



Institute for the Study of International Migration, Georgetown University

Low-Wage Labor: Challenges, Past and Present

ANNOTATED BIBLIOGRAPHY

LOW WAGE WORKFORCE

Armstrong, V. M. and Hart, C. T. eds. “Agricultural Labor in the United States: Considerations and Select Research.” *Nova Science Publishers Inc.* <http://www.kriso.ee/agricultural-labor-united-states-considerations-select-db-9781622574711.html?pubsite=ut>

This book explores the possible economic implications of large shifts in the supply of foreign-born, hired farm labour that could result from substantial changes in U.S. immigration laws or policies. Hired labour is an important input to U.S. agricultural production, accounting for about 17 percent of variable production expenses and about 40 percent of such expenses for fruit, vegetables, and nursery products. Over the past 15 years, roughly half of the hired labourers employed in U.S. crop agriculture have lacked the immigration status needed to work legally in the United States. Thus, changes in immigration laws or policies could lead to markedly different economic outcomes in the agricultural sector and the market for hired farm labour. The same is generally true for other economic sectors that rely on large numbers of unauthorised workers.

Autor, D. and Dorn, D. (2013). “The Growth of Low-Skilled Service Jobs and the Polarization of the US Labor Market.” *American Economic Review.* <http://economics.mit.edu/files/1474>

In this 2013 report, the authors offer a unified analysis of the growth of low-skill service occupations between 1980 and 2005 and the concurrent polarization of US employment and wages. They hypothesize that polarization stems from the interaction between consumer preferences, which favor variety over specialization, and the falling cost of automating routine, codifiable job tasks. Applying a spatial equilibrium model, they corroborate four implications of this hypothesis. Local labor markets that specialized in routine tasks differentially adopted information technology, reallocated low-skill labor into service occupations (employment polarization), experienced earnings growth at the tails of the distribution (wage polarization), and received inflows of skilled labor.

Cadena, B. C. (Fall 2013). “Native Competition and Low-Skilled Immigrant Inflows.” *Journal of Human Resources.* http://muse.jhu.edu/journals/journal_of_human_resources/v048/48.4.cadena.pdf

This paper demonstrates that immigration decisions depend on local labor market conditions by documenting the change in low- skilled immigrant inflows in response to supply increases among the US-born. Using pre-reform welfare participation rates as an instrument for changes in native labor supply, Cadena finds that immigrants competing with native entrants systematically prefer cities with smaller supply shocks. The extent of the response is substantial: for each native woman working due to reform, 0.5 fewer female immigrants enter the local labor force. These results provide direct evidence that international migration flows tend to equilibrate returns across US local labor markets.

Cadena, B. C. and Kovak, B. K. (August 2013). “Immigrants Equilibrate Local Labor Market: Evidence from the Great Recession.” *The National Bureau of Economic Research*.
<http://www.nber.org/papers/w19272>

This paper demonstrates that low-skilled Mexican-born immigrants' location choices in the U.S. respond strongly to changes in local labor demand, and that this geographic elasticity helps equalize spatial differences in labor market outcomes for low-skilled native workers, who are much less responsive. Authors leverage the wage rigidity that occurred during Great Recession to identify the severity of local downturns, and these results confirm the standard finding that high-skilled populations are quite geographically responsive to employment opportunities while low-skilled populations are much less so. However, low-skilled immigrants, primarily those from Mexico, respond even more strongly than high-skilled native-born workers. These results are robust to a wide variety of controls, a pre-recession falsification test, and two instrumental variables strategies. A novel empirical test reveals that natives living in cities with a substantial Mexican-born population are insulated from the effects of local labor demand shocks compared to those in cities with few Mexicans.

Carroll, D. and Gabbard, S. (May 2009). “The Changing Farm Workforce: Findings from the National Agricultural Workers Survey.” *Immigration Reform and Agriculture Conference: Implications for Farmers, Farm Workers, and Communities*. University of California, D.C. Campus.
<http://migrationfiles.ucdavis.edu/uploads/cf/files/2009-may/carroll-saltznaws.pdf>

This presentation presents data from the National Agricultural Worker Survey (NAWS). NAWS is a nationally representative random sample survey of hired crop farm workers sponsored by the U.S. Department of Labor and conducted by JBS International, Aguirre Division. NAWS collects demographic, employment, and health information directly from farm workers through face-to-face interviews. Various Federal agencies use NAWS information for program design and evaluation purposes. The presentation presents data for national level findings dealing with legal status, migrant types, employer type and number; Mexico Sending Regions and Farm Worker Characteristics, and U.S. Migrant Streams and Farm Worker Characteristics.

