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Immigration Reform, Agriculture, and Rural Communities

by Philip Martin

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The farm workers of tomorrow are growing up today outside the U.S., making immigration policy a major concern of farmers who hire workers and the agricultural communities in which immigrant farm workers increasingly settle. Farmers have relied on waves of newcomers to fill especially seasonal jobs for the past 150 years in California, but immigrant farm workers have, over the past two decades, spread throughout the United States. According to the National Agricultural Workers Survey (NAWS), most hired farm workers were born and educated abroad, and most are not legally authorized to be employed in the United States.

In the mid-1980s, when perhaps a quarter of the farm workers in states such as California were unauthorized, a last-minute compromise between farm employers and worker advocates allowed 1.1 million Mexicans, a sixth of the adult men in rural Mexico, to become legal immigrants under the Special Agricultural Worker legalization program of the Immigration Reform and Control Act (IRCA) of 1986. IRCA's sanctions on employers who knowingly hired unauthorized workers were expected to halt illegal migration, and farmers were expected to raise wages and improve conditions in order to retain legal workers. Fears of labor shortages prompted a new survey, the NAWS, and an easy-entry guest worker program to quickly provide additional workers, the never-implemented Replenishment Agricultural Worker program.

In fact, IRCA accelerated unauthorized migration, and Latino immigrant farm workers spread throughout the U.S., from seasonal jobs on farms to construction, service, and manufacturing jobs in rural and agricultural areas (Martin et al., 1995). Today, seasonal farm jobs continue to serve as a port of entry for newcomers from abroad, increasing the risk of a sudden change in the availability

and cost of farm workers in the event of enforcement of existing or revised immigration laws. At the same time, many workers and their families are unsure of their future in the U.S., while the communities in which they live struggle to cope with growing numbers of foreigners and do not know if they are sojourners or settlers. Rising numbers of unauthorized foreigners, as well as agreement that the status quo is not optimal, have increased pressures for immigration reform.

Immigration Reform

In March 2005, there were 37 million foreign-born U.S. residents, including 31% naturalized U.S. citizens, 39% legal immigrants and nonimmigrants such as foreign students and legal temporary workers, and 30% unauthorized. The increase in the number of unauthorized workers has been especially fast in recent years, with the estimated number of unauthorized foreigners rising faster than the number of legal immigrants in some years.

Opinion polls find that most Americans want additional steps taken to prevent illegal migration. A December 2005 *Washington Post*-ABC News poll reported that 80% of Americans think the federal government should do more to reduce illegal immigration, and 56% agree that unauthorized migrants hurt the United States more than they help it (Balz, 2006). An April 2006 *Los Angeles Times* poll found that 63% of Americans favored stepped-up enforcement, as well as a guest worker program to deal with illegal migration, while 30% favored stepped-up enforcement only (Barabak, 2006).

The House and Senate took distinctly different approaches to illegal migration in 2005-06. The House, in December 2005, approved the Border Protection, Antiterrorism, and Illegal Immigration Control Act (H.R. 4437)

Table 1. Status of foreign-born U.S. residents, March 2005.

	Percent	Millions
Naturalized U.S. Citizens	31%	11.5
Legal immigrants and nonimmigrants	39%	14.4
Unauthorized	30%	11.1
Total	100%	37

Source: Passel, 2006, p. 3.

on a 239 to 182 vote. It takes an enforcement-only approach to unauthorized migration, calling for mandatory screening of newly hired, as well as existing employees, to ensure they are legally authorized to work in the United States and adding more fencing along the Mexico-U.S. border. It also includes several controversial items, such as making "illegal presence" in the United States a felony, which may make it hard for unauthorized foreigners to eventually become legal immigrants. The House bill does not include a guest worker or legalization program, under the theory that enforcement should be proven effective before additional migrant workers arrive legally and before the government deals with unauthorized foreigners in the United States.

The Senate approved the Comprehensive Immigration Reform Act of 2006 (S2611) in May 2006 on a 62-36 vote. It too contains measures that would increase border enforcement and require employers to verify the legal status of their employees by submitting information to a new government database. However, the Senate bill also includes new earned legalization and guest worker programs, the "comprehensive" approach favored by President Bush.

The major legalization provisions would allow unauthorized foreigners in the United States at least five years to become "probationary

immigrants" by proving they had worked in the United States paid any back taxes and a \$1,500 fee, and passed English and background tests. At the end of six years of continued U.S. work and tax payments and another \$1,500 fee, these probationary immigrants could earn regular immigrant visas. Unauthorized foreigners in the United States for two to five years would have to satisfy the same requirements, but in addition, return to their countries of origin and re-enter the United States legally. Those in the United States less than two years would be expected to depart, although they could return legally as guest workers.

The Senate bill has two new guest worker programs. Under the proposed H-2C program, employers in any U.S. industry could "attest" that they need migrants and that the employment of migrant workers "will not adversely affect the wages and working conditions of workers in the United States similarly employed." Foreigners outside the United States with job offers from such U.S. employers could pay \$500 and obtain six-year work permits. Employers could apply for immigrant visas on their behalf of H-2C visa holders after one year of U.S. employment, and H-2C visa holders could apply for immigrant visas on their own after four years of U.S. work and passing an English test.

The second new guest worker program, the Agricultural Job Opportunity, Benefits, and Security Act (AgJOBS), would allow up to 1.5 million unauthorized foreigners who did at least 150 days or 863 hours of farm work during the 24-month period ending December 31, 2006 to obtain a blue-card probationary immigrant status (this information is for S340 and HR371, AgJOBS as introduced January 10, 2007). Blue-

card applicants must pay an application fee as well as a \$100 fine, and apply in the period between seven and 18 months after enactment.

Blue-card holders could earn an immigrant status by doing (1) at least 150 days (at least 5.75 hours) of farm work during the first three years, (2) 150 days of farm work per year for three years and 100 days in one year in the first four years, or (3) 100 days of farm work a year during the first five years. Blue-card holders could also do nonfarm work and travel in and out of the United States. After proving that this farm work was done and that income taxes were paid, blue-card holders could pay \$400, plus an application fee, and apply for immigrant status for themselves and their immediate families. Blue-card workers are eligible for UI and EITC benefits, but not welfare benefits such as Food Stamps.

The House bill makes reducing illegal immigration and employment its top priority and does not deal with unauthorized foreigners in the United States or employer requests for new guest worker programs. Some House leaders have suggested that, as new enforcement measures make life more difficult for unauthorized foreigners, some will depart on their own, and eventually the smaller number that remains could be legalized.

The Senate bill involves a three-legged stool of enforcement, guest workers, and legalization. No one knows how its components might interact to affect farm workers and farm labor markets. For example, would legalization lead to a new industry creating work histories of at least two years or 150 days of farm work, or would immigration adjudicators tap into administrative data systems such as those for unemployment insurance to determine work

done? Would workers without documentation leave the United States, or would they go further underground in the U.S. economy, perhaps complicating the enforcement of labor and tax laws?

Implications for Agriculture

Some 555,000 U.S. farms reported hiring workers in the Census of Agriculture (2002), with the largest 10% reporting 60% of all workers hired.¹ These workers are both newcomers to the farm labor force, meaning they had their first U.S. farm job less than 12 months before being interviewed, as well as more established workers. Newcomers interviewed by the National Agricultural Workers Survey (NAWS) are almost all unauthorized; a higher percentage of established farm workers are legally authorized to work in the U.S. Newcomers have about 10% lower earnings, reflecting both their lack of experience and unauthorized status.

Newcomers were in the United States less than 24 months and employed in U.S. agriculture less than 12 months before being interviewed.

Farmers worry about what will happen if the influx of unauthorized workers slows as a result of stepped up border and interior enforcement. The turnover rate among farm work-

Table 2. Newcomer and established farm workers, 1993-2000.

Unauthorized (%)	Newcomer			
	1993-94	1995-96	1997-98	1999-00
California	91	97	96	99
Other U.S.	99	100	100	97
Established Farm Workers				
California	31	32	30	49
Other U.S.	35	35	40	39
Average Hourly Earns(\$)	Newcomer			
	1993-94	1995-96	1997-98	1999-00
California	5.02	5.35	5.53	6.13
Other U.S.	5.34	5.09	5.43	6.01
Established Farm Workers				
California	5.78	5.72	6.25	6.81
Other U.S.	5.48	5.79	6.02	6.88

Source: NAWS.

ers is at least 15%, meaning that only 85% of the workers employed one year are also employed the next. If enforcement stopped newcomer entries, farmers could turn to guest worker programs to obtain workers.

The current H-2A program presumes that U.S. farmers will normally find sufficient U.S. workers to fill farm jobs. Farmers anticipating too few U.S. workers can ask the U.S. Department of Labor to certify their need for foreign workers, which occurs after supervised recruitment efforts and inspection of housing for out-of-area workers. Requesting H-2A workers alerts unions and advocates, who sometimes sue employers for not hiring U.S. workers who respond to the (required) farmer's ads. Advocates often raise questions about the need for foreign workers in areas with double-digit unemployment rates. Even though over 95% of farm employer requests for H-2A workers are certified by the Department of Labor, many farmers say the program is "unworkable."

Farmers want three major changes in the H-2A program that are included in the AgJOBS provisions of the Senate bill. First, they want attestation to replace certification. Under attestation, employers

control the border gate by making assertions to the government that they have vacant jobs and are paying the prevailing wage, foreign workers arrive, and enforcement responds to complaints. Second, farm employers want to pay a housing allowance of \$1 to \$2 an hour rather than provide the free housing required under the current program.

Third, farmers want to eliminate or freeze the Adverse Effect Wage Rate (AEWR), the minimum wage they must pay to legal guest workers, \$9 an hour in 2006 in California.² The AEWR is usually the highest of the three wages farmers must offer: the federal or state minimum wage, the prevailing wage, or the AEWR. AgJOBS would freeze the AEWR at its 2003 level, \$8.44 an hour in California, for three years while it is studied. Rolling back the AEWR to its 2003 levels could save current users of H-2A workers 5-7% on wages and

1. *The 2002 Census of Agriculture reported 554,434 farms hired 3 million workers and paid them \$18.6 billion; the 55,431 farms that hired 10 or more workers hired 1.8 million workers. Workers are reported by each farm on which they are employed, making COA data counts of farm jobs, but these "direct-hire" data exclude workers brought to farms by intermediaries such as labor contractors.*

2. *The AEWR is higher than the wage offered to many farm workers because it includes the earnings of piece rate workers, who have higher hourly earnings but work fewer hours.*

make it easier for more farmers to begin hiring H-2A workers.

Farmers confronting increased production and marketing risks realize that the rising share of unauthorized farm workers adds another risk to their operations. The rising labor risk is being dealt with primarily by investments in the political process, as farmers try to convince policy makers that they need legal workers at current costs if steps are taken to reduce illegal immigration. Despite reports of farm labor shortages over the past few years, plantings and sales of labor-intensive crops have continued to increase.

Implications for Communities

The typical newly arrived seasonal farm worker is a 25-year old male from rural Mexico who is not authorized to work in the United States (NAWS). While in the United States, newcomer farm workers earn an average \$8 an hour for 1,000 hours of farm work, earning about \$8,000 (the 2006 poverty line is \$9,800 for one and \$20,000 for a family of four). Many workers form or unite families in the United States, especially as they move up the U.S. job ladder to less seasonal nursery, livestock, or farm-related processing and packing jobs.

Young immigrant workers soon have U.S.-born children, which means that immigrant families in rural and agricultural areas are often mixed in the sense that some members are unauthorized, some may be legal, and others may be U.S. citizens by birth. Eligibility for public services is uneven, with all children obliged to attend K-12 schools, but only legal low-income U.S. residents are eligible for means-tested benefits such as Food Stamps, Medicaid, and other assistance. Since many farm

and rural employers do not provide health insurance and other work-related benefits, there can be impacts on local emergency rooms as immigrants and their families seek services and are unable to pay bills. Many rural areas are not expanding public services, making it more difficult to add bilingual services that educate newcomers about their rights and responsibilities (*Rural Migration News*, Quarterly; Pfeffer and Parra, 2005).

Immigration has always meant change, from the number and characteristics of the people living in an area to new patterns in housing, culture, sport, and ways of life. In some rural areas, the choice may be to diversify or depopulate, since local industries may shrink or shut down without immigrant workers. In other areas, immigrants swell populations and introduce new forms of mobility to rural America. Instead of local young people leaving rural areas for college, immigrants may arrive to fill entry-level jobs that the U.S.-educated children reject. The result can be an immigration treadmill, as some rural employers depend on a continued infusion of newcomers, while some local residents resent the changes that accompany immigration.

Agriculture is associated with both the “positive externalities” of preserving open space and providing a living link to the founding fathers and “negative externalities” associated with items from waste disposal to water pollution. Without new private-public partnerships to share the costs of integrating migrant workers and their families, an increasing immigrant work force could come to be seen as a new negative externality associated with farming and processing. Some evidence of such community reactions is already evident in

Midwestern cities that rejected opening or re-opening meatpacking plants because of their fear of an influx of migrant workers.

Turning immigrants into a positive externality in rural and agricultural America requires leadership and commitment from employers, community leaders, and the immigrants themselves, but this leadership is unlikely to be forthcoming until the legal status of the foreigners is clarified. Rural America’s voice in the current immigration debate has been dominated by farm and other employers seeking to legalize access to a continued inflow of migrants. Rural leaders who do not directly benefit from such migration may have to decide if guest workers or immigrants are in the best interest of their communities. A guest worker future would mean more solo men living in temporary quarters while they work in the United States, allowing significant production facilities in areas with relatively few families. An immigrant future would mean more families and an associated integration challenge.

Conclusions

Farmers and farm-related industries increasingly rely on foreign-born workers to fill mainly entry-level jobs. Many and perhaps most of these immigrant workers are unauthorized, increasing risks of sudden changes in labor costs in what is already a risky business and complicating integration efforts in rural America.

Today’s immigration reform debate has important implications for farmers, farm workers, and rural communities. There are three major options: status quo, enforcement only, and enforcement plus guest workers and legalization. The status

quo gets agriculture and associated industries a labor force, but with growing risks and externalities that are increasingly perceived as negative by most Americans. Enforcement threatens to raise labor costs and force adjustments, most likely unevenly across rural areas. Enforcement, coupled with guest workers and legalization, would potentially open a new era for rural America. If history repeats itself, legalization of unauthorized workers would expedite mobility out of farm and farm-related jobs, with the vacuum filled by guest workers. If the guest workers were allowed to become immigrants, as in the Senate bill, the result could be a significant demographic and economic change in rural America.

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