

FACTORS THAT INFLUENCE MIGRATION

Guest Workers: Past and Present

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The Bracero Program

There were three major phases of U.S. government-authorized recruitment of Mexican workers, and each was associated with a wartime emergency. However, “the Bracero Program” usually refers to the agreements between the U.S. and Mexico that permitted 4.6 million Mexican farm workers to enter the United States on a temporary basis to do farm work between 1942 and 1964. Some workers returned year after year; an estimated one to two million Mexicans worked seasonally in the U.S. over these 22 years.

World War I Programs

Between 1885 and 1952, there was no U.S. law that permitted the admission of temporary foreign workers—immigrants had the right to work where they pleased, so that they could not be confined e.g., to a particular employer or to seasonal agriculture. Indeed, the Immigration Act of 1917 went even further, explicitly denying admission to “persons... who have been induced... to migrate to this country by offers or promises of employment,” thus preventing the entry of immigrant workers who were recruited to work for particular employers. The 1917 Immigration

Act also imposed a head tax on immigrants and excluded immigrants over 16 who could not read in any language.

The first U.S. government-approved recruitment of Mexican workers occurred in 1917, when the U.S. Department of Labor suspended the contract worker bar, head tax, and the literacy test for Mexican workers coming to work for U.S. farmers for up to one year. Many Mexicans had left the U.S. in the spring of 1917, in part because of rumors that Mexicans would be drafted into the U.S. army, and to replace them, as well as to replace U.S. residents who were drafted, Mexicans were legally admitted.

Mexicans coming to the U.S. under this first Bracero Program had to provide two photos, one for the INS and one for a card that the Mexican worker carried with him, and pay their own transportation to the U.S. Housing and meal arrangements were left to the discretion of employer-worker arrangements and, as a result, some Mexican workers wound up owing money at the end of the season.

Between May 23, 1917 and June 1920, some 51,000 Mexicans entered the United States legally under these exemptions, and 80 percent were farm workers (Fuller, 1942, 19853). Another source reports that 80,000 Mexican workers were admitted between 1917 and 1921, mostly to work “in the sugar beet fields of CA, CO, UT, and ID, and in the cotton fields of TX, Arkansas, and CA” (Scuggs, 1960, 322).

The Mexican workers had to pay for their own round-trip transportation to the U.S., and many lived in farmer-owned housing and bought food from their farmer-employers. Wages were set by farmers, and there was no U.S. government enforcement of farmer wage promise. In some cases, Mexican workers wound up owing their farmer-employers money, and the Mexican government, forced to deal with the repatriation of “stranded” workers, amended its labor law in 1931 to require that foreign employers must pay the round-trip transportation expenses of Mexican workers.

Farmers during World War I did not necessarily want Mexicans: California fruit growers in 1917 approved a resolution that requested, “as a war measure, to permit the introduction of sufficient Chinese or other farm labor... to feed our Allies and prevent them from being starved into surrender” (California Farmer, December 8, 1917). The Los Angeles Times in 1920 was quoted as calling for Chinese farm workers; “who would be injured if 1,000,000 Chinamen were brought to this country to work on the farms or where needed...?” (quoted in California Cultivator, January 17, 1920). An influential survey of farm labor problems in 1918 noted that “Chinese or Orientals” were preferred to Mexicans (Adams and Kelly, 1918, 9).

Many Mexicans were eager to migrate. During the Mexican Revolution (1913-1920), the seven west central states of Mexico—Nuevo Leon, Tamaulipas,

Zacatecas, San Luis Potosi, Guanajuato, Jalisco, and Michoacán—were a battleground between the central government in Mexico City and revolutionaries from Mexican states near the U.S. border. The fighting led most haciendas to reduce their employment. Between 1910 and 1930, by one estimate, 20 percent of the population of the west central states left, including 1.5 million, or 10 percent of Mexico's entire population, who migrated to the United States (Cross and Sandos, 1981, 9-10).

During the 1920s, when the U.S. Border Patrol was established and immigration from the Eastern Hemisphere was limited by national origin quotas, farmers persuaded Congress not to limit immigration from Mexico. Studies and testimony during the 1920s is cited frequently as examples of how farmers thought about labor; "fluid casual labor is [the] farmer's only salvation... the prime necessity of his success... Until Thomas Edison or Henry Ford develop machinery... The Mexican immigrant fills the requirements of farm labor in California and the Southwest as no other laborer could" (Survey, 1928, 8-10). Most U.S. observers agreed with the statement of one Texas Congressman in 1926—"80 percent of the Mexicans that come over for temporary work go back" (Survey, 1928, 13). Farmers asserted that Mexicans have "neither desire nor ambition to become permanent fixture(s) or citizen(s)" (Survey, 1928, 17).

World War II Programs

Repatriations and depression practically stopped Mexico-U.S. migration in the 1930s. During the 1930s, there was an outpouring of literature about the misery caused by a surplus of farm workers, especially in California.

The Depression brought approximately 1.3 million people from other states to California, and at least 150,000 of these new Californians became farm workers. U.S. citizens had been part of California's seasonal farm work force since the 1850s, but it was only in the 1930s that they played the usual role of immigrants—the newest and most desperate additions to the farm work force. Both California farm employers and farm workers complained that too many workers were trying to find farm work, and researchers began to use the term "open-air food factories" to describe large CA farms that hired gangs of farm workers for short harvest periods (Taylor and Vasey, 1936, 419).

