTA, Immigration Backlash*, NBC NEWS (May 27, 2008, at 17:34 ET) <https://www.nbcnews.com/id/wbna24714282> [<https://perma.cc/9EEW-E4BT>].

95. *See Guest Workers: Advocates Change*, RURAL MIGRATION NEWS (July 1999), <https://migration.ucdavis.edu/rmn/more.php?id=392> [<https://perma.cc/5HA5-R4SL>].

96. Camille J. Bosworth, *Guest Worker Policy: A Critical Analysis of President Bush's Proposed Reform*, 56 HASTINGS L.J. 1095, 1109, 1112 (2005); Dennis J. Loiacono & Jillian Maloff, *Be Our Guest: Synthesizing a Realistic Guest Worker Program as an Element of Comprehensive Immigration Reform*, 24 HOFSTRA LAB. & EMP. L.J. 111, 116 (2006).

97. Philip Martin, *Ag-JOBS: New Solution or New Problem?*, 38 U.C. DAVIS L. REV. 973, 983–84 (2005); H.R. 5038, 116th Cong. (2019) (Farm Workforce Modernization Act of 2019).

98. HOUSE OF REPRESENTATIVES JUDICIARY COMM., 115TH CONG., THE AGRICULTURAL GUESTWORKER ACT OF 2017 (Comm. Print 2017), https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/legacy_files/wp-content/uploads/2017/10/Ag-Act.pdf [<https://perma.cc/QE36-F25D>].

99. Trent Ollerenshaw & Ashley Jardina, *The Asymmetric Polarization of Immigration Opinion in the United States*, 87 PUB. OP. Q. 1038, 1039 (2023).

pandemic hit in 2020, the debates about guest worker programs—and indeed any kind of immigration reform—were at a standstill.¹⁰⁰

IV. A NEW GUEST WORKER PROGRAM

Since 2020, no new guest worker program has been passed or even been seriously considered in Congress. Yet, the CHNV program had many of the characteristics that we associate with guest worker programs. It was temporary, typically granting parole to individuals for two years.¹⁰¹ It allowed beneficiaries to work; individuals on parole are eligible to apply for work authorization as soon as they enter the country.¹⁰² And beneficiaries in the program satisfied the need for more workers at a time when the U.S. economy desperately needed them.¹⁰³

There were, of course, differences. Most notably, CHNV beneficiaries' work authorization was not tied to a particular employer and did not come with the typical regulations and standards that apply to guest worker programs.¹⁰⁴ Beneficiaries did not have to leave the country if their employment ended; they could simply find another employer.¹⁰⁵ Moreover, beneficiaries were not chosen based on the workers' skills or which industries were experiencing a worker shortage.¹⁰⁶ Instead, they were selected from a pool of applicants in countries experiencing violence or economic disaster.¹⁰⁷ Finally, because they came from unsafe or unstable countries, many beneficiaries had a path to more permanent status once they arrived in the United States, either a more durable

100. Diana Roy et al., *The U.S. Immigration Debate*, COUNCIL ON FOREIGN RELS. (Aug. 7, 2024, at 11:45 ET), <https://www.cfr.org/backgrounders/us-immigration-debate-0> [<https://perma.cc/4E4H-EQQF>].

101. *FAQs on the Effect of Changes to Parole and Temporary Protected Status (TPS) for SAVE Agencies*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Mar. 16, 2026), <https://www.uscis.gov/save/current-user-agencies/guidance/faqs-on-the-effect-of-changes-to-parole-and-temporary-protected-status-tps-for-save-agencies> [<https://perma.cc/ZJ6F-DKWM>].

102. *DHS Announces New Migration Enforcement Process for Venezuelans*, DEP'T OF HOMELAND SEC. (Oct. 12, 2022), <https://www.dhs.gov/news/2022/10/12/dhs-announces-new-migration-enforcement-process-venezuelans> [<https://perma.cc/S9QJ-2HBJ>].

103. Melhorn, *supra* note 16.

104. See generally *The Biden Administration's Humanitarian Parole Program for Cubans, Haitians, Nicaraguans, and Venezuelans: An Overview*, *supra* note 19 (explaining that CHNV parolees may apply for general work authorization after entry, a process distinct from guest worker programs which typically require specific employer sponsorship and adherence to rigid labor regulations).

105. *FAQs on the Effect of Changes to Parole and Temporary Protected Status (TPS) for SAVE Agencies*, *supra* note 101.