Clemens, M. (November 2011). “Economic impacts of H-2 nonimmigrant visa eligibility for Haiti.” *Center for Global Development*. <http://www.cgdev.org/page/economic-impacts-h-2-visa-eligibility-haiti>

Nationals of Haiti are currently ineligible to participate in the United States' H-2A and H-2B low-skill temporary work visa programs. Haitians' average standard of living fell steadily—by half—between 1970 and the 2010 earthquake, after which it fell even further. Even if Haiti experienced Chinese levels of economic growth starting today, it would be generations before most Haitian workers had opportunities allowing them to escape destitution. Allowing Haiti to participate in the H-2 nonimmigrant visa programs would create rare and substantial economic opportunity for Haiti while complementing U.S. relief efforts there.

Clemens, M. (May 2013). “International Harvest: A Case Study of How Foreign Workers Help American Farms Grow Crops—and the Economy.” *Center for Global Development*.
<http://www.cgdev.org/publication/international-harvest-case-study-how-foreign-workers-help-american-farms-grow-crops>

This report, published jointly with the Partnership for a New American Economy, attempts to answer the following question by looking at the case of North Carolina farms: In agriculture, do immigrants create jobs or take jobs away? By analyzing data from North Carolina farms, Michael Clemens argues that foreign agriculture workers fill jobs that native workers do not, and that by filling these jobs, foreign workers benefit North Carolina’s economy and create jobs for Americans. Many of North Carolina’s leading farms band together each year to apply collectively as the North Carolina Growers Association (NCGA) for H-2A visas—temporary visas for foreign seasonal farm workers. The NCGA actively recruits native workers to fill the jobs and tracks its efforts to do so. Its data create a clear picture of the extent to which native workers want farm jobs and allow us to estimate the economic benefit of filling farm jobs with foreign seasonal farm workers.

Co, C. Y.; Gang, I, N.; and Yun, M. (May 2012). “Method of Pay, Migrant’s Legal Status, and Wage Gaps.” *Working Paper: Rutgers University, Tulane University, and University of Nebraska at Omaha*.
http://econ.biu.ac.il/files/economics/shared/research/dep_seminar/14_5_12/co_gang_yun_2012_wage_gaps.pdf

Using 1989-2006 National Agricultural Workers Survey (NAWS) data, this study draws together complementary institutional elements—nativity, legal status of immigrants, and method of pay, to study why foreign-born workers are paid lower wages. A wage equation and a selection equation for the choice of compensation method are jointly estimated first. Results show that pay is a function of the crops and tasks workers are engaged in. Workers paid by the hour earn less regardless of nativity and legal status. Interestingly, if authorized workers have the education profile of the native born, their pay advantage will be enhanced. If authorized foreign-born workers move to hourly rate pay jobs, they will lose their pay advantage compared to the native-born; if unauthorized workers move to these jobs, they will be disadvantaged even more; and, the wage penalty to being in hourly pay schemes is larger for unauthorized foreign-born workers if they have the same wage factors as the other two groups.

Doomernik, J. (2013). “Does Circular Migration Lead to 'Guest Worker' Outcomes?” *Wiley-Blackwell*.
<http://search.ebscohost.com/login.aspx?direct=true&AuthType=ip,uid&db=aph&AN=84783227&site=ehost-live&scope=site>

The welfare states of north-western Europe are discovering that their desire of the past three decades to restrict labor immigration as much as possible is no longer 'in sync' with changing labor market demands, which are growing both for the highly skilled and the unskilled. In order to satisfy the demand for unskilled labor, schemes are being proposed that would allow for circular migration. The European Commission is a forceful promoter of these schemes. Member states such as the Netherlands are also considering modes by which to allow temporary unskilled labor migration, but seem intent on employing regulatory tools that are not very different from those used in the 'guest worker' era, which brought about large-scale settlement. Up to the present time, the resulting ethnic minority groups are the subject of large integration efforts on the part of the receiving states. This begs the question of the extent to which 'circular migration' would be different from 'guest worker' schemes, in its management and its outcomes.

Employment and Training Administration. (June 2010). “ETA Open Government Initiative: H-2A Job Registry Factsheet.” U.S. Department of Labor.
http://www.foreignlaborcert.doleta.gov/pdf/H2A_JobRegistry_Factsheet.pdf.

The Employment and Training Administration’s Office of Foreign Labor Certification (OFLC) has developed a new web-based tool, the H-2A Job Registry, allowing the public to search and retrieve temporary agricultural jobs with unprecedented ease and timeliness. This new tool was developed to comply with the Department’s new H-2A regulations implemented on March 15, 2010, and is fully integrated into the OFLC’s iCERT Visa Portal System (<http://icert.doleta.gov>). For the first time, U.S. workers and organizations representing farmworkers will have convenient access to learn about temporary agricultural jobs accepted by the OFLC through a single public location and searchable along a series of common data points. The H-2A Job Registry will display all active agricultural jobs until 50% of the period of employment has elapsed as well as an archive of certified agricultural jobs for up to 5 years.