The year 1939 was the high water mark of publicity and concern about farm labor problems in California. John Steinbeck asked in *The Grapes of Wrath* how one group of Americans could take such undue advantage of other Americans who were temporarily down-on-their-luck. Carey McWilliams wrote *Factories in the Fields*, and Varden Fuller's thesis, *The Supply of Agricultural Labor as a Factor in the Evolution of Farm Organization in California*, demonstrated that

California farms had more in common with the non-farm factories that were being subjected to federal labor laws than the family farms described in Congressional debates to demonstrate that hired farm workers did not want or need the protections of labor laws.

These reports convinced most Americans that California agriculture was different, and that the labor law protections that had been made available to non-farm workers should be extended to workers on at least the largest farms. However, this reform zeal never took root. War intervened, and some of the young men who may have been active union organizers joined the armed forces, and other men and women found factory jobs. Instead of reforming farm labor markets to make farm jobs acceptable to American workers, the wartime emergency was used to justify the importation of Mexican Bracero farm workers.

In the spring of 1942, California farmers predicted that there would be labor shortages, and they called for the importation of between 40,000 and 100,000 Mexican farm workers for the September harvest. On July 23, 1942, the U.S. and Mexican governments concluded a "farm labor supply agreement" that permitted Mexican workers (*braceros*) to enter the U.S. do farm work on emergency basis when U.S. workers were not available. On September 27, 1942, the first *braceros* entered the U.S. in El Paso, en route to California sugar beet fields.

Reformers complained bitterly that there was no shortage of farm workers. Growers' cries of labor shortages were, they argued, "a mere repetition of the age-old obsession of all farmers for a surplus labor supply" (Craig, 1971, 38-39). And many farmers had reservations about the Bracero Program, since it required that a minimum wage of \$0.30 per hour be paid, and that Bracero workers be guaranteed work for three-fourths of the period that the farmer promised them work. Farmers feared that such minimum wages and work guarantees would spread from foreign to domestic workers, and so no Texas farmers requested *braceros* in 1942.

The Mexican government, sensitive about the conditions under which some of its nationals had previously worked in the U.S.¹ and, according to Craig, doubtful that there was a real labor shortage in U.S. agriculture, insisted that the U.S. government guarantee the contracts that farmers provided to Mexican workers, including round-trip transportation and the payment of wages equal to those of similar American workers (Craig, 1971, 41). The U.S. government agreed, and Mexican workers were admitted to the United States by establishing an exception to immigration laws for "native-born residents of North America, South America, and Central America, and the islands adjacent thereto, desiring to perform agricultural labor in the United States."

The 1942 agreement allowed *braceros* to bring their families to the U.S., a provision that U.S. employers wanted so that fewer *braceros* would desert their

contracts, and so that spouses and children 14 and older could work. However, no family members of *braceros* were admitted (Congressional Research Service, 1980, 24).

The Bracero Program was small during the war years; admissions peaked at 62,000 in 1944, less than 2 percent of nation's 4 million hired workers. However, *braceros* were concentrated on a few farms in a few states, where their impacts were significant. *Braceros* were employed primarily in the southwestern states, with the majority employed in California, and then only on the largest farms—fewer than 50,000, or 2 percent of the nation's commercial farms, ever employed Braceros. Although the major crop changed during the life of the program, most Braceros picked cotton during the program's first years.

Both the U.S. and Mexican governments hoped that the opportunity to migrate legally would reduce the illegal flow of Mexican workers to the U.S. However, Scruggs concluded that, "the Bracero Program, instead of diverting the flow of wetbacks into legal channels... actually stimulated unlawful emigration" (1961, 151). But Mexico did not send Braceros legally to Texas, and so many Mexicans went illegally to Texas and other states. The Mexican foreign minister on August 8, 1946 suggested that, if the U.S. were to impose "sanctions on American employers who employ illegal entrants, the result would promptly come about that Mexican workers would not in the future" migrate illegally (Congressional Research Service, 1980, 26).

The Bracero Program with the U.S. government as the contractor of Mexican workers lapsed on December 31, 1947, and there followed several years of a constantly revised agreement, but the flow of Mexican workers northward was mostly informal and unlawful. Beginning in 1948, the U.S. employer, not the U.S. government, was the legal contractor of Mexican workers, and the U.S. employer was responsible for paying the Mexican worker's round trip transportation, and the U.S. Employment Service became responsible for certifying that U.S. workers were not available.

Illegal immigration increased in the late 1940 as Braceros learned they did not have to pay bribes to local Mexican officials to get on recruitment lists, and then pay additional bribes at recruitment centers. U.S. farmers were pleased because they could employ Mexican workers without government "red tape," such as having their housing for Braceros inspected and being required to offer them the minimum or government-calculated prevailing wage, whichever was higher. American workers protested that Braceros were being used to break their strikes, as occurred during the 1947 strike of table grape harvesters at DiGiorgio farms in 1947 (Pollit, 1971, 67).²

The number of aliens who were legalized after arriving and finding employment illegally far exceeded the number of Mexican workers that U.S. employers

contracted legally in the interior of Mexico. Between 1947 and 1949, for example, 74,600 Mexicans received contracts from U.S. employers at recruitment centers inside Mexico. By contrast, 142,000 “wetbacks” who were illegally in the U.S. were legalized by granting them contracts, a process termed, even in official U.S. government publications, as “drying out the wetbacks” (President’s Commission, 1951, p. 53).