106. *Id.*

107. *Id.*

temporary status such as Temporary Protected Status (TPS)¹⁰⁸ or a permanent status such as asylum.¹⁰⁹ If the program had been allowed to continue—and if TPS for Venezuela and Haiti had not been terminated by the second Trump administration¹¹⁰—many CHNV beneficiaries would have eventually found their way into a more stable immigration status, unlike many H-2A and H-2B workers.

I would argue, however, that these differences were a feature, not a bug, of the program. Criticisms of guest work programs generally fall into three categories: that these programs hurt U.S. workers, that guest worker programs lead to worker exploitation and abuse, and that by not creating a path to permanent residency or citizenship, they create a permanent underclass of workers that either remain in a contingent status or fall out of status and become part of the long-term undocumented population.¹¹¹ A program modeled off of the CHNV program, could partially address all three concerns. Moreover, it could help fulfill the United States' commitment to provide protection for individuals fleeing persecution and other harms by only permitting applications from countries with high humanitarian needs.

A. Harm to U.S. Workers

Critics often point to the harm guest worker programs impose on U.S. workers.¹¹² This critique tends to have high political salience, although the evidence of harm to U.S. workers is mixed.¹¹³ A recent analysis of over fifty studies on the effects of guest worker programs on native workers found that immigration has a neutral or positive effect on wages, though there could be temporary economic shocks if migration occurs too

108. 8 U.S.C. § 1254a; *Temporary Protected Status*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Mar. 17, 2026), <https://www.uscis.gov/humanitarian/temporary-protected-status> [<https://perma.cc/VDP9-HVDS>].

109. See 8 U.S.C. § 1158.

110. See *Temporary Protected Status Designated Country: Venezuela*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Oct. 23, 2025), <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela> [<https://perma.cc/W43D-5M5R>]; *Temporary Protected Status Designated Country: Haiti*, U.S. CITIZENSHIP & IMMIGR. SERVS. (Feb. 4, 2025), <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-haiti> [<https://perma.cc/34E2-UZLZ>].

111. Adam S. Chilton et al., *Optimal Design of Guest Worker Programs: An Introduction*, 47 J. LEGAL STUD. S1, S2 (2018).

112. Jennifer J. Lee, *U.S. Workers Need Not Apply: Challenging Low-Wage Guest Worker Programs*, 28 STAN. L. & POL'Y REV. 1, 6 (2017).

113. Chilton et al., *supra* note 111, at S3.

rapidly.¹¹⁴ Even if immigration in general does not cause great harm to U.S. workers, a large influx over a short period of time could.¹¹⁵

A CHNV-type program could respond to this critique by adjusting the number of available visas depending on economic conditions. The CHNV program was capped at 30,000 people per month throughout its existence, but the economic conditions were such that an adjustment downward was not necessary.¹¹⁶ There is currently no cap on H-2A agricultural visas, but there is a cap on H-2B non-agricultural visas at approximately 130,000 per year.¹¹⁷ That number is both too low and not responsive to economic conditions. Allowing Congress to adjust the number of visas up and down each year would likely lead to a stalemate. Giving the executive branch the authority to do so might lead to wild swings in numbers depending on who is in office, unless the authority is placed within a neutral office in the Department of Labor or some other agency. Still, having the ability to adjust the number of visas on an annual basis would go a long way towards preventing harm to U.S. workers that comes with large influxes of migrants. If unemployment rates for native-born workers begin to rise, the number of visas could be adjusted downward.

Moreover, a CHNV-type program might decrease the total number, or at the very least would not substantially increase the number, of available workers competing with U.S. workers for jobs. Such a program would draw people from countries where high rates of migration are already occurring, thus not substantially increasing the number of immigrant workers. One goal of the CHNV program was to reduce the number of individuals attempting to migrate irregularly into the United States.¹¹⁸ An important feature of the program was that only individuals who had not yet made the dangerous journey to the U.S.-Mexico border could apply, encouraging many people to stay in their countries and wait to see if they had been selected through the lottery rather than take the

114. Anthony Edo, *The Impact of Immigration on the Labor Market*, 33 J. ECON. SURVS. 922, 944 (2019); see also Joseph G. Altonji & David Card, *The Effects of Immigration on the Labor Market Outcomes of Less-Skilled Natives*, in IMMIGRATION, TRADE, AND THE LABOR MARKET 201 (1991).

115. Edo, *supra* note 114.

116. *The Biden Administration's Humanitarian Parole Program for Cubans, Haitians, Nicaraguans, and Venezuelans: An Overview*, *supra* note 19.

