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Circles of Trust: A Proposal for Better Migrant Screening

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Circles of Trust: A Proposal for Better Migrant Screening

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Abstract: Screening potential entrants is a major challenge to any system of immigration, and has become particularly salient in the Trump era. At bottom, the problem is one of information asymmetry, in which migrants hold private information as to their abilities and intentions. We propose a new approach that leverages information that refugees, migrants and guest workers have about each other. Potential applicants to enter the US from disfavored classes would have to apply as a small group, called a trust circle. Once inside the country, all members would be subject to periodic, onerous bureaucratic requirements, but these would be waived over time for trust circles that remain in good standing. However, if anyone within a trust circle became involved in hostile or criminal activities, every member of the trust group would summarily lose their privileges. Knowing this, potential migrants will only associate with others they know to be trustworthy, and would have incentives to expose others in the group who adopt bad behaviors post-entry.

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I see many extremists," said Bader Khaishah, 28, a Syrian refugee at a Munich refugee camp. "I cannot be certain, but they have strong tendencies (toward militancy). I can feel this from the extremist tunes on their mobile phones, their injuries and their reaction when discussing the incidents in our region." (Nabeel and Bhatti 2016).

The fear that immigrants – by which we mean guest workers, refugees, and other immigrants, as well as the families and communities they constitute in the recipient country – might become involved in crime or terror has had considerable influence in political debate, immigration policy, and international relations worldwide. In the U.S. alone, for instance, 31 governors have expressed reservations about taking additional Syrian refugees into their respective states (Fantz and Brumfield 2015). At this writing, President Trump has issued an Executive Order indefinitely banning Syrian refugees, even infant orphans, from entering the US.[1] In all likelihood, the vast majority of Syrian refugees are looking for safe haven and have no plans to harm the US or the Western European countries where they seek to migrate. The problem is that migration officials cannot tell them apart from those with hostile intentions, nor can law enforcement officials readily spot those immigrants who turn hostile after migrating. These problems have practical as well as political consequences. Both as candidate and president,

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[1] States of Washington and Minnesota v. Trump, Case No. 17-35105, Feb. 6, 2017, available at http://cdn.ca9.uscourts.gov/datastore/general/2017/02/06/17-35105%20Washington%20Opposition.pdf [last accessed Feb. 8, 2016.]

Donald Trump has repeatedly stated that ISIS terrorists could fake refugee status in order to enter the US analogously to a "Trojan horse,"[2] and that Mexican immigrants are "rapists."[3]

At root, immigration creates an information problem (Cox and Posner 2007). We focus on two facets of this problem. First, can applicants with hostile intentions be distinguished from normal people seeking to migrate? Second, can immigrants who turn hostile after migrating be spotted? Consider first the problem of keeping migrant applicants with hostile intentions out. An obvious solution is better screening. Along these lines, New Hampshire Governor Maggie Hassan has suggested that a strong process for vetting refugees ought to be a precondition for accepting any more of them into the US. The problem is that officers doing the screening would need information that they lack, and that cannot always be elicited by screening procedures already in place.[4] The incentives of refugees and prospective immigrants, after all, create a pooling equilibrium in which all signals are positive. This has led some to assume that the information

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[2] Donald Trump warns Terrorists could be Trojan Horse for US, CBS News, June 13, 2016, available at http://www.cbsnews.com/news/donald-trump-warns-refugees-could-be-trojan-horse-for-u-s/

[3] *"When Mexico sends its people, they're not sending their best. They're not sending you. They're not sending you. They're sending people that have lots of problems, and they're bringing those problems with us. They're bringing drugs. They're bringing crime. They're rapists. And some, I assume, are good people."* Donald Trump, Presidential Announcement Speech, June 18, 2015, available at https://www.washingtonpost.com/news/post-politics/wp/2015/06/16/full-text-donald-trump-announces-a-presidential-bid/

[4] On the use of criminal records in immigration in the US and Europe see Blitsa et al 2015.

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problem cannot be solved: one might charitably characterize the political debate as pitting those who think effective screening is impossible against those who think it is possible.

The second problem, i.e., detecting migrants who turn hostile towards their host society after migrating, tends to receive less political attention than the Trojan horse threat, but it is at least as important. Terrorist attacks are often perpetrated by alienated members of immigrant communities (though it has also been observed that, in contrast with popular rhetoric around the issue, non-immigrant converts to Islam have committed a disproportionate number of attacks in the United States).[5]

We begin by noting that host countries already expend serious resources on screening migrants. In the Canada-Mexico Guest Worker Program for example, both countries engage in screening. Mexico, which has superior information on health, marriage status, criminal records and skills, provides initial screening in nominating the workers to Canada. Canada does not allow entry of those with a criminal record, except under narrow circumstances, and applicants have to produce a police certificate, from any country in which they have lived for more than six months, that they have not committed a crime. (Canada also withholds part of the paycheck to be paid upon completion of the term and return to Mexico—an example of a bonding mechanism analyzed by

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[5] The public, of course, has an interest in detecting *any* individual with hostile intentions, whether or not that person is an immigrant. Nevertheless, communities of immigrants are particularly prone to alienation, exclusion, and economic difficulties and are therefore especially vulnerable to recruitment by domestic and foreign criminal and terrorist groups. On Muslim converts, see Huq 2016.

Sadeh 2016.) For anyone seeking to naturalize, a background check is required, looking for things like criminal convictions and security-related concerns. For the United States, United States Citizenship and Immigration Services (USCIS) conducts four different background checks that involve several government agencies, including the Department of Justice (DOJ), Federal Bureau of Investigation (FBI), and the Department of Homeland Security (DHS), and five different information systems.[6] There are also mandatory medical screenings coordinated by the Center for Disease Control (Posey et al. 2014). With multiple agencies, the process can take a good deal of time.

Even though governments expend resources on screening, current efforts are clearly inadequate. Relying only on verifiable sources of information means that the process is drawing on relatively limited sources, usually government records in source countries (Brown 2009). Such records are by their nature limited, and their accuracy depends on bureaucratic capacity that is probably inversely correlated with the probability that a country is a source of prospective migrants.

Are better screening (prior to migration) and detection (after migration) feasible? We think so. The challenge is to draw on those with the best information about the likely behavior of the potential admittees and members of immigrant communities. Neighbors, relatives, and friends of refugees, immigrants, and their offspring are much more likely to know who is hostile or dangerous, and who is honestly seeking a chance to live peacefully and gainfully in the West.

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[6] See https://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_uscis_ibbcs.pdf [last checked August 18, 2016.] The relevant law is at Title 8 U.S.C. § 1101 et seq.

Many of these neighbors, friends, and relatives are themselves likely to be migrants. Can this information be harnessed to improve screening and detection?

We believe it can, and on this basis we propose a new approach. This approach should be viewed as complementary to other policy and screening tools. The idea is to make use of the information that refugees, migrants and guest workers have about each other in order to mitigate the possibility that, for example, individuals and groups hostile to the West might pull the wool on immigration officers' eyes, overstay the terms of their agreement, or engage in crime or terror. Our proposal is applicable to many different types of migrants, including refugees, guest workers, and those seeking economic opportunities and family reunification. In this sense, it has broader application than Brown's (2009) interesting proposal of using home states as screeners for guest workers. While we focus on guest workers in the present context, our exposition will sometimes will focus on the risk of terrorism, and our argument does not depend on the particular nature of the risk. All that is needed is that prospective migrants be conceivably categorized as either desirable or undesirable from the perspective of the host country.

How would our scheme work? To be admitted into the US (or other Western countries), applicants would have to apply as a small group, called a *trust circle*. Once inside the country, all migrants would by default be subject to periodic, onerous bureaucratic requirements such as in-person registration with immigration authorities, biometric checks, and thorough security screening at every visa renewal threshold. All individuals in trust circles in which every member remains in good standing, however, would receive bureaucratic (and perhaps even fiscal) exemptions from these requirements that would make their lives much easier.

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However, if anyone within a trust circle ever became involved in, or raised reasonable suspicion of being involved with, hostile or criminal activities, every member of the trust group would summarily lose the aforementioned exemptions and therefore become subject to the default, onerous, set of bureaucratic procedures and costs. At the extreme, all individuals in the circle would lose their standing and be deported. The key point is that an honest migrant, knowing this, would be likely to associate with people she knows are trustworthy when putting together her trust circle. Trust circles would therefore tend to consist of self-selected normal, trustworthy individuals. Moreover, once in the United States or other host country, members of a trust circle would have incentives to monitor their peer circle members, to help prevent them from transgressing the law and the terms of their stay, and to report them to authorities should they appear likely to engage in criminal behavior. In other words, trust circles could mitigate the problems that the literature has termed adverse selection, moral hazard, and monitoring (e.g., Giné and Karlan 2007).

The article is structured as follows. Part I describes the screening and detection problems in the immigration context. Part II describes our proposal in more depth, describing the mechanics. Part III considers objections. Part IV concludes.

I.   Screening and Detection

The information mismatch is at the heart of the migration problem. Prospective host states have information about the economic and political demand for migrants. Prospective migrants—be

they guest workers, refugees, or economic migrants—possess private information on their capabilities and intentions. Aligning information would produce a better match between host states and migrants. But host states already invest a good deal of effort in screening, and so new solutions ought to be considered.

To some extent the costliness of attempting to migrate, whether legally or illegally, is a signal of ambition and risk-taking. At the extreme end, migrants risk losing their lives, whether it be on boats in the Mediterranean, the deserts of Arizona, or shipping containers in the Pacific. Only highly motivated individuals would risk such a fate. Another source of cost is limits in government processing capacity. In recent years, resources for processing have declined in real terms. According to the Migration Policy Institute, for example, in April 2016 the U.S. government was still processing some family-sponsored visa applications from September 1992, and employment-related visa applications from August 2004 (Zong and Batlova 2016). Although 1.3 million foreign born individuals immigrated in 2014, the waiting list was roughly 4.6 million individuals. Waiting times driven by low capacity increase the costs of migration, reducing the number of years in which to earn back the lost time, and so standing in line becomes a costly signal.

However, the costliness of the signal is not enough to overcome the pooling equilibrium. In other words, being willing to assume the risks and costs associated with migrating is not a marker that helps officers to distinguish the good apples from the bad. Of particular salience today, migrants might include a small number of individuals who are motivated to harm the host state. Recent reports from Syria, including that cited at the outset of this article, indicate that this is a serious

problem (Nabeel and Bhatti 2016). Such people are obviously highly motivated and will likely be able to get through most attempts to screen them out. This has led to extreme solutions, such as a complete ban on migrants from entire regions of the world. These proposals are, we believe, Pareto inferior. How then might we solve the information problem?

As described in a recent doctoral dissertation by Moran Sadeh (2016: 66), one solution in the guest worker context is to outsource screening. There are various ways this can be achieved. One way would be to make employers responsible for the behavior of migrants, incentivizing the gathering of information ex ante that would be useful to the state, and keeping out bad apples in the pool. This is a common solution offered by advocates for migrants. Another is to rely on recruiting agents, who have better information on who is likely to be a good earner. Fees charged by recruiters become a mechanism of costly signaling by migrants (Chang 1998). Migrants' source states are another possibility (Brown 2009). Still, as Sadeh acknowledges, these solutions are likely to be imperfect at best.

Moreover, screening may not suffice to address the potential threats posed by migration. Even individuals without hostile intentions at the time of migrating may develop law-breaking, criminal, or terrorist intentions sparked in part by their experiences as migrants or children of migrants. Many migrant communities are to a lesser or greater extent isolated from the local mainstream in many dimensions – social, economic, political, and cultural. Bad conditions in refugee camps together with mistreatment of refugees by recipient states, for example, have been argued to increase the likelihood that migrants become radicalized and engage in acts of terror (Milton, Spencer, and Findley 2013). Social ties in migrant communities imply that members of

such communities are likely able to observe changes in the speech and behavior of their peers that could merit attention from law enforcement but that government officials are unlikely to observe. Trust circles provide incentives to care for, and talk sense into, members of one's circle who may be experiencing bad times or particularly damaging forms of exclusion or alienation. They also provide incentives for concerned members of a trust circle to report evidence of potential threats associated with fellow circle members to social workers, police, or migration officers.

In sum, trust circles complement other methods of screening and prevention by harnessing information that is otherwise hidden from authorities. Such information is available through social ties among the prospective migrants themselves, and could help to better screen out individuals with intentions to break the law or cause harm at the time of migration. It could additionally help to reduce the risk that legitimate migrants could turn criminal or hostile. Finally, it could reveal potential risks or threats from immigrants that would otherwise go unnoticed to authorities.

II.   Trust Circles

We propose that migrants, in order to enter the host state, apply not as individuals but as a small group, which we will call a *trust circle*. The trust circle is essentially a group bonding

mechanism entailing collective responsibility. Each applicant serves as a sort of guarantor of the others' good behavior and compliance with the terms of the migration contract.

Once inside the country, all migrants would by default be subject to periodic, onerous bureaucratic requirements such as in-person registration with immigration authorities, biometric checks, and thorough security screening at every visa renewal threshold. All individuals in trust circles would benefit from positive screening outcomes. Specifically, every member of a trust circle in good standing would receive bureaucratic or fiscal exemptions that would make their lives easier by relaxing some of these requirements.

However, if anyone within a trust circle ever became involved in, or raised reasonable suspicion of being involved with, hostile or criminal activities, every member of the trust group would summarily lose the aforementioned exemptions and therefore become subject to the default, onerous, set of bureaucratic procedures and costs. At the extreme, all individuals in the circle would lose their standing and be deported. The key point is that an honest migrant, knowing this, would be likely to associate only with people she knows are trustworthy when putting together her trust circle. Trust circles would therefore tend to consist of self-selected trustworthy individuals, presumably who had private information on each other. Any sanctions, of course, would not be applied to whistleblowers who bring the hostile behavior to the attention of the authorities.

This proposal bears some similarity to Nobel Prize winner Mohamed Yunus' pathbreaking approach to group lending in microfinance. Yunus had the insight that people would be more

likely to repay small loans when there was social pressure, as opposed to just legal pressure, to do so (Bornstein 1996). By forming borrowers into small groups in which each is responsible for the performance of the others, microlenders turn the borrowers into each others' monitors and screeners (Armendáriz de Aghion 1999; Armendáriz and Gollier 2000). This approach has been used all over the world, both by microlenders and by groups of the poor themselves who form credit cooperatives. The groups typically hold regular meetings, potentially increasing social capital, and leveraging social incentives to enhance the viability of the loans. Microlending is associated with very high rates of repayment, far higher than conventional lending.

The key is the concept of joint liability. In law, joint liability refers to situations in which more than one individual bears a responsibility to pay an obligation. For example, in tort law, it concerns instances in which multiple tortfeasors have some responsibility for a harm, but it is difficult to identify the precise causal chain for any single one. In some circumstances, each can be held responsible for the entire obligation. In the context of microfinance, joint liability has effectively been utilized as a means to mitigate informational asymmetries between lenders and potential/actual borrowers. Such informational asymmetries give rise to issues of adverse selection, moral hazard, and enforcement.

Joint liability is, in this context, a species of collective sanctions, a topic on which there is a theoretical and experimental literature (Heckathorn 1988; Levinson 2003; Dickson 2009). As Levinson (2003) points out, the law frequently imposes sanctions on actors who are not directly engaged in bad behavior, simply because they are in a superior position to monitor, deter and identify those who are. The law of conspiracy, shareholder liability, and the international law of

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economic sanctions are good examples. The experimental literature on collective sanctions

suggests that under some circumstances, collective punishment can encourage more defection

and free riding than can individual punishment; but under other circumstances, it encourages

greater production of public goods (Levinson 2003: 86-87). Key variables seem to include group

size and the ability of members to monitor each other. Because our proposal relies on small

numbers of participants who have private knowledge about each other, we expect that the

beneficial effects would offset the harmful ones.

While our proposal focuses largely on the idea of joint liability, some other features of

microfinance lending can also be adapted to the problem of migration. For example periodic

meetings between groups of borrowers and bank representatives have also been argued to

contribute to the success of microfinance initiatives (Feigenberg et al 2014) and help to generate

social capital among participants.[7] Similar meetings among migrants might facilitate monitoring

and detection of deviance.

One way to think about our proposal is that it is akin to hiring in teams. Team members have

private information on their complementarities, and thus may be able to command higher wages

as a team than they would individually. Law firms will often raid each other for teams of lawyers

in a practice group; a recent Silicon Valley startup has started hiring engineers in self-selected

teams of five (Rosoff 2016). To be sure, hiring guest workers with more or less substitutable

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[7] Other features, such as the Grameen Bank's original practice of lending only to females, are both

impractical and probably undesirable in the context of migration.

skills in groups is not usually thought of in these terms, but the basic informational asymmetry between employer and workers is similar to high-end teams. In the context of guest workers, the relevant private information is likely not related to complementarities among team members but instead to other unobservable qualities of team members. Hiring in groups would, like micro lending, turn the team members into each others' screeners and monitors.

To make the scheme maximally effective, one would want to form groups that draw on prior social ties. One could imagine groups of guest workers recruited from areas in close geographic proximity, or perhaps related to each other. One might also insist on regular meetings, to the extent the members are in the same employment context. The members could then monitor each others' performance; if a member defects from the terms of the guest worker contract, punishment would be collective.

Social ties between immigrants have been shown to mitigate information problems for the immigrants themselves. Migration networks often provide information on available job openings, housing, and border crossing (e.g., McKenzie and Rapoport 2012). Our proposal of trust circles is based on idea that the wealth of information embodied in migrant networks is valuable also to migration and law enforcement officials in recipient countries for purposes of migrant screening and detection.

The following simple static model illustrates one of the main mechanisms underlying the usefulness of trust circles to address the adverse selection problem.[8] Suppose that there are two types i of individuals, "good" ($i = 1$) and "bad" ($i = 2$). The probability that an individual will behave law-abidingly is p_i, where $p_1 > p_2$. An immigration official cannot observe an individual's type, but the individual's peers, friends, and relatives can. If the pool of potential immigrants is perceived or known to be risky enough, then the best possible immigration policy could be to reject all applicants. The possibility of self-selection into trust circles, however, could improve the quality of screening.

Let $y > 0$ represent the expected benefit (in utility units) associated with migrating. If any member of a trust circle breaks the law, all immigrants in the circle lose their good standing and are subject to a cost c (e.g., onerous bureaucratic procedures to maintain immigrant status, or outright deportation). Expected utility for an individual of type i from associating with someone of type j, supposing the two-member trust circle is admitted into the country, is:

$$EU_i(j, y, c) = y p_i p_j + (y - c) p_i (1 - p_j).$$

[8] For a similar modeling approach to the effects of joint liability on adverse selection (as well as on moral hazard, which we do not model here) in microfinance see Ghatak and Guinnane (1999) and Ghatak (1999). For models of peer monitoring in finance see Stiglitz (1990) and Armendáriz de Aghion (1999) among others.

For a good type the expected gain from partnering up in a trust circle with a good type vs. a bad one is:

$$EU_1(1, y, c) - EU_1(2, y, c) = cp_1(p_1 - p_2) > 0.$$

Good types, thus, will prefer to associate with other good types. It is difficult, therefore, for a bad type to associate with a good type. A bad type stands to gain from partnering up with a good type instead of with a bad type, but the good type is unlikely to accept such a deal. The reason is that the bad type would need to compensate the good type for his loss, but the amount of compensation would exceed the benefit to the bad type. A bad type's expected utility gain when partnering with a good type (vs. a bad type) is:

$$EU_2(1, y, c) - EU_2(2, y, c) = cp_2(p_1 - p_2),$$

which is smaller than the loss a good type would incur when associating with the bad type (vs. a good type). Specifically, the amount of compensation a good type would require in order to partner up with the bad guy would exceed the bad type's gain by $c(p_1 - p_2)^2 > 0$. For a regular guest worker or a typical refugee, such compensation would generally be out of the question: both tend to be poor and credit constrained.[9]

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[9] Such side payments, however, might be affordable for wealthy refugees or for individuals funded by a criminal or terrorist organization. This suggests that costs c should be made large so as to render this kind of compensation more difficult in practice.

Trust circles, of course, do not solve all problems. The possibility remains for a bad type to associate with another bad type. Expected utility for a bad type in this scenario is:

$$EU_2(2, y, c) = yp_2{}^2 + (y - c)p_2(1 - p_2).$$

The model, however, suggests that it is possible to deter bad types from applying as an all-bad-types trust circle by making the cost of losing trust-circle privileges large enough. Let the expected value for a bad type of migrating individually be normalized to zero. Then an individual of type i will migrate in a trust circle with someone of the same type if and only if $c < y/(1 - p_i)$. It follows that there is a sweet spot for the cost of losing trust-circle privileges such that good types will prefer to migrate in trust circles while bad types will prefer to migrate as individuals, given by: $y/(1 - p_2) < c < y/(1 - p_1)$. Whenever this is the case, applying as an individual should raise strong suspicions about the applicant's intentions.

Even if bad types were not deterred from banding together with similarly bad types in a trust circle, the mechanism we propose would still provide a screening benefit. Circles of applicants would generally be composed, in our model, of either all good types or all bad types. Suspicious information from other elements of the screening process about even one member of a trust circle, therefore, should suffice to disqualify the full group from migrating. The trust circles policy, therefore, would multiply the opportunities for existing screening procedures to weed out bad types: individuals in a trust circle of bad types who might have gone undetected by standard screening would be barred from migrating if any one of their trust circle members were to be

detected. Detecting the bad intentions of just one in a number of individuals should be more likely than detecting the bad intentions of all such individuals separately.

III.   Objections and Extensions

Of course, ours is not a perfect solution, particularly in the context of a world awash in refugees. First, desperate people may be willing to associate with anyone, including strangers, in order to be admitted into a Western country. To mitigate this problem, refugees could be allowed, once in the US and perhaps after a certain initial time period (e.g., three months), to apply to abandon their trust circle and join a different one. Such an application would automatically trigger close intelligence and security scrutiny of the person applying as well as of the applicant's former and subsequent trust circles. Applying to leave a trust circle would presumably result from distrust of fellow members, once again revealing information that the intelligence community lacks but the immigrants themselves have.

A second possible problem, already mentioned in the previous section, is that small groups of hostile individuals could make themselves pass for refugees and apply as a trust circle. One way to partly mitigate this problem is to require that every refugee in a trust circle provide information on her social network at the time of applying – for example, on her ten closest friends and relatives. This information is potentially verifiable, possibly with the help of sending states, and could therefore be used to map the social network of refugees (all the more so since social networks in migration tend to be tight). The social network map, in turn, could be used to

detect markers for potential hostility, such as few social ties or ties to others known to be hostile and dangerous. Moreover, as mentioned earlier, the trust circles policy would enhance the chances that standard screening procedures could detect hostile applicants.

A third possible objection concerns the socially isolated. Some refugees, for example, who might be potential guest workers may lack verifiable social networks in their home countries. Indeed, this is likely to be the case with some of the most vulnerable: widows, orphans, those fleeing sexual violence, or abusive families. Such people will be at a relative disadvantage to others in that they will be forming their trust circles with strangers. This problem, too, can be mitigated. One might pool, for example, groups of widows and orphans together into new trust circles, and require them to meet together regularly after migrating. To some extent, these new trust circles might *create* a social network for those who lack one. Such social capital might have positive externalities in other spheres, much as some have argued that microfinance groups can generate beneficial links (Feigenberg et al 2014).

In particular, trust circles would still be useful even if they were created after migration on the basis of the standard screening procedures. In this case, trust circles would not address the adverse selection problem, but they could mitigate moral hazard – that is, they could contribute to reducing the incidence of bad behavior after migrating, and to alerting government authorities of threats. Bad types who band together with other bad types may be subject to an undesirable kind of moral hazard: knowing that a fellow bad type is about to misbehave might provide incentives for a bad type to misbehave. Nevertheless, good types in the trust circle are likely to gain more from reporting the bad intentions of a fellow member than from engaging in bad

behavior themselves and, crucially, most trust circles are likely to contain a majority of good types.[10]

The key to microlending success is joint or group liability (Besley and Coate 1995). However, we should acknowledge that there are some disanalogies between the lending context and that of guest workers. In group liability for lending, members may be incentivized to pay back the nonperforming loans of their colleagues. They might want, for example, to secure future credit and to preserve reputational capital. In the guest worker context, however, such group contributions for non-performing members may be more difficult. One could imagine team members would have to perform the work that a non-performing member (we will call defector) failed to complete. But if the defector not only failed to complete work, but caused some more serious harm (e.g. engaged in a criminal act) imposing group liability might lead to a negative net loss (Besley and Coate 1995). For example, expelling several workers because one of their colleagues disappeared could dissipate social value. A cost-benefit analysis would have to weight such losses against the overall gains from better screening due to joint liability.

We should acknowledge that current law may pose more than one obstacle to our proposal. While U.S. law delegates to the Attorney General (and in the cases of guest workers the Secretary of Labor) the power to admit aliens,[11] some statutes have been interpreted to prohibit

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[10] Government could place individuals who have already migrated in trust circles at random. If bad types are rare in the population of migrants, such circles are likely to contain mostly good types.

[11] 8 U.S.C.A. § 1182(a)(14).

any special ongoing monitoring after admission by the same authorities.[12] However, the

Department of Homeland Security has been given significant power in this regard. International

human rights law might also pose problems, as the idea of collective punishment has gone out of

favor.[13] We note, however, that international law in an earlier era seemed to contemplate

collective punishment. The 1930 International Labor Organization Convention against Forced

Labor provided that collective punishment could not include forced labor.[14] This would seem to

preclude, for example, making trust circle members complete the work of any defecting member

of the group, but would not prohibit collective financial responsibility or deportation.

A further problem, particularly in the context of guest workers (rather than refugees or other

migrants) is the obsolescing nature of the bargain. As the term of guest work comes to an end,

individual workers have an incentive to defect, for example by seeking to escape state

monitoring and remaining in the country illegally. This, it must be emphasized, is a general

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[12] *Sam Andrews' Sons v Mitchell* (1972, CA9 Cal) 457 F2d 745.

[13] It is explicitly prohibited in international humanitarian law. See Third Geneva Convention, Article 87, third paragraph and Fourth Geneva Convention, Article 33, first paragraph. See also International Committee for the Red Cross, Rule 103, available at https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule103

[14] International Labor Organization, Forced Labor Convention (No. 29) (28 June 1930), Art 20: "Collective punishment laws under which a community may be punished for crimes committed by any of its members shall not contain provisions for forced or compulsory labour by the community as one of the methods of punishment."

problem in the guest worker context, as Sadeh (2016) has recently argued. One set of

mechanisms that might be utilized are bonds, whether posted ex ante or accumulated during the

term of the guest worker program to be distributed ex post (Sadeh 2016: 119-143; see also

Becker and Stigler 1974). While Sadeh does not examine groups in this regard, one might

imagine that bonds could be used ex post or ex ante to incentivize better monitoring and

screening. Suppose, for example, that each member of the group of potential guest workers is

required to post a bond, for which a portion is lost should any one member defect. Or suppose

that workers accumulate a bond which they will receive in a lump sum upon returning to the

home county. One could imagine that the size of this bond would increase with the percentage

of workers in the group that actually return. Whether the increase comes from employers or the

workers themselves could be worked out. The basic idea is that there is a (substantial) bonus paid

to any group with full completion of the guest worker term followed by return to the home state.

Another problem is broker manipulation. Intermediaries are major players in the migration

market. For host country employers who wish to identify potential guest workers, the

intermediaries play a critical role, but there are also serious abuses in the market. One might

expect that brokers would exploit the threat of group liability to extract ever more of the surplus

generated by migrants. Relatedly, the risk of false denunciations of other members of a circle

could lead to extortion and domination *within* the trust circle: a "bad" type could threaten the

"good" types with a defamatory report. This possibility suggests the necessity of some

government investment in a fact-finding process on the back end, whereby program

administrators would be empowered to make determinations as to which member of a circle to

believe in the event of conflicting evidence. But this is a problem that already pervades the

administrative state, and so should not be insurmountable.

IV.   Conclusion

Guest worker programs and migration generally are plagued by information asymmetries that

prevent Pareto-improving exchanges. Resolving such asymmetries should be a central goal of

institutional design. Our proposal for trust circles is designed to elicit information that could help

allocate intelligence and security resources in a more effective manner. It is not a perfect

solution. The proposal's various elements – strategic, legal, and otherwise – could surely be

tweaked and improved beyond what we have sketched out here. But the central point is that

leveraging non-family social ties has not, to the best of our knowledge, been applied to the

problem of screening migrants, despite some proposals in the literature (Brown 2009).

We close with a reminder of what is at stake. Under our proposed system, would-be migrants

would enjoy greater chances of being admitted into the US or another Western nation. The price

for this would be the risk that a migrant's life could suddenly be severely disrupted if someone in

their circle became hostile to the host state or broke the law. Those in the West who wish to

admit guest workers, refugees, or economic migrants for moral or other reasons – and even those

who would rather keep foreigners out but cannot – would benefit from making immigration less

prone to abuse by hostile individuals and groups.   We suspect that if migrants were offered the

choice between our regime and current arrangements, many would likely opt for ours.

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