The President’s Commission on Migratory Labor, established in 1951, was asked to investigate whether Braceros were adversely affecting U.S. workers, and whether additional Mexican workers were needed because of the Korean War emergency. The President’s Commission concluded that:

- Bracero labor “depressed farm wages and, therefore, has been detrimental to domestic labor”
- Mexico rather than the U.S. “secured reasonable limitation of numbers and some protection to labor standards”
- “foreign labor importation... should be under the terms of intergovernmental agreements which clearly state the conditions and standards of employment” (President’s Commission, 1951, 64-66).

Furthermore, the Commission concluded that “no special measures be adopted to increase the number of alien contract workers beyond the number admitted in 1950,” which was 67,500, and that “legislation be enacted making it unlawful to employ aliens illegally in the United States” (President’s Commission, 1951, 178).

Korean War Programs

The President’s Commission recommendations were not adopted. On July 12, 1951, PL-78, the Mexican Farm Labor Program, became law (Craig, 1971). PL-78 amended the Agricultural Act of 1949 to authorize the U.S. government to negotiate an agreement with Mexico to admit Mexican workers to work seasonally in “essential” U.S. crops until December 31, 1953.

The U.S. Department of Labor administered the program from the U.S. side, by notifying Mexico at least 30 days before Braceros were needed, and then operating reception centers on the border, arranging transportation from the reception centers to U.S. farms, helping Mexican workers and U.S. farmers to negotiate contracts covering wages and working conditions, and enforcing these contracts. Farmers had to reimburse the U.S. government for its costs, up to \$15 per worker, and pay an additional fee if the Bracero was not returned to the reception center at the end of the contract. Farmers were expected to pay all the costs associated with PL-78 Braceros except for enforcement costs.

The U.S. Secretary of Labor was prohibited from supplying Mexican workers to U.S. employers unless DOL certified that there were not sufficient domestic workers who were “able, willing, and qualified” to do the work after “reasonable” recruitment efforts, and that the presence of Mexican workers would not “adversely affect the wages and working conditions of domestic agricultural workers similarly employed.”

The program operated with the U.S. Department of Labor notifying Mexico 30 days in advance of the number of Mexican workers likely to be needed. The Mexican Interior ministry contacted governors of Mexican states “where Braceros are available”—each Mexican state had a Bracero quota that was to be based on unemployment rates.³ The governor, in turn, contacted mayors, who “select Braceros from a waiting list on a first-come, first-served basis” (Taylor, 1963, 42).

The Braceros selected had provided their own transportation to one of three reception centers in Mexico—in Ciudad Chihuahua, Empalme, Sonora, and Monterrey, Nuevo Leon—these Mexican reception centers were an average 280 miles from the U.S. border.⁴ At these reception centers, Braceros were interviewed to determine if they had farm work experience, examined by Mexican doctors under contract to the U.S. Public Health service for their ability to do farm work, and then checked by the INS for their admissibility as non-immigrants. Mexican workers then received conditional entry permits that permitted them to report to one of several U.S. reception centers on the border, in El Centro, Nogales, El Paso, and Hidalgo.

At these U.S. reception centers, farmers and associations “contracted” Mexican workers, usually by having an association representative sign the contract on their behalf, and then the Bracero, and representatives of the U.S. and Mexican governments, signed as witnesses. Most Braceros were “repeaters”—a survey of 309,000 Braceros in the second half of 1957 found that 78 percent had worked as Braceros at least one year before, and 22 percent were first-time Braceros.

DOL noted that, because of the “volume of workers,” it is “impractical to select individuals in response to employer requests” (U.S. Department of Labor, 1953, 7). Braceros were not subject to Social Security or income taxes.

Farmers in most cases offered first-time Braceros minimum six-week contracts, and then offered renewals to Braceros deemed satisfactory (Anderson, 1961). Maximum contracts were for six months, with extensions of at least six week intervals possible. Bracero workers could be “furloughed” without pay for up to 15 days during the life of the contract.

Each worker-employer contract had to include provisions that DOL and the Mexican government required, including the promise to pay the higher of the prevailing or adverse effect wage at least every two weeks, a guarantee of work for at

least three-fourths of the work days in the contract period, free housing that was to be inspected by DOL, either meals provided at cost by the employer or cooking facilities, and workers' compensation insurance to cover expenses if the Bracero was injured at work. At the end of the contract, Braceros were to be given money to cover their transportation and subsistence back to the reception center—they were expected to check in within 5 days of the end of the contract. However, if the Bracero abandoned his job, or did not “give his employer reasonable opportunity to provide transportation,” the employer was not required to pay return transportation and subsistence.

Some of the proponents of the Bracero Program argued that the possibility of legal entry would reduce illegal immigration. President Truman, in reluctantly signing PL-78 into law, sent a note to Mexican President Aleman suggesting that the Bracero Program be only six months long to keep up the pressure on Congress to approve an employer sanctions bill.

President Aleman agreed that the U.S. and Mexico should combine “our efforts, in putting a definite stop to the illegal movement of agricultural workers” (quoted in Kiser and Kiser, 1979, 157). In 1951, Mexico's interior ministry announced that it was “adopting new measures to have our border authorities keep a strict vigilance over the departure of our compatriots and prevent the departure of those who are not properly documented,” and cooperating with defense and other ministries to “prevent the illegal departure of our compatriots from Mexican Territory” (Kiser and Kiser, 1979, 159-160).

However, in Congressional debate over what became the Immigration and Nationality Act of 1952, an amendment in the Senate to penalize U.S. employers found to employ illegal aliens when the employer had “reasonable grounds to believe a worker was not legally in the U.S.” was defeated by a vote of 69-12. Instead, the so-called Texas proviso was included in the INA—the willful importation, transportation, or harboring of illegal aliens became a felony punishable by fines of up to \$2000 or five years imprisonment, but “employment of an illegal alien” was specifically exempted from the definition of harboring.

Illegal immigration continued after PL-78 was signed: a Life magazine story entitled “Wetbacks Swarm In” was typical of the era. The Border Patrol had been reduced to 1,000 agents by 1953 and, the U.S. Attorney General pronounced himself “shocked” by the extent of illegal immigration in August 1953. A former General of the Sixth Army was appointed INS Commissioner in the spring of 1954, with orders to “halt the influx.”

“Operation Wetback” was launched by the INS in 1954, and resulted in 1.1 million apprehensions during what was then a July 1953-June 1954 fiscal year. Most of these apprehensions occurred at the border in May and June 1954—there

were only 80,000 apprehensions during the height of the June-August 1954 interior sweeps, and most of these apprehensions were recorded in FY55.

The Bracero Program expanded to accommodate more legal Mexican workers, so that the ratio of apprehensions to Braceros was reversed; in 1951-52, there were 5 apprehensions per Bracero admission; by 1956-57, there were 5 Bracero admissions per apprehension.

There was no explicit provision that Braceros be only temporary U.S. residents, so that, by 1959, it was reported that 20,000 “specials” were employed in year-round jobs. Most of these specials received six-month contracts that were renewed, and most were employed in Texas and New Mexico (U.S. Department of Labor, 1959, 5).

The availability of Braceros permitted the southwestern states to become the garden states of the United States. In California, fruit and nut production rose 15 percent during the 1950s, and vegetable production rose 50 percent. New irrigation facilities expanded the acreage available to grow fruits and vegetables, the interstate highway system allowed produce to be shipped cheaply to eastern markets, and new plant varieties and packing technologies made California produce preferred to locally-grown fruits and vegetables in the eastern United States where most Americans lived.

This expansion of farm production in California was not accompanied by higher farm wages. The U.S. Department of Agriculture’s estimate of average hourly farm earnings rose 41 percent—slightly more than the 35 percent increase in consumer prices—from \$0.85 in 1950 to \$1.20 in 1960. In contrast, average factory wages in California rose 63 percent, from \$1.60 per hour in 1950 to \$2.60 in 1960. Slowly rising farm wages and faster-rising factory wages drew American workers to factory jobs where there were no Braceros.

In addition to Mexican workers, California farmers also imported workers from Japan and the Philippines. Under a program established with Japan in 1956, some 1730 Japanese were employed in December 1960, mostly in Ventura county, and 28 Filipinos were imported, both under provisions of the H-2 program. Asian workers paid their own transportation to California, and the farmer paid their transportation from Los Angeles or San Francisco to the work site. Asian workers got 6-month renewable contracts, and most remained in California for three years (California Assembly, 1965, 9-10).

By the early 1960s, Braceros were essential to harvest only a few crops. As cotton and other geographically dispersed crops were mechanized, the Bracero Program became a non-immigrant program for a handful of farmers, and political support in the U.S. for its continuation weakened. As unions and ethnic groups called for the end of the Bracero Program, growers made familiar arguments to maintain the program: American workers were not available; without the immigrants

crops would rot and food prices would rise; and the admission of Braceros has no adverse effects on U.S. workers (California Senate, 1961).

An influential study in Los Angeles found that almost half of the unemployed would do farm work if wages and conditions were improved (Schmidt, 1964, 27-28). According to the study, there were no “cultural barriers” to Americans doing farm work, only economic barriers.

The Kennedy Administration, which took office in January 1961, was determined to revise the Bracero Program to better protect U.S. workers by preventing Mexican workers from depressing U.S. farm wages. In October 1961, President Kennedy, “reluctantly” signing a bill to extend the Bracero Program through December 31, 1963, asserted that “the adverse effect of the Mexican farm labor program as it has operated in recent years on the wage and employment conditions of domestic workers is clear and cumulative in its impact” (Congressional Research Service, 1980, 52). Kennedy ordered the U.S. Department of Labor to “prescribe standards and to make the determinations essential for the protection of the wages and working conditions” of U.S. workers (quoted in Congressional Record, August 15, 1963, 15215).

Governor Pat Brown (D-CA) and most Congressional leaders opposed an extension of the Bracero Program. In May 1963, the House of Representatives rejected a two-year extension of the Bracero Program on a 174-158 vote, and then the Senate and House approved simple one-year extensions of the program, until December 31, 1964.

Mexico favored a two-year extension of the Bracero Program, pointing out that Braceros sent about \$35 million annually in money orders through the Bank of Mexico, and that total remittances might top \$100 million per year (Taylor, 1963, 42). In a June 21, 1963 note, the Mexican government asserted that the Bracero Program was “a result of the migration phenomenon... the absence of an agreement... would give rise to... the illegal introduction of Mexican workers into the United States.” Craig credits this Mexican note with tipping the balance in Congress in favor of extending the Bracero Program one more year, until the end of 1964 (1971, 195-6).

Bracero Program Effects

Greencard Commuters

After the Bracero Program ended in 1964, foreign workers could still be imported under the H-2 section of the Immigration and Nationality Act of 1952, which allowed the Attorney General “after consultation with appropriate agencies of the Government” to import needed workers. Employers seeking H-2 workers to fill vacant jobs had to satisfy a double temporary provision—(1) the alien worker

was coming temporarily to the United States to perform temporary services or labor and (2) unemployed persons capable of performing such services cannot be found in this country. Thirdly, the employment of temporary foreign workers was to have no “adverse effects on U.S. workers” (Congressional Research Service, 1980, p. 59).

Many farmers expected to import Mexican workers under the H-2 provisions of the INA. However, the Secretary of Labor published regulations in December 1964 that had the effect of making it much more expensive and difficult to import Mexican farm workers under the H-2 program than it had been to import Braceros.⁵ Many U.S. senators were outraged, and an effort to transfer the authority to certify the need for H-2 alien farm workers from the Department of Labor to the Department of Agriculture failed in the Senate only because the Vice-President cast the deciding vote (Congressional Research Service, 1979, p 42).

The U.S. launched efforts in the mid-1960s to find U.S. workers to replace Braceros. For example, in September 1964, Los Angeles county supervisors said that persons able to work and getting food and assistance from the county would be cut off if they refused to do farm work for \$1.25 per hour, the adverse effect wage rate that had to be offered to Braceros (U.S. Senate, 1965, 19-20).

The number of migrant farm workers—most of whom were U.S. citizens—reached a postwar peak of 466,000 in 1965, and grower interest in mechanization increased so much that a major study predicted that, by 1975, if a fruit or vegetable could not be harvested mechanically, it would not be grown in the United States (Cargill and Rossmiller, 1970).

Most of the 50,000 to 60,000 Mexican immigrants admitted each year in the mid-1960s were believed to be ex-Braceros who got immigrant status as a result of a U.S. employer offering them jobs. An estimated 80 percent of the 55,000 Mexican immigrants admitted in 1962 were ex-Braceros, and most were admitted at the behest of California farmers (U.S. Senate, 1965, 22).

A 1963 article noted that, since immigrants bound for the U.S. had to prove that they would not become public charges in the U.S., most Mexican immigrants cleared the “public charge” hurdle by providing a letter from a U.S. employer offering the Mexican immigrant a year-round job. Some U.S. employers issued 25 or more letters and, in such cases, the practice was for the U.S. Department of Labor to certify that the employer could not obtain U.S. workers (Gallardo, 1963, 26). California farmers pointed out that it was simpler to get a greencard issued than it was to obtain a Bracero, since there was no housing inspection or requirement that a greencard worker be paid a government-set wage. Many farmers turned to greencard workers as a result of the activities of “consultants,” who advised them not to issue more than 25 letters.

According to one report, there were 122,000 Mexican immigrants who provided occupational information between 1949 and 1961—Mexican immigration during the 1950s was 300,000. About 50,000 of these Mexican immigrants with occupations were farm workers, and 30,000 were domestic servants, mostly in California and Texas (Gallardo, 1963, 27). The Mexican ambassador in 1963 estimated that 32,000 farm workers became greencarders in 1961, and another 40,000 in 1962 (Congressional Record, August 15, 1963, 15204). A 1963 California Farmer article reported that 80 percent of the 222,000 immigrants from Mexico between 1957 and 1962 were ex-Braceros (Taylor, 1963, 43).

The Mexican government opposed the greencard program—the Alien Registration Card I-151 was green—pointing out that, while the greencarder was free to leave the farmer who got him immigrant status, greencard workers did not have the protection of wage, housing, and other protections that were included in Bracero contracts. The U.S. Department of Labor similarly testified in 1963 that greencard Mexicans could be used to break strikes, while Braceros could not (Congressional Record, August 15, 1963, 15187).

In 1967, the INS issued regulations that barred the use of a greencard to enter the U.S. to take up employment where a labor dispute was in progress, a response to UFW and other union complaints that greencard workers were being used to break U.S. strikes. In 1968, Senator Edward Kennedy (D-MA) introduced a bill, S2790, that would have required the U.S. Secretary of Labor to determine whether immigrants returning from temporary stays in Mexico or Canada would have an adverse effect on the wages and working conditions of U.S. workers.

Illegal immigration after the Bracero Program ended in 1964: some 110,000 deportable aliens were located in FY65, and almost twice as many, 212,000, in FY68. The number of aliens apprehended almost doubled again, to 420,000, in FY71, and then rose to 788,000 in FY74. In FY68, it was reported that 41,425 illegal Mexican aliens were apprehended while employed in U.S. agriculture (U.S. Senate, 1969, 64).

Economic Effects

There were a number of mid-1960s studies of the effects of ending the Bracero Program on U.S. agriculture and U.S. farm workers, and most came to conclusions similar to those reached by Martin in 1966, viz, that “U.S. agriculture is perfectly able to adjust to a situation without foreign labor without any major production decreases” (1966, 1137). There were \$44 billion worth of farm commodities sold in 1965, and losses due to lack of labor for harvesting were estimated to total \$17 million, or less than one half of one percent, with most of the losses in California strawberries (1966, 1141).

The 1996 Gallegly-Pombo Guest Worker Proposal

The House on March 21, 1996 rejected by a 242-180 vote an effort by growers to launch a new guest worker program. On March 5, 1996 the House Agriculture Committee approved 25 to 14 an amendment by Rep. Richard Pombo (R-CA) to the House immigration bill that would grant temporary work visas to 250,000 foreign farm workers, with the ceiling to be reduced by 25,000 each year.

The existing temporary farm worker program admitted about 11,400 H-2A farm workers in FY95, including 6100 Mexicans and 4200 Jamaicans, down from 13,200 in FY94, when 6100 Mexicans and 5900 Jamaicans were admitted. The largest group of Mexican H-2As is employed in North Carolina-Virginia tobacco. The Jamaicans were concentrated in the East Coast apple harvest and the Florida sugarcane harvest—U.S. Sugar, the nation's largest employer of H-2A temporary foreign workers for the past 50 years, announced in June, 1995 that it would harvest all of its sugar cane by machine in 1996. U.S. Sugar employed 1,300 Jamaican cane cutters in 1995.

Background

In February 1995, the National Council of Agricultural Employers released a proposal for a supplementary foreign worker program to fill temporary or seasonal U.S. jobs. One year later, Rep Elton Gallegly (R-CA) unveiled the NCAE proposal as the "Alternative Agricultural Temporary Worker Program" or "Temporary Agricultural Worker Amendments of 1995... to provide a less bureaucratic alternative for the admission of temporary agricultural workers."

There are about two million workers employed at some time during a typical year on the nation's crop farms, and the DOL National Agricultural Workers Survey estimates that 25 percent may be unauthorized.

Under the Gallegly-Pombo proposal, growers, labor contractors, or associations wanting to employ foreign farm workers would have had to file at least 25 days before the job was to begin a labor condition attestation (LCA) with their state Employment Service office listing the number of foreigners requested and when work was to begin. Local ES offices would review these LCAs "only for completeness and obvious inaccuracies" within seven days after they were filed. Employers violating their attestations or program rules could be assessed civil money penalties, and be barred from the program.

If the foreign workers the employer wanted to hire were outside the U.S., growers would submit their names to INS and consulates abroad, and these named workers would have been given H-2B visas to enter the U.S. at the consulates or at a port of entry. Growers could recruit foreign workers anywhere and in whatever manner they

wished. Foreign workers would have to leave the U.S. when their jobs end or be subject to deportation, unless another employer promises to hire them within 14 days.

Under the rejected plan, 25 percent of the foreign workers' wages would have been placed into a federal trust fund managed by the INS, which foreign workers would have reclaimed with interest in their country of origin. Foreign workers would have been limited to a maximum two years in the U.S. [Greg Schell of Migrant Farmworker Justice Project in Belle Glade, Florida asserted in early 1996 that 25 percent of the H-2A workers do not return to their countries of origin.]

Program costs would have been financed by employer contributions equivalent to the Social Security and unemployment insurance taxes that would not be paid by growers. Most predictions were that farmers would request the maximum 250,000 guest workers because there was no incentive not to make requests for foreign workers.

The guest worker program would sunset after three years if Congress failed to re-authorize the pilot five-state telephone verification system that the Smith bill establishes to make it easier for employers to determine whether workers are presenting false documents.

The Gallegly-Pombo proposal was essentially an effort to extend the procedure used to admit H-1B temporary foreign professionals to agriculture. Under the current H-1B program, nonfarm U.S. employers "attest" that they are paying prevailing wages and satisfying other conditions so as to have no adverse effects on similar U.S. workers—workers with at least a BA or equivalent—and then the U.S. Department of Labor relies on complaints from U.S. workers and other employers to investigate charges that employers are violating their attestations. H-1B foreign workers can remain in the U.S. for up to six years.

The current H-2A program, by contrast, requires farm employers wishing to employ H-2A temporary foreign workers to take a series of steps to prove that U.S. workers are not available, and then to offer U.S. and foreign workers housing at no cost, contracts that guarantee work for at least three-fourths of the period that the employer asserts workers are needed, and other benefits and protections.

Rep. Lamar Smith (R-Texas), chair of the House Immigration Subcommittee, argued against the growers' guest worker proposal: "once you admit hundreds of thousands of people like this, why not just pull the Border Patrol off the border and let people in?" The Clinton administration opposed the program for fear that it would increase illegal immigration, reduce job opportunities for U.S. workers, and depress wage and work standards for U.S. workers. The Clinton administration also opposed the Gallegly-Pombo, arguing that the current H-2A program is sufficiently flexible to cope with any farm labor shortages.

About 60 farm organizations, from the American Farm Bureau Federation to the Wisconsin Christmas Tree Producers sent a letter to senators and representatives

on February 12, 1996 to urge the inclusion of the Gallegly proposal in immigration reform legislation.

Fourteen organizations, from the American Friends Service Committee to the United Methodist Church sent a letter to House Speaker Gingrich on February 14, 1996 opposing the Gallegly proposal, and the effort to include it in the immigration bill without hearings on its features.

On the same day, March 21, 1996, that the House rejected the Gallegly-Pombo proposal, it also voted 357-59 to reject an alternative offered by Rep Robert Goodlatte (R-VA) as a way to defeat Gallegly-Pombo. Goodlatte's proposal would have modified the H-2A program by transferring it from the Labor Department to the Immigration and Naturalization Service, reducing the required period of grower recruitment to 20 days, and capping H-2A admissions at 100,000 per year.

Congressional Hearings: 1995-96

In September and December 1995, the Senate and House, respectively, held hearings on farmers' requests for an alternative non-H-2A guest worker program. None of these hearings focused on bills or concrete proposals, since the Gallegly-Pombo proposal was not yet available. Instead, the hearings typically featured farmers making three arguments, and worker, government, and academic representatives responding.

The three major grower arguments were:

1. That illegal aliens comprise a significant share of the current farm labor force. Growers testified that illegal aliens are 50 to 70 percent of some harvest crews, and they implied that this percentage is typical of the entire hired farm work force despite the legalization of over one million unauthorized workers in the SAW program in 1987-88 (The U.S. Department of Labor estimates that 25 percent of the labor force on U.S. crop farms was unauthorized in 1993-94.)
2. That new control measures under consideration in Congress—more border controls, more interior enforcement, and a more secure work authorization document—would prevent them from continuing to hire unauthorized workers who present fraudulent documents. Effective controls on hiring illegal aliens would leave them with a labor shortage, they asserted.
3. That the current H-2A program is too inflexible to provide them with foreign workers if labor shortages appear—the U.S. workers recruited for employers allegedly do not show up, work hard, or remain with the employer; growers must pay U.S. and H-2A workers the higher of three

wages—prevailing, minimum, or adverse effect wage rate—and provide housing at no charge to the U.S. and temporary foreign workers. In the words of one grower, the H-2A program is “too structured for a labor market that is relatively unstructured.”

Worker representatives attacked these grower arguments by asserting that there is no shortage of workers, only a shortage of decent wages, benefits, and working conditions.

Second, worker advocates argued that employers prefer vulnerable foreign workers to U.S. workers. In North Carolina, for example, it was asserted that U.S. citizen-Puerto Rican workers were sent to employers where they would not have work for two weeks, and told that they would have to live at their own expense until the harvest began, while H-2A workers were sent to work immediately. It is no wonder, they assert, that U.S. workers under such circumstances abandoned these farm jobs, while H-2A workers stay with their employers as required by their visas.

Most government representatives opposed the growers proposal. The INS and DOL dislike the lack of control over entries under the growers’ proposal, and even the USDA acknowledges that a free agent-attestation guest worker program may not provide workers to isolated areas most in need of migrant farm workers.

Academics generally argued that the U.S. farm labor market could adjust to the absence of immigrant workers—legal, illegal, or guest workers—with very little effects on the average American. Academics testified that:

First, it is unlikely that currently unauthorized workers will be removed quickly from the farm work force.

Second, even if the 20 to 30 percent of the current work force that is illegal were removed from the farm work force, U.S. consumers may not notice their removal in food costs because farm worker wages are, on average, only about 11 cents of a \$1 produce item. Farmers receive about one-third of the retail price of most fruits and vegetables, and farm workers receive one-third of the farmer’s price. This means, that for a \$1 head of lettuce, farmers get an average \$0.33, and farm workers \$0.11.

Removing 20 to 30 percent of the farm labor force might raise farm wages. If done quickly, as at the end of the Bracero Program, farm wages might rise by 30 to 50 percent—the UFW was able to negotiate a 40 percent one-year wage increase in 1966 because farm wages had been held down by Braceros, and Braceros were no longer available. If farm wages rose 50 percent, from today’s \$4 to \$6 range to \$6 to \$9 per hour, and if all of the wage increases were passed on to consumers, the head of lettuce would cost consumers \$1.05, i.e., a doubling of farm wages leads to a five percent retail price increase.

Retail produce prices may fall rather than rise, as occurred when the end of the Bracero Program encouraged farmers and processors to change the way that tomatoes

were handled. In the tomato case, the end of immigrant labor caused production to rise, and retail prices to fall.

The tomato example illustrates that it is very hard to predict what will happen when the labor supply changes. Many growers in 1963 testified that the tomato industry had no choice but to follow its pickers to Mexico, shifting production there. Instead, the harvest was mechanized, and today almost five times more tomatoes are produced in California. Those closest to the adjustment issue may not have the clearest picture of likely adjustments.

Most of the adjustments to fewer and more expensive workers in agriculture occur on the DEMAND, not the supply side, of the labor market. In other words, in the face of immigration reforms, lasting adjustments are more likely to be found by accelerating labor-saving mechanization, or changing the way farm work is done, or letting production of the commodity shift overseas, not in launching new efforts to recruit U.S. workers, to build housing for migrant workers, or to provide government services to farm workers that raise their effective incomes.

The notion that most adjustments to fewer and more expensive farm workers reduce the demand for farm labor, not increase the supply, reflects experience in the U.S. and elsewhere. This is why, in most societies, development is associated with a smaller percentage of the work force producing food.

Growers and their supporters typically frame the argument in a manner that looks for SUPPLY adjustments. For example, if there are currently 100 workers employed and 30 are unauthorized, effective immigration controls would require the government to find 30 new workers.

The removal of unauthorized or guest workers from the farm work force rarely prompts U.S. workers to replace them. The more common response is for growers to demand fewer workers, often by mechanizing hand-harvest tasks.

Engineers point out that there are alternatives to hand work in agriculture, even to harvest raisin grapes, the crop often associated with recently arrived and illegal workers. One California grower planted twice the number of raisin vines per acre, cut the canes by hand to let the raisins dry on the vine, and then harvested the dried-on-the-vine raisins mechanically by shaking the raisins off the vines. Machines to eliminate most of the 50,000 four-to-eight week hand harvesters are available at a cost of \$18,000 to \$55,000 each.

In evaluating future agricultural guest worker proposals, three questions might be borne in mind:

First, are there any indications of labor shortages that are putting upward pressure on farm wages?

Second, if farm wages rise, how does the supply of labor respond, e.g., do rising wages encourage more workers to seek farm jobs, or current workers to work more hours?

Third, do rising wages set in motion technological, trade, or other changes that reduce the demand for farm workers?

The rationale for guest workers is that the labor market is not responding properly to market signals such as rising wages, or that government intervention is needed to prevent market adjustments that would have negative effects, such as rising food prices. If a new guest worker program begins before any of these adjustments can be observed, it will never be known how easily the farm labor market can adjust to changes in its labor supply.

Mid-1980s versus Mid-1990s

In the mid-1980s, despite opposition from the Reagan administration and the major sponsors of immigration reform legislation, farmers successfully included in the Simpson-Mazzoli legislation guest worker proposals.

In June 1984, Congress adopted the Panetta-Morrison amendment that would have established a free agent guest worker program for agriculture—what the New York Times termed one of the top ten political stories of 1984 (Leon Panetta, D-CA, who led the fight for the growers in the House, is President Clinton's chief of staff).⁶ Then-senator Pete Wilson (R-CA) persuaded the Senate to approve a similar free agent program in 1985.

Mexico-Canada Guest Worker Program

Since 1974, Mexicans have been traveling to Canada to work seasonally in agriculture under a program that is very similar to the Bracero Program. Canadian farm employers—three-fourths in Ontario—get certified by their Department of Labor to have Mexican farm workers admitted, and then the Mexican Department of Labor recruits workers to travel to Canada. In the early 1990s, about 5000 Mexican workers were employed on Canadian farms each year, almost double the 2700 in 1988.

Under the program, Canadian employers offer Mexican workers contracts approved by both governments that, *inter alia*, guarantee wages of at least \$C5 to \$C6 per hour, at least 240 hours of work in six weeks, for seasonal earnings of up to \$C2000, and free housing and either meals or cooking facilities. Mexican workers, two-thirds of whom are requested by name, pay about \$C160 for a Mexican passport and Canadian visa.

When this program was described in October 1995, it was noted that almost 20 percent of the Mexican workers headed to Canada were from Tlaxcala, a Mexican state not noted for significant emigration. Indeed, some Mexican studies suggest that this guest worker program may be leading to a trickle of illegal

immigration—a 1988 survey found at least 13 workers who returned to Canada as illegal workers.

Notes

1. The Mexican government did not permit Braceros to be employed legally in Texas during the war years, 1942-47, because of past abuses and state discrimination against Mexicans. Many Mexicans entered Texas illegally to work on farms.

2. Despite explicit regulations prohibiting Braceros from being used to break strikes, DiGiorgio was able to use them for six weeks of the strike, until the federal government stopped their employment.

3. In some states, including Sonora, Braceros had to pick a certain amount of cotton locally before they were permitted to depart for the U.S. (Taylor, 1963, 43).

4. By the early 1960s, an estimated 85 percent of Braceros sent north had been in the U.S. before.

5. Secretary of Labor Wirtz interpreted the decision to terminate the Bracero Program as signifying congressional intent to reduce or eliminate the presence of temporary foreign workers in U.S. agriculture. Under December 19, 1964 DOL regulations, U.S. employers wishing to receive DOL certification to import H-2 workers had to attempt to recruit U.S. workers at a DOL-established Adverse Effect Wage Rate (AEWR), and to offer such workers free housing, round-trip transportation, and then receive e certification to employ H-2 workers for a maximum of 120 days, because “the only justification for bringing in labor is to meet the peak conditions the highly seasonal agricultural industry” (Congressional Research Service, 1980, p. 65).

6. John Norton, Undersecretary of Agriculture in the mid-1980s and a major lettuce grower, said that “Leon Panetta carried the ball for California on the Panetta-Morrison amendment... He did a superb job of trying to represent California’s labor needs... he’s been a real champion of the industry.” *California Farmer*, June 21, 1986, 7.