117. Exercise of Time-Limited Authority to Increase the Numerical Limitation for FY 2025 for the H-2B Temporary Nonagricultural Worker Program and Portability Flexibility for H-2B Workers Seeking to Change Employers, 89 Fed. Reg. 95626, 95626–27 (Dec. 2, 2024) (to be codified at 8 C.F.R. pts. 214, 273a); 8 C.F.R. § 214.2 (h)(8)(1)(C) (2025); 8 C.F.R. § 214.2(h)(6)(xiv)(A)(1) (2025).

118. *DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes*, *supra* note 10.

risk of migrating irregularly.¹¹⁹ The CHNV program was successful at decreasing illegal border crossings even though the number of applications vastly outnumbered the number of available parole grants.¹²⁰ In just the first few months, the government received 1.5 million CHNV applications, enough to fill the monthly CHNV allocation for more than four years.¹²¹

The workers coming would also be permitted to work legally, which would have another positive effect on U.S. workers. One way that undocumented immigrants can put downward pressure on wages is by working for less than minimum wage.¹²² Undocumented workers are particularly prone to wage theft because they fear arrest and deportation if they complain.¹²³ By allowing people to work legally, it will make them less vulnerable to exploitation and thus less likely to undercut U.S. workers' wages.

A guest worker program that does not tie workers to a particular employer—as was the case with the CHNV program—would be unusual but would not necessarily harm U.S. workers. The rationale for such a requirement is typically that it is necessary to vet employers and make sure that no guest worker is taking a job that could go to a native-born worker.¹²⁴ However, the concern about U.S. workers does not necessarily need to be addressed through individual vetting of employers' needs. An assessment of the economic needs of the country as a whole, which would result in annual upward and downward adjustments, would have the same effect, and would let the market sort out which industries and regions needed workers.

When then-candidates Donald Trump and J.D. Vance amplified the racist story of Haitians eating pets in Springfield, Ohio,¹²⁵ less attention was paid to how so many Haitians had ended up in such a small town.

119. *Id.*

120. See USCIS Updates Review Process for the Processes for Cubans, Haitians, Nicaraguans, and Venezuelans, U.S. CITIZENSHIP & IMMIGR. SERVS. (May 18, 2023), <https://www.uscis.gov/archive/uscis-updates-review-process-for-the-processes-for-cubans-haitians-nicaraguans-and-venezuelans> [<https://perma.cc/V5LW-SL6Y>].

121. *The Biden Administration's Humanitarian Parole Program for Cubans, Haitians, Nicaraguans, and Venezuelans: An Overview*, *supra* note 19.

122. Daniel Costa, *Employers Increase Their Profits and Put Downward Pressure on Wages and Labor Standards by Exploiting Migrant Workers*, ECON. POL'Y INST. (Aug. 27, 2019), <https://www.epi.org/publication/labor-day-2019-immigration-policy> [<https://perma.cc/S9GH-ZXKY>].

123. Nicole Hallett, *The Problem of Wage Theft*, 37 YALE L. & POL'Y REV. 93, 125 (2018).

124. Baker, *supra* note 93, at 88–89.

125. Colleen Long, *Vance Doesn't Back Away from False Claims About Migrants in Ohio even amid Threats to the Community*, ASSOCIATED PRESS (Sep. 15, 2024, at 14:20 ET), <https://apnews.com/article/vance-haitians-springfield-ohio-pets-false-claims-1c4c8a06ca7d0e1328ba6b9c1b5ca7ff> [<https://perma.cc/TY9E-PFTH>].

Certainly, Springfield does not have an international reputation as a migration destination. Migrants went there because the people who sponsored them lived there and there were jobs available.¹²⁶ Likewise, there is no evidence that the migrants who moved to Springfield had previous experience working in local produce packaging and machining factories, where many of them got jobs in Springfield.¹²⁷ Recently-arrived migrants took the jobs that were available, regardless of what they did for work before coming to the United States.¹²⁸ There is no reason that the same thing would not happen under a more permanent program.

B. Worker Exploitation

A CHNV-type program could also decrease the worker exploitation that can occur in guest worker programs. Widespread and severe problems of worker exploitation have been documented in the current H-2A program even though employers participating in the program must pay workers the prevailing wage and certify that certain conditions are met.¹²⁹ When guest workers are obligated to work for a particular employer, exploitation inevitably results.¹³⁰ Workers know that if they complain about their pay and working conditions, they could be fired and have to depart the country or be at risk of deportation.¹³¹

Moreover, structural issues in the program further increase the risk of worker exploitation. Workers coming in on the H-2A program are at the mercy of their employers.¹³² They are often transported to the United States by the employers themselves and are then driven directly to worksites.¹³³ They may know no one in the United States and work in

126. Josh Sweigart et al., *The True Story About Why and How Haitian Immigrants Came to Springfield*, SPRINGFIELD NEWS-SUN (Sep. 20, 2024), <https://www.springfieldnewssun.com/news/the-true-story-about-why-and-how-haitian-immigrants-came-to-springfield/VOJOZYVU6REMZOFXZOEQQ5RNNU> [https://perma.cc/MJ2B-Z7CT].

127. Stephen Starr, *Haitian Immigrants Helped Revive a Struggling Ohio Town. Then Neo-Nazis Turned Up*, THE GUARDIAN (Sep. 14, 2024, at 20:00 ET), <https://www.theguardian.com/us-news/2024/sep/14/neo-nazis-springfield-ohio-haitian-immigrants> [https://perma.cc/NL2D-WV93].

128. *Id.*

129. CENTRO DE LOS DERECHOS DEL MIGRANTE, INC., *supra* note 90, at 14.

130. Cristina M. Rodríguez, *Guest Workers and Integration: Toward a Theory of What Immigrants and Americans Owe One Another*, 2007 U. CHI. LEGAL F. 219, 223 (2007).

131. Hallett, *supra* note 123, at 125.

132. See Michael Holley, *Disadvantaged by Design: How the Law Inhibits Agricultural Guest Workers from Enforcing Their Rights*, 18 HOFSTRA LAB. & EMP. L.J. 575, 577 (2001).

133. *H-2A Temporary Agricultural Program*, U.S. DEP'T OF LAB.: EMP. & TRAINING ADMIN., <https://www.dol.gov/agencies/eta/foreign-labor/programs/h-2a> [https://perma.cc/KFR9-DHU6] (last visited Mar. 22, 2026).

isolated areas with little contact with the outside world.¹³⁴ Although employers are supposed to pay transportation and visa costs, they often illegally shift that expense onto workers.¹³⁵ Workers take out loans in their home country that they must pay back, which gives them an extra incentive to remain on the job despite poor working conditions and pay.¹³⁶ More extreme cases of forced labor and indentured servitude are common.¹³⁷ Although worker exploitation is most common in the H-2A program, H-2B workers are vulnerable to exploitation too.¹³⁸

Certain aspects of a CHNV-type program could minimize the risk of exploitation. First, CHNV beneficiaries were required to have a U.S. sponsor, who agreed to financially support the beneficiary while they remained in the United States.¹³⁹ Thus, rather than being delivered into the hands of an employer who could then isolate them, CHNV beneficiaries had a built-in social network waiting to receive them and financial resources at their disposal.¹⁴⁰ Perhaps more importantly, CHNV beneficiaries were not bound to an employer,¹⁴¹ meaning that they could leave at any time and not risk their work authorization or status in the United States.

Finally, a CHNV-type program would not prevent greater enforcement of workplace protections across the board. A CHNV-type program could, perhaps, impose additional requirements like the H-2A and H-2B programs do currently, but there is little evidence these extra protections actually protect H-2A workers.¹⁴² Moreover, the United States has many workplace regulations that apply to all employers.¹⁴³ Enforcing these laws may not be a priority of the current administration, but a future administration could devote more resources to protecting

134. See Holley, *supra* note 132, at 577.

135. CENTRO DE LOS DERECHOS DEL MIGRANTE, INC., *supra* note 90, at 19.

136. *Id.*

137. See *id.* at 23.

138. See, e.g., Ragini Tripathi, *The H-2b Visa: Is This How We Treat a Guest?*, 11 SCHOLAR: ST. MARY'S L. REV. ON RACE & SOC. JUST. 519, 522 (2009).

139. See *The Biden Administration's Humanitarian Parole Program for Cubans, Haitians, Nicaraguans, and Venezuelans: An Overview*, *supra* note 19.

140. See *id.*

141. See *id.*

142. See CENTRO DE LOS DERECHOS DEL MIGRANTE, INC., *supra* note 90, at 18 (experiencing poor enforcement of regulations, lack of legal protections, and incoming executive changes).

143. See, e.g., *Workplace Laws*, USAGOV (May 5, 2025), <https://www.usa.gov/workplace-laws> [<https://perma.cc/3X7S-YM3Z>].

workers, which would redound to the benefit of guest workers and native-born workers alike.¹⁴⁴

C. No Path to Permanent Status

The final critique is perhaps a more fundamental one: that guest worker programs are by their very nature temporary and do not aspire to integrate immigrants into society.¹⁴⁵ The qualifier “guest” is right in the name after all. Many critics have pointed out that even if guest workers intend to leave, they often stay and settle in their new country.¹⁴⁶ And if the law does not allow them to extend their stay legally, they will often stay without authorization and become part of the undocumented population, especially if their country of origin is not safe.¹⁴⁷ For example, in 2016, forty percent of Haitians who came on H-2A visas overstayed their visas after the Trump administration announced that Haitians could no longer qualify for the program.¹⁴⁸ Given the premature end to the program, many CHNV beneficiaries will likely make similar choices.¹⁴⁹ This will just exacerbate the existing issues faced by the undocumented population and the lack of policymaking in this area by Congress.

In countries that have had long-standing guest worker programs, such as Germany, the permanent state of temporariness has caused generational issues with integration,¹⁵⁰ which has eventually required legal reform to provide a path to citizenship for migrant workers and

144. See Celine McNicholas et al., *100 Ways Trump Has Hurt Workers in His First 100 Days*, ECON. POL’Y INST. (Apr. 25, 2025), <https://www.epi.org/publication/100-days-100-ways-trump-hurt-workers/> [https://perma.cc/J7TA-HCD4].

145. MICHAEL WALZER, SPHERES OF JUSTICE: A DEFENSE OF PLURALISM AND EQUALITY 60 (1983); see also, e.g., Rodríguez, *supra* note 130.

146. See Bauer & Stewart, *supra* note 61.

147. See Jessica M. Vaughan, *DHS Reports Record Number of Overstays in 2022*, CTR. FOR IMMIGR. STUD. (June 23, 2023), <https://cis.org/Vaughan/DHS-Reports-Record-Number-Overstays-2022> [https://perma.cc/36X6-RTP7].

148. Alex Nowrasteh, *Haitian Guest Workers Overstayed Their Visas Because the Government Cancelled the Program for Them*, CATO INST. (Jan. 18, 2018, at 11:56 ET), <https://www.cato.org/blog/haitian-guest-workers-overstayed-their-visas-because-government-cancelled-program-them?utm> [https://perma.cc/7Y5E-2UTX].

149. See Amanda Rosa et al., *Millions Face Tough Choice amid Immigration Crackdown: Leave the U.S. or Risk Detention*, MIA. HERALD (Apr. 17, 2025, at 15:28 ET), <https://www.miamiherald.com/news/local/immigration/article303010134.html> [https://perma.cc/T7QY-XHRX].

150. See Nicole Jacoby, *America’s De Facto Guest Workers: Lessons from Germany’s Gastarbeiter for U.S. Immigration Reform*, 27 FORDHAM INT’L L.J. 1569, 1598 (2004).

their descendants.¹⁵¹ The Gulf countries provide another example of overreliance on guest workers with no path to permanent status.¹⁵² Migrants in the Gulf countries face discrimination, poor working conditions, and few prospects to advance themselves.¹⁵³

Some guest worker proposals have included a pathway to permanent residency or citizenship after a certain number of years, and a CHNV-type program could as well. Because it would be available for workers from certain war-torn or unstable countries, Congress could pass country-specific adjustment acts such as the Cuban Adjustment Act¹⁵⁴ or the Nicaraguan Adjustment and Central American Relief Act.¹⁵⁵ Or the program could have a path to citizenship built into it directly.

However, the combined economic and humanitarian purposes of a CHNV-type program provide somewhat of a middle ground between a program with a path to citizenship and one without. Many CHNV beneficiaries were able to apply for humanitarian protection once they arrived in the United States, either asylum, withholding of removal, or protection under the Convention Against Torture, or other temporary programs such as TPS.¹⁵⁶ Because CHNV beneficiaries were integrated into communities, some were also eventually able to apply for family-based green cards through marriages and other familial relationships.¹⁵⁷ These are all options that would be less available than they would be under a traditional guest worker program.

151. See *New Law on Nationality Takes Effect*, FED. MINISTRY OF THE INTERIOR (June 27, 2024), <https://www.bmi.bund.de/SharedDocs/kurzmeldungen/EN/2024/06/modstaatsangehoerigkeitsrecht.html> [<https://perma.cc/8VH8-EQ3C>].

152. See, e.g., Kali Robinson, *What Is the Kafala System?*, COUNCIL ON FOREIGN RELS. (Nov. 18, 2022, at 12:21 ET), <https://www.cfr.org/backgrounder/what-kafala-system> [<https://perma.cc/JT6L-YMG8>].

153. *Id.*

154. Cuban Adjustment Act, Pub. L. No. 89-732, 80 Stat. 1161 (1966).

155. Nicaraguan Adjustment and Central American Relief Act, Pub. L. No. 105-139, 111 Stat. 2644 (1997).

156. See Dara Lind, *CHNV Parole Won't Last Forever – But There Are Options for Its Beneficiaries to Stay in the US*, AM. IMMIGR. COUNCIL (Oct. 16, 2024), <https://immigrationimpact.com/2024/10/16/chnv-parole-wont-last-options-to-stay-in-the-us> [<https://perma.cc/DUN2-E2K2>]; *Court Temporarily Blocks End of CHNV Parole Program*, MONTY & RAMIREZ LLP, <https://montyramirezlaw.com/e-blasts/new-alien-registration-rule-chnv-update-travel-guidelines-more/> [<https://perma.cc/SAC7-GA8C>] (last visited Mar. 22, 2026).

157. See Phillip Connor, *Survey Data Show the Administration's Parole Policy for the Americas Is a Successful Model for New Legal Pathways*, FWD.US (Jan. 25, 2024), <https://www.fwd.us/news/chnv-parole> [<https://perma.cc/8CY9-XL5L>]; See *What Can You Do After the End of Humanitarian Parole?*, ALICIA MORGAN IMMIGR. LAWS, USA, LLC (Nov. 5, 2025), <https://immigrationlawyersusa.com/what-can-you-do-after-end-of-humanitarian-parole/> [<https://perma.cc/7JUM-8USG>].

Structuring a guest worker program like the CHNV program would have obvious humanitarian benefits. In the United States, we typically think of economic immigration and humanitarian immigration as two separate categories, but there is no reason that has to be the case. And like the CHNV program, a similar permanent guest worker program would potentially have benefits for managing irregular migration at the U.S.-Mexico border. Many CHNV applicants would have migrated irregularly without the program¹⁵⁸ and merely did so in a lawful and orderly manner. When new conflicts or natural disasters arise, those countries could be added to the program, thus preempting the irregular migration that would inevitably occur if people have no other option.

V. CONCLUSION

The CHNV program was an experiment that ended too soon. But the demand for immigrant workers will only grow particularly with the Trump administration's mass deportation plans.¹⁵⁹ Employers are already feeling the effects and are asking for an expanded guest worker program to replace the programs that Trump has ended.¹⁶⁰ Meanwhile, the global insecurity that leads to irregular migration is unlikely to subside. We often see these two problems as separate, but the CHNV program showed a way that we can address them both at the same time. Many of the issues that critics have identified with past worker proposals could be at least minimized by adopting some of the unique characteristics of the CHNV program.

The biggest obstacle to the creation of a CHNV-type program is also the most difficult problem to solve—political opposition to such a program based on misguided economic concerns, xenophobia, and nationalism. Unfortunately, while the CHNV program was very successful from a policy perspective, it was a political failure, leading to a rise in anti-immigrant sentiment, the fall of Democrats' political fortunes, and the election of Donald Trump. These developments were not good for immigrant workers or the prospects for a future guest worker program.

158. See *supra* notes 41–43 and accompanying text.

159. Ben Zipperer, *Trump's Deportation Agenda Will Destroy Millions of Jobs*, ECON. POL'Y INST. (July 10, 2025), <https://www.epi.org/publication/trumps-deportation-agenda-will-destroy-millions-of-jobs-both-immigrants-and-u-s-born-workers-would-suffer-job-losses-particularly-in-construction-and-child-care/> [https://perma.cc/L45V-JWE2].

160. See Lydia DePillis, *As Trump Squeezes the Immigrant Work Force, Employers Seek Relief*, N.Y. TIMES (Mar. 31, 2025), <https://www.nytimes.com/2025/03/31/business/economy/trump-immigrant-workers-visas.html> [https://perma.cc/NQ38-JVQ8].

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Still, there is no better time to imagine a better possible future than right now, because there is so little hope in the present. Immigrants will always be with us, and guest work programs will be one tool that policymakers use to manage flow of people in and out of the country. The CHNV program provided one way forward.