Gass Kandilov, A. M. and Kandilov, I. T. (August 2010). “The Effect of Legalization on Wages and Health Insurance: Evidence from the National Agricultural Workers Survey.” Published by Oxford University Press, on behalf of Agricultural and Applied Economics Association.
<http://www.sole-jole.org/9214.pdf>

The authors of this study estimate the effect of legalization on the wages and benefits of foreign-born agricultural workers. Using data from the National Agricultural Workers Survey, they employ propensity score matching techniques to compare legal permanent residents in the United States with an appropriate control group of undocumented workers. Consistent with previous findings, the study shows that becoming a legal permanent resident results in a modest wage gain of about 5%. Further, the authors provide novel evidence that, in addition to higher wages, legalization leads to a significantly higher likelihood of receiving some other form of compensation, such as employer-sponsored health insurance or a monetary bonus.

Griffith, D. (March 1993). “Jones's Minimal: Low-Wage Labor in the United States.” SUNY Press.
<http://www.sunypress.edu/p-1539-joness-minimal.aspx>

This book addresses the ways employers in American industries use race, gender, ethnicity, and institutions of the state and the church to manipulate workers' networks and communities, and ultimately, to control the supplies and characteristics of their labor. Griffith focuses on the labor processes in the seafood and poultry processing industries, paying particular attention to the growing use of new immigrant workers, women, and minority workers. He traces relationships between capitalist expansion overseas in peasant and tribal societies and evolving labor practices of "advanced" capitalism in the United States. As such, his work offers a critique of conventional, neoclassical economic approaches to the study of labor.

Griffith, D. ed. (2014). “(Mis)managing Migration: Guestworkers’ Experiences with North American Labor Markets.” SAR Press. http://sarweb.org/?sar_press_mismanaging_migration

Today managed migration is growing in North America. This mirrors the general growth of migration from poorer to richer countries, with upward of 200 million people now living outside their natal countries. Faced with this phenomenon, managed migration allows nation-states to regulate those population movements, direct foreign nationals to specific, identified economic sectors that citizens are less likely to care about, match employers who claim labor shortages with workers who are highly motivated to work, and offer people from poorer countries the opportunities of higher earnings abroad through temporary absence from their families and homelands. Characterized like this, managed migration sounds like the ideal alternative to unregulated, undocumented migration, which too often results in family separations, wage theft and other abuses, interior bordering and anti-immigrant sentiments, increased state expenditures for border patrols and immigration enforcement, and effectively orphaned children when parents are deported. Unfortunately, as the contributors to (Mis)managing Migration describe, managed migration does not always work on the ground as well as it does on paper.

Griswold, D. T. (2012). "Immigration and the Welfare State." *CATO Journal*. <http://search.ebscohost.com/login.aspx?direct=true&AuthType=ip,uid&db=aph&AN=70924529&site=ehost-live&scope=site>

The article discusses the relationship between the economic impact of U.S. immigration on the U.S. as a welfare state. Particular focus is given to contending that U.S. immigrants do not impose a long-term economic burden on the U.S. taxpayer, although the author acknowledges low-skilled immigrant workers impose a net cost on the U.S. government. An overview of the costs that U.S. immigrants impose on the U.S. government, including their impact on social security, health care and the educational system, is presented.

Gurrea, L. (2004). “Modern-Day Servitude: A Look at the H-2A Program’s Purposes, Regulations, and Realities.” *Vermont Law Review*. <http://lawreview.vermontlaw.edu/files/2012/02/guerra.pdf>

This paper argues that the modern H-2A program continues servitude conditions in the agricultural industry that have their roots in slavery. Part I of this article addresses the history of Mexican farm labor in the United States, including the current H-2A agricultural guestworker program. Part II discusses the alleged rights of the H-2A program by reviewing the applicable federal labor laws and regulations. Part III illustrates the realities and abuses within the H-2A program and compares the forms of exploitation and control existing during the age of slavery to those used in the H-2A program today to control Mexican workers in North Carolina. Part IV briefly reviews other legal problems associated with the H-2A program, including the constitutionality of the AWPAs exclusion, violation of international laws, and illegal immigration.

Hainmuller, J. and Hiscox, M. J. (2010). "Attitudes Toward Highly Skilled and Low-Skilled Immigration: Evidence from a Survey Experiment." *The American Political Science Review*. <http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=7449424>

The report's authors provide direct tests of both models of attitude formation using an original survey experiment embedded in a nationwide U.S. survey. The labor market competition model predicts that natives will be most opposed to immigrants who have skill levels similar to their own. They find instead that both low-skilled and highly skilled natives strongly prefer highly skilled immigrants over low-skilled immigrants, and this preference is not decreasing in natives' skill levels. The fiscal burden model anticipates that rich natives oppose low-skilled immigration more than poor natives, and that this gap is larger in states with greater fiscal exposure (in terms of immigrant access to public services). Authors find instead that rich and poor natives are equally opposed to low-skilled immigration in general. In states with high fiscal exposure, poor (rich) natives are more (less) opposed to low-skilled immigration than they are elsewhere.

Huffman, W. (July 2012). "The Status of Labor-Saving Mechanization in U.S. Fruit and Vegetable Harvesting." *Iowa State University*. <https://www.econ.iastate.edu/research/working-papers/p15132>

This paper provides a description of important steps in the mechanization of U.S. fruit and vegetable harvesting, which can be hard, backbreaking work, and in addition, the risk of falling is significant for hand-harvesting fruit trees from ladders. Switching to mechanical harvesting frequently requires the transformation of a farming operation, e.g., new crop varieties, new field configurations, and new packing processes. In addition, a significant capital outlay is frequently required. Progress in mechanization varies a great deal across fruit and vegetable crops.

De Jong, G. F. et al. (June 2011). "The Geography of Immigrant Skills: Educational Profiles of Metropolitan Areas." *Metropolitan Policy Program at Brookings*. http://www.brookings.edu/~media/research/files/papers/2011/6/immigrants%20singer/06_immigrants_singer.pdf

The authors' findings point to several reasons why the perception persists that most immigrants are low-skilled. They make up an increasing share of the low-skilled labor force as the share of U.S.-born workers with no high school degree dwindles. In 1994, 73% of the working-age adults without a high school degree were born in the United States; 15 years later, U.S.-born residents made up only 53% of those without a high school degree. In addition, lower-skilled immigrants dominate flows into new destinations, and the visibility of these newcomers changes the dynamic in areas that have never dealt with immigration. This group of new immigrants is more likely to be from Latin America, less likely to speak English well, and more likely to be unauthorized. These prominent features have received a lot of attention from local leaders and media alike, and usually not the favorable kind.

Holzer, H. (January 2011). "Immigration Policy and Less-Skilled Workers in the United States: Reflections on Future Directions for Reform." *Migration Policy Institute*.
<http://www.urban.org/UploadedPDF/1001488-Immigration-Policy.pdf>

This paper reviews the evidence on the effects of less-skilled immigration to the U.S., and considers the implications of this evidence for immigration reform ideas. It begins with a review of the costs of less-skilled immigration, in terms of competition to native-born American workers and fiscal costs; as well as the benefits of such immigration in the form of lower prices to consumers, higher profits for employers, and greater efficiency for the U.S. economy. The paper then reviews various reform ideas that have been proposed in Congress in recent years, and also considers a range of other ideas, that would likely raise the net benefits associated with less-skilled immigration to the U.S.

Kemnitz, A. (2005). "Discrimination and Resistance to Low-Skilled Immigration." *Labour*.
<http://onlinelibrary.wiley.com/store/10.1111/j.1467-9914.2005.00296.x/asset/j.1467-9914.2005.00296.x.pdf;jsessionid=21BC24A76C3C1A5CB6062857152A43E8.f01t02?v=1&t=hta6v94m&s=5e3f2f69fb8ba09685f69c3087822ed3bf5f4726>

This paper shows that the immigration of some low-skilled workers can be of advantage for low-skilled natives when the host economy suffers from unemployment due to the presence of trade unions and an unemployment insurance scheme. This benefit arises if trade unions have appropriate bargaining power and preferences for members' income, labor market discrimination against immigrants is strong enough and the unemployed tax rate is low.

Kerwin, D. M. and McCabe, K. (July 2011). "Labor Standards Enforcement and Low-Wage Immigrants: Creating an Effective Enforcement System." *Migration Policy Institute*.
<http://www.migrationpolicy.org/research/labor-standards-enforcement-immigration>

The report analyzes the labor standards enforcement record of the Clinton, Bush, and Obama administrations and argues that enforcement of labor laws should become a higher priority, particularly amid high rates of unemployment and underemployment. It asks whether enforcement could play a role in reducing unauthorized employment and illegal immigration, and details the elements necessary for an effective labor standards enforcement system and proposes a way forward. The report concludes that labor standards enforcement should become a pillar of immigration policymaking. The fact that many unauthorized immigrants work in jobs not covered by federal labor standards places them in jeopardy, drives down wages and working conditions for other employees, and undermines the U.S. labor standards enforcement as a whole. Strengthened and well-enforced standards could safeguard vulnerable workers, while ensuring that scofflaw employers do not benefit at the expense of companies that are complying with the rules.

Kuehn, D. (2013). "Immigration: Low- Skilled Workers Need Not Apply?" *Regulation*.
<http://search.proquest.com/docview/1445139618?accountid=11091>

Immigration is not typically considered a regulatory policy topic, but immigration statutes regulate the supply of workers -- both permanent and temporary -- to the American labor market. Congress and the US Customs and Immigration Service shape the hurdles that migrants must jump to enter and maintain residence in the US each year. The political glue that keeps immigration reform "comprehensive" is the push to expand visas for high-skilled workers. Restrictions on voting based on education levels are today considered abhorrent. And yet, on questions of citizenship and residence, it is a foregone conclusion for much of the public, and even more policymakers and analysts, that special accommodations should be made for people with high skill levels and their families. Unfortunately, most current efforts to rectify the problem of special treatment for high-skilled migrants rely on the creation of new regulatory authority to determine whether or not an occupation is experiencing a labor shortage.

"Leveling the Playing Field: Reforming the H-2B Program to Protect Guestworkers and U.S. Workers." *Pennsylvania State University, Dickinson School of Law's Center for Immigrants' Rights and National Guestworker Alliance*. <http://www.guestworkeralliance.org/wp-content/uploads/2012/06/Leveling-the-Playing-Field-final.pdf>

This report is intended as a resource for policymakers, advocates, and workers, all of whom have a vital role to play in building a strong economy. The report documents how, in sectors from manufacturing to food processing to hospitality, employers can treat H-2B guestworkers as the ultimate source of cheap, exploitable labor. *Leveling the Playing Field* makes the following recommendations, which constitute fundamental protections that all guestworkers, including H-2B workers and the U.S. workers who work beside them, should be afforded: Workers should have the right to organize without fear of retaliation; Employers should be prohibited from using guestworkers as cheap and exploitable alternatives to U.S. workers; employers should not subject guestworkers to human trafficking; and employers should be subject to meaningful government enforcement and community oversight.

Liu, C. Y. (2013). "Latino Immigration and the Low-Skill Urban Labor Market: The Case of Atlanta Latino Immigration and the Low-Skill Urban Labor Market: The Case of Atlanta." *Social Science Quarterly* (Wiley-Blackwell).
<http://search.ebscohost.com/login.aspx?direct=true&AuthType=ip,uid&db=aph&AN=85280100&site=ehost-live&scope=site>

This study provides a dynamic account of the employment competition between Latino immigrant and black workers in the context of an emerging immigrant gateway: the Atlanta Metropolitan Statistical Area. This study identifies occupational niches that Latino immigrants and black workers heavily concentrate for years 1990, 2000, and 2008. Occupational-level composition and wage models are also estimated to test for the impact Latino immigration might have on black workers. Both black workers and Latino immigrant workers became increasingly concentrated in a few occupations between 1990 and 2008. While Latino immigrants have entered several historically black occupational niches, no downward pressure on the wage growth of blacks in the same occupation is observed. As immigrants become increasingly clustered in manual-intensive craftsmen, operative, and farm occupations, blacks gravitate toward the better-paid and language-intensive sales, clerical, and service occupations, forming a segmented low-skill labor market. The reinforcement of their respective niches also tends to create closure to the other groups and intensify within-group competition.

Lowell, L. (February 2011). “Growing Modern American Guestworkers: The Increasing Supply of Temporary H-2A Agricultural Workers.” *Institute for the Study of International Migration*. http://www.iza.org/conference_files/amm2011/lowell_b4162.pdf

This paper sets out the growth of the H-2A workforce as an issue to be explained because there has been little recognition that it has become a more important source of labor supply. Much of the literature focuses on abuses of labor rights among this workforce or its relationship to the unauthorized and surrounding community. Another literature evaluates the relationship of the H-2A to agricultural labor shortages and similarities of the H-2A program to the evolution of modern-day guestworker programs in Europe and elsewhere (Jensen 2007). The focus in this paper, in contrast, is not on the concomitant issues surrounding the H-2A workforce, but more straightforwardly on a demographic evaluation of its growth. The analysis should demonstrate that the H-2A program is no longer a backwater and is worthy of the increasing amount of attention it is receiving.

Martin, P. and Calvin, L. (Summer 2010). “Immigration Reform: What Does It Mean for Agriculture and Rural America?” *Applied Economic Perspectives and Policy*. <http://aepp.oxfordjournals.org/content/32/2/232.short>

Over half of the hired workers employed on U.S. crop farms have been unauthorized to work since the mid-1990s, thereby increasing risk for employers if increased immigration law enforcement reduces the availability and raises the cost of farm labor. Immigration reform that legalizes farm workers could speed exits from the farm workforce, thus putting upward pressure on farm wages. Better enforcement of existing immigration laws would reduce the supply of farm workers, also putting upward pressure on wages. Producer response to higher wages depends, in part, on the availability of guest workers and alternatives to hand labor such as labor-saving machinery.

Martin, P. and Taylor, J. E. (February 2013). “Ripe with Change: Evolving Farm Labor Markets in the United States, Mexico, and Central America.” *The Wilson Center*. <http://www.migrationpolicy.org/research/ripe-change-evolving-farm-labor-markets-united-states-mexico-and-central-america>

This report assesses trends in U.S., Central American, and Mexican agriculture and their implications for farm labor markets, including the demand for skills and its effects on education and workforce development. The demand as well as the supply side of the North American farm labor market is evolving. Access to an abundant supply of low-wage labor predominantly from Mexico has long been the comparative advantage of U.S. agriculture. The authors examine the changes in the volume and composition of production and trade, the supermarket revolution in Latin America, training and education changes, and the implications of these changes on workers and migration. If episodes of labor scarcity increase and more pressure is put on seasonal farm worker wages, there will be more incentives for labor-saving mechanization and management strategies and would raise the possibility of recruiting workers from Asia.

Mathes, C. (2012). “The Department of Labor’s Changing Policies Toward the H-2B Temporary Worker Program: Primarily for the Benefit of Nobody.” *Fordham Law Review*.
<http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4781&context=flr>

This report argues that the Department Of Labor’s (DOL) approach incorrectly concludes that the expenses of H-2B visas are primarily for the benefit of the employer, unnecessarily imposes increased labor costs on H-2B employers already suffering from a stagnant economy, and fails to properly protect H-2B employees. The H-2B program appears in need of reform, but the changes advanced by the DOL are off target and potentially disastrous for H-2B participants. This report concludes that a more effective policy to curb employee abuse, while also limiting the cost of employer participation, would be to require more transparency in the recruitment process and to provide for visa portability in the event of labor violations. Though purporting to protect “our Nation’s most vulnerable workers,” the DOL’s shift in policy will put unnecessary burdens on seasonal businesses and will place domestic and H-2B employees at risk of losing their jobs. Part I of this report provides a brief overview of both the H-2 temporary guestworker program and the FLSA—including their history, purposes, and interaction. Part II analyses the conflicting interpretations of the FLSA’s reimbursement requirements for H-2B employers. Finally, Part III argues that the DOL is incorrectly interpreting these requirements, and offers an alternative solution to the problem of potential employee abuse.

McPhee, S. R. (2012). “Employer and Migration in Low-Skilled Services in Dublin.” *Employee Relations*. <http://www.emeraldinsight.com/journals.htm?articleid=17054829>

The purpose of this paper is to analyze the role of employers as “institutional” factors in the creation of segmentation in the labor market. Industrial structure defines segments of the labor market (the employer) based on the nature of demand, and with the impact on the individual workers or groups based on their personal characteristics. Empirical work is within the Dublin labor market, which experienced the largest increase in availability of migrant workers under immigration policies of the Celtic Tiger state. Semi-structured interviews reinforce state policies as key institutional factor underlying migrant labor trends and experiences, but perspectives of the employers in low-end service industries reveal additional insights. In attempting to understand labor market processes and the creation of segmentation there needs to be a triangulation of processes of supply, demand and state policies; and employers are key players in shaping demand and exploiting supply trends.

Newman, E. “No Way to Treat a Guest: Why the H-2A Agricultural Visa Program Fails U.S. and Foreign Workers.” *Farmworker Justice*.
<https://www.farmworkerjustice.org/sites/default/files/documents/7.2.a.6%20No%20Way%20To%20Treat%20A%20Guest%20H-2A%20Report.pdf>

This report, a product of interviews with current and former H-2A workers, information from media exposés, lawsuits against H-2A employers, and the experiences of workers and advocates over the past 30 years, demonstrates that: Guest worker programs drive down wages and working conditions of U.S. workers and deprive foreign workers of economic bargaining power and the opportunity to gain political representation. The H-2A program’s protections for U.S. workers and against exploitation of guest workers by employers are modest; in fact, they are similar to those in the Bracero program (1942-1964), which was terminated due to its notorious labor abuses. Once an employer decides to enter the H-2A program, the law creates incentives to prefer guest workers over U.S. workers. For example, the employer must pay Social Security and unemployment taxes on U.S. workers’ wages but is exempt from paying these taxes on guest workers’ wages. The H-2A recruitment system has led to numerous documented cases of debt-peonage, human trafficking, and forced labor.

Papademetriou, D. and Sumption, M. (April 2013). “Legal Immigration Policy for Low-Skilled Foreign Workers.” *Migration Policy Institute*. <http://www.migrationpolicy.org/research/legal-immigration-policies-low-skilled-foreign-workers>

The brief highlights a number of major policy issues related to the requirements for employers, numerical limits, and employment standards. Specifically, the brief emphasizes some rather contentious issues related to inconsistent prevailing wage determinations; recruitment requirements for employers; numerical caps; portability; and violations of labor standards. In addition, the brief finds that one of the key drivers of illegal immigration is the absence of a meaningful year-round employment-based visa for low-skilled workers and notes that at present, the only permanent visa for low-skilled workers is capped at a mere 5,000 annually. Although the creation of a new visa program for low-skilled workers gives rise to a number of difficult questions related to eligibility, duration, and design, the brief finds that the recent agreement between the U.S. Chamber of Commerce and the AFL-CIO puts new momentum behind the debate.

Pena, A. A. (April 2013). “Do Minimum Wage Laws Affect People Who are Not Covered? Evidence from Documented, Undocumented, Hourly, and Piece Rate Workers in U.S. Agriculture.” *Colorado State University*. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2264322

This paper presents a case study, drawing from agriculture, that examines if and how minimum wage laws affect uncovered workers. Analysis examines wages and hours worked as functions of federal and state minimum wages, using data from a nationally and regionally representative survey of employed farm workers. Results suggest wage increases for both covered and uncovered workers, greatest gains to those who are formally covered, and gains not being at the expense of hours worked.

Pena, A. A. (January 2009). “Poverty, Legal Status and Pay Basis in U.S. Agriculture.” *Stanford Center for International Development*. <http://www.stanford.edu/group/siepr/cgi-bin/siepr/?q=system/files/shared/pubs/papers/pdf/SCID377.pdf>

This paper studies relationships between wage contracts, legal status, and poverty using representative survey of employed farmworkers which includes detailed information of legal status, including whether a worker is illegal. Results indicate that while piecerate workers earn more per hour on average, they work fewer hours and face greater poverty risk than their timerate counterparts. Furthermore, foreign-born workers, especially those who are illegal, are overrepresented in piecerate positions, and national and regional analysis shows that the effect of peicerate pay on poverty is positive and correlated with being foreign-born.

Rickard, B. (March 2014). “On the Political Economy of Guest Worker Programs in Agriculture.” *Cornell University*. <http://dyson.cornell.edu/research/researchpdf/wp/2014/Cornell-Dyson-wp1410.pdf>

Guest workers have provided a source of agricultural labor supply in many countries. Recent legislative proposals on immigration reform in the United States have renewed discussions about the role of guest worker programs, and highlighted the arguments for and against such programs. Even within the agricultural sector, there has not been strong broad-based support for an expansion in the number of guest workers. A model is developed that considers competing interests between commodity groups (horticulture crops and grain crops) to explain this lack of support, and then a series of simulations are conducted to highlight the possible economic effects of an expanded guest worker program. Results suggest that an increase in the labor supply would lead to much larger welfare gains for horticultural producers and firms in the supporting input markets. Furthermore, under some conditions, simulation outcomes show how an increase in the labor supply may lead to small welfare losses for both producers and input suppliers in grain markets.

Ruckelshaus, C. K. (November 2013). “Testimony of Catherine K. Ruckelshaus. Hearing Before the United States Congress Senate Committee on Health, Education, Labor & Pensions Subcommittee on Employment and Workplace Safety. ‘Payroll Fraud: Targeting Bad Actors Hurting Workers and Businesses’. November 12, 2013.” <http://www.help.senate.gov/imo/media/doc/Ruckelshaus1.pdf>

This is the transcript testimony of Catherine K. Ruckelshaus, the General Counsel of the National Employment Law Project, before the U.S. Senate Committee on Health, Education, Labor, and Pensions and the Subcommittee on Employment and Workplace Safety. Her testimony updates what she presented in 2010, describing independent contractor misclassification and its impacts on workers, on state and federal government coffers, and on law-abiding employers. Ruckelshaus recommends endorsing a bill that “would amend the Internal Revenue Code to modify the rules giving employers a ‘safe harbor’ when they misclassify employees, and would permit the IRS to issue guidance on the subject” as well as more “support...[for] federal criminal prosecutions for egregious violators of federal criminal laws, including the failure to report currency transactions, mail and wire fraud, and tax fraud.”

Seminara, D. (January 2010). “Dirty Work: In-Sourcing American Jobs with H-2B Guestworkers.” *Center for Immigration Studies*. <http://www.cis.org/h-2b-guestworkers>

This report looks into the impact H-2B visas and related legislation has had upon the agricultural labor. The report highlights and argues the following points: The popularity of the H-2B program for temporary, seasonal, non-agricultural guestworkers has soared from just 15,706 visas issued in 1997 to an all-time high of 129,547 in 2007. The Save Our Small and Seasonal Business Act (SOSSBA) passed by Congress in 2005 provided an exemption for returning H-2B workers so that they would not count toward the annual 66,000 cap on H-2B visas. Use of the H-2B program has morphed from its original intent to help employers that need seasonal and/or temporary workers. The majority of the program’s current users are neither small nor seasonal employers, but rather mid- to large-sized companies and recruiters that petition for H-2Bs to work for 10 months out of the year, year after year.

Smith, C. L. (2012). "The Impact of Low-Skilled Immigration on the Youth Labor Market." *Journal of Labor Economics*. <http://www.jstor.org/stable/10.1086/662073>

The employment to population rate of high school–aged youth has fallen by about 20 percentage points since the late 1980s. One potential explanation is increased competition from substitutable labor, such as immigrants. The author claims to demonstrate that the increase in the population of less educated immigrants has had a considerably more negative effect on employment outcomes for native youth than for native adults. The claims are based on the following two factors: there is greater overlap between the jobs that youth and less educated adult immigrants traditionally do, and youth labor supply appears more responsive to immigration-induced wage changes.

Smith, R. and Ruckelshaus, C. K. (2007). "Solutions, Not Scapegoats: Abating Sweatshop Conditions for all Low-Wage Workers as a Centerpiece of Immigration Reform." *NYUJLPP*. <http://www.nyuylpp.org/wp-content/uploads/2012/11/SMITH-RUCKELSHAUS-SOLUTIONS-NOT-SCAPEGOATS.pdf>

This article analyses the failures of law and policy that have left many full-time workers in poverty, proposes an agenda for change for both U.S. and immigrant workers, and notes the areas in which some of the bills considered in the 109th Congress succeeded (and failed) in considering these core labor principles.

***United States Government Accountability Office. (September 2012). "H-2A Visa Program: Modernization and Improved Guidance Could Reduce Employer Application Burden."* <http://www.gao.gov/products/GAO-12-706>**

GAO recommends that (1) Labor and DHS use their new electronic application systems to collect data on reasons applications are delayed and use this information to improve the timeliness of application processing; (2) Labor allow employers to submit one application for groups of similar workers needed in a single season; and (3) Labor review and revise, as appropriate, its guidance to states regarding methods for determining the acceptability of employment practices in employers' applications. DHS and Labor agreed with the recommendation to collect additional data and Labor agreed with the recommendation to update its guidance. Labor disagreed with the recommendation it allow employers to apply once per season. GAO believes the recommendation is still valid and that a single application does not preclude timely testing of the labor market as workers are needed.

***United States Government Accountability Office. (September 2012). "H-2A Visa Program: Closed Civil and Criminal Cases Illustrate Instances of H-2B Workers Being Targets of Fraud and Abuse."* <http://www.gao.gov/assets/320/310640.pdf>**

GAO reviewed 10 closed cases over the last 5 years that involved H-2B employers and recruiters that violated various labor laws or settled allegations of violations outside of court. These 10 cases involved diverse employers in different industries with employees in 29 states with violations in areas such as employers failing to pay promised wages, overtime, or both; employers charging H-2B workers exorbitant fees; and employers and recruiters submitting fraudulent documentation to government officials. GAO personnel found that most recruiters they called or visited posing as prospective H-2B employers and workers did not encourage our undercover agents to violate program rules. Of the 18 recruiters in multiple states we contacted, 15 appropriately did not offer any advice on violating H-2B program rules. However, during three calls, H-2B recruiters did provide suggestions on how to circumvent program rules, such as providing "good excuses" to help "weed out" prospective U.S. workers or recouping costs through "off-the-book" transactions to avoid restrictions on pay deductions.

POLICY STUDIES

Escalante, C.; Kostandini, G.; and Mykerezi, E. (November 2013). “The Impact of Immigration Enforcement on the U.S. Farming Sector.” Published by Oxford University Press on behalf of the Agricultural and Applied Economics Association.

<http://ajae.oxfordjournals.org/content/96/1/172.full.pdf+html>

This study examines the effects of local immigration enforcement efforts on U.S. agriculture in dozens of U.S. counties from 2002–2010 by using variations in the timing of adoption of 287(g) programs, which permit local police to enforce immigration law. