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**Immigration Reform and Rural America:
Ellis Island to the Ellis Farm**

by

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IMMIGRATION REFORM AND RURAL AMERICA

Ellis Island

to

The Ellis Farm

Instead of providing agriculture with a legal work force, and slowing the spread of Mexican and other Hispanic immigrants, legal and illegal immigration contributed to the dramatic demographic change sweeping rural America – the so-called Latinization of rural America.



by PHILIP MARTIN

Virtually all new farm workers are immigrants.

If this trend continues, the hired farm workers of tomorrow are growing up today outside the United States, generally in rural Mexico and Central America. A major public policy question is how U.S. farm employers will get access to these foreign workers.

T

he farm labor situation in 2001 is similar to that of the early 1980s. Back then, 20 to 25 percent of seasonal crop workers were unauthorized. Congress was debating the need for employer sanctions to discourage the entry and employment of unauthorized workers. Farmers proved to be a major stumbling block to immigration reform: they were reluctant to lose access to unauthorized workers unless they were assured that they could continue to hire their current workers under an easy-to-use guest worker program.

Agriculture became a major obstacle to the enactment of the Immigration Reform and Control Act of 1986 (IRCA), which was based on a Grand Bargain of employer sanctions to stop illegal immigration, and amnesty for unauthorized foreigners with an equity stake in the U.S. The farm labor compromise, reached during the summer of 1986, had two major components. First, there would be a special legalization program for illegal farm workers, the Special Agricultural Worker (SAW) program.

Second, two guest worker programs were created so that farmers could obtain additional workers in the event of labor shortages: the H-2A program and the Replenishment Agricultural Worker (RAW) program. The major difference between them was that, under H-2A, the U.S. Department of Labor (DOL) had to certify or agree with the employer on the need for additional workers on a job-by-job basis.

For example, DOL had to agree that a farmer offered a minimum package of wages and housing for 10 U.S. grape pickers, and failed to find them. The farmer then could have 10 workers admitted with H-2A visas, workers who would be limited to picking grapes on one farm. The RAW program, by contrast, would admit enough foreign workers to offset farm labor shortages identified by DOL and the U.S. Department of Agriculture (USDA), and RAW workers could move from farm to farm in search of jobs. DOL and USDA found no labor shortages during the late 1980s and early 1990s, and the RAW program expired without ever being used.

A major goal of IRCA was to give agriculture a legal work force. Most farm employers and worker advocates believed that, once unauthorized workers became legal, they would press for wage increases, reversing wage and benefit declines of the early 1980s. However, farm wages did not rise after IRCA, largely because unauthorized workers continued to arrive in the U.S., and found it easy to obtain false documents to satisfy the new employer sanctions law (CAW, 1992).

From SAWs to Unauthorized Workers

Since IRCA was enacted, labor-intensive agricultural production has expanded

with U.S. and foreign demand for fruits, vegetables, and horticultural specialties. Despite the fact that one-third of the crop work force was legalized, there was neither a shortage of labor nor upward pressure on farm wages, as SAWs initially found their mobility out of agriculture limited by lack of English, contacts, and skills, as well as the early 1990s recession.

However, with economic recovery, many SAWs moved out of farm labor. They were replaced by unauthorized workers who continued to arrive. A major lesson from IRCA's legalization program was that giving legal status to 1.2 million unauthorized farm workers in 1987-88

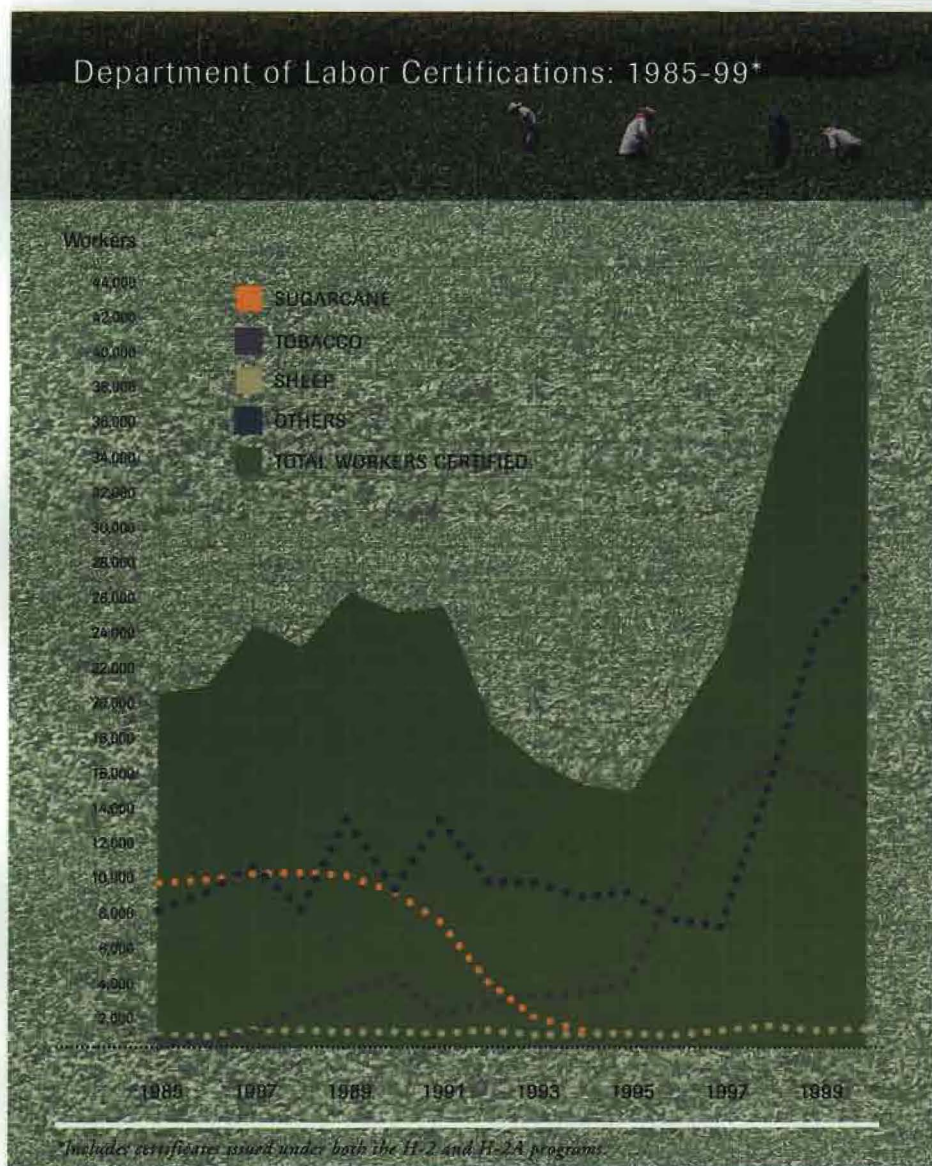
eventually improved opportunities for the individuals who were legalized, but did not improve farm worker wages and working conditions relative to the nonfarm labor force.

The exit of SAWs and their replacement with unauthorized farm workers continued in the 1990s, so that sporadic INS enforcement actions left some farmers without workers at critical times, and increased the labor supply risks. The only way to obtain legal foreign workers was to go through the process of having DOL certify a farmer's need for H-2A workers on a job-by-job basis. Although certification brought workers to the farm who were required to remain there as long as the farmer specified, it came at the price of offering at least a DOL-set wage and free housing for workers.

Farmers wanted an alternative to the H-2A program to obtain foreign workers, and they pointed to the declining number of farm jobs certified as needing to be filled with H-2A workers as evidence that the program was "unworkable" for most farmers. However, certification data show that the major reason for the decline was the mechanization of the Florida sugarcane harvest.

Risks and Enforcement: Onion Fields Revisited

As the percentage of unauthorized workers continued to climb, the risk to farmers increased. However, many farmers did not want to replace unauthorized workers apprehended by the INS with legal H-2A workers. For example, after "Southern Denial" apprehended 21 unauthorized workers in the Vidalia onion industry in May 1998, hundreds of the other 4,000 workers did not go to the fields for fear of arrest. Onion growers, fearing crop losses, reached an agreement with the INS that stopped raids in exchange for a promise to use the H-2A program to obtain legal workers. However, onion growers and DOL dis-



**SAWs and
Unauthorized Workers:
1989-98 (%)***

YEAR	SAWs	UNAUTHORIZED
1989	37	8
1990	30	17
1991	27	19
1992	23	33
1993	12	44
1994	20	38
1995	19	40
1996	16	50
1997	17	51
1998	15	52

**Percent of total ag labor force.
Source: National Agricultural
Worker Survey (NAWS)*

agreed on the minimum piece rate that had to be paid in order to be certified as needing H-2A workers. DOL said it had to be at least \$0.80 per 50-pound bag, while growers maintained it should be \$0.75 per 60-pound bag.

Some onion growers obtained legal foreign workers under the H-2A program, but others used the experience with INS and DOL to develop proposals for an alternative guest worker program. In July 1998, the U.S. Senate approved one of these initiatives, the Agricultural Job Opportunity Benefits and Security Act (AgJOBS). AgJOBS avoided the need for farmers to be certified by DOL as needing foreign workers by creating a registry in each state to enroll legally authorized farm workers. Under AgJOBS, farmers would apply to the registry, for example, requesting 100 workers. If only 60 registry workers were available, the farmer would be automatically "certified" to recruit and have admitted to the U.S. an additional 40 foreign workers. There was no limit on the number of AgJOBS foreign workers who could be admitted, but if too many of the workers remained illegally in the U.S., up to 20 percent of their earnings could be withheld, to be returned only when the worker surrendered his "counterfeit-proof" ID in his or her home country.

AgJOBS was approved in the Senate, but there was widespread opposition in the House. A majority of Representatives signed a letter asserting that AgJOBS "...will only further burden our communities without providing a long-term solution to the labor needs of the agricultural industry." President Clinton issued a statement saying "When these programs were tried in the past, many temporary guest workers stayed permanently and illegally in this country. Hundreds of thousands of immigrants now residing in the U.S. first came as temporary workers, and their presence became a magnet for other illegal immigration." Clinton threatened to veto any farm worker bill, including AgJOBS, and AgJOBS stalled.

Earned Legalization and the 2000 Elections

Late in 1999, after consultations with worker advocates, a new concept was added to AgJOBS: earned legalization. Farmers knew that simply legalizing unauthorized farm workers would encourage many of them to leave for nonfarm jobs, so they wanted guest workers who had to work in agriculture in order to remain legally in the U.S. Worker advocates, on the other hand, wanted farm workers to be free to seek any U.S. job; they believed that guest workers were dependent on their employers and thus unable or unwilling to organize and demand wage increases.

Earned legalization meant that previously unauthorized workers who could prove that they did 100 or 150 days of farm work in the preceding year got temporary legal status that permitted them to live and work in the U.S. However, in order to become a normal U.S. immigrant, free to live and work anywhere and to

become a naturalized citizen, the temporary worker would have to perform a certain amount of farm work each year for several years (for example, 80 or 100 days of farm work for three to five years) so that, after doing 240 or 500 days of farm work, the worker earned immigrant status. Earned legalization assured farmers that newly legalized workers would not immediately leave, and assured workers that they could eventually become immigrants and seek nonfarm jobs if they wished.

Farmers and worker advocates argued over the details of a revised AgJOBS program with earned legalization throughout 2000, with farmers wanting more days of farm work to qualify for eventual immigrant status, and worker advocates less. After the November 2000 elections, some worker advocates, noting that both U.S. President Bush and Mexican President Fox favored a new guest worker program, agreed to a compromise that won the endorsement of the United Farm Workers and the National Council of Agricultural Employers. Under this compromise, unauthorized workers who did at least 100 days of farm work in the preceding 18 months could qualify for temporary legal status, and they could convert this temporary legal status into immigrant status if they did at least 360 days of farm work in the next six years. The compromise included other elements favored by farm employers, including freezing the minimum wage that had to be paid to foreign workers for several years and giving farmers the option of providing a housing allowance rather than housing. The AgJOBS compromise came close to Congressional approval in December 2000, but was blocked by opponents of amnesty.

The atmosphere changed dramatically in 2001, especially after U.S. President Bush and Mexican President Fox met in Mexico in February and agreed to establish a migration working group charged with creating "an orderly framework for [Mexico-U.S.] migration that ensures humane treatment [and] legal security, and dignifies labor conditions." The group explored three distinct concepts during summer 2001: temporary guest workers, legalization, and earned legalization.

Senator Phil Gramm (R-TX) is a leading proponent of the guest worker-only approach to Mexico-U.S. migration. He favors a program that would permit unauthorized Mexicans already in the

U.S. to obtain seasonal or year-round work permits that would allow seasonal workers to return to the U.S. indefinitely, and year-round workers to remain in the U.S. for three years (after which they would have to stay in Mexico for at least one year). Employers and guest workers would have the workers' social security taxes put into a trust fund to provide emergency medical care for injured guest workers, with the balance placed in individual IRA-type accounts that workers could receive when they returned their work permits to U.S. consulates in Mexico.

Gramm's proposal covers Mexicans employed in all U.S. industries, but does not provide these guest workers with a path to immigrant status. An alternative way to deal with unauthorized foreigners is legalization. Under a plan embraced by the AFL-CIO and many church and ethnic groups, unauthorized foreigners in the U.S. from any country, and employed in any industry, could become immigrants, and then sponsor their families for admission. Rep. Luis V. Gutierrez (D-IL) introduced a bill that would grant immigrant status to all persons in the U.S. at least five years, and temporary legal status to those in the U.S. less than five years — when they reach the five-year mark, the temporary status would be converted to immigrant status.

Earned legalization is billed as the compromise between guest workers and legalization. Only unauthorized foreigners who have worked in the U.S. are eligible, and they must continue working to maintain their temporary legal status and to eventually become immigrants. Earned legalization appeals to those who associate immigration with work in the U.S., and allows Mexican President Fox to keep his promise of improving conditions for the migrants he calls "heroes" for sending remittances to Mexico. It is for this reason that a spokesperson said Bush supports "a new temporary-worker program that would allow for some of the [unauthorized] work-

ers to achieve permanent residency status over a period of time."



Rural America: The New Ellis Island?

Fifteen years ago, IRCA promised a new era for farm labor. That new era turned out to be the opposite of what was expected: for the first time in history, over half of U.S. crop workers are believed to be unauthorized, and the gap between farm and nonfarm wages and benefits widened in the 1990s.

Instead of providing agriculture with a legal work force, and slowing the spread of Mexican and other Hispanic immigrants, legal and illegal immigration contributed to the dramatic demographic change sweeping rural America — the so-called Latinization of rural America. In 21 states, the number of Hispanics more than doubled in the 1990s, often because farmers, meatpackers, or poultry processors turned to immigrants to harvest crops or work on disassembly lines. Continued Hispanic immigration has made rural and agricultural areas a new gateway to the United States, much as New York City was at the beginning of the 20th century.

Most Hispanic immigrants arriving to fill farm and farm-related jobs have little education. Many will stay in their first U.S. job in the fields or slaughterhouses for only a decade or so. If history repeats itself, many of the Latin American immigrants arriving to fill jobs in agriculture and related industries will move on to other jobs after they acquire contacts and legal status in the U.S. Furthermore, their U.S.-educated children are not likely to follow their parents into the fields or slaughterhouses. If current trends continue, agriculture and related industries will develop revolving-door labor

markets, with the speed of the revolving door dependent on worker skills, the legal status of the workers, and the availability of other jobs.

Immigration decisions today will shape the socio-economic structure of rural America. Guest workers are likely to be mostly male workers who rotate in and out of rural communities. Legalization might lead to higher turnover in entry-level farm jobs for the nonfarm labor market. Earned legalization may slow this trend, but not stop it.

For More Information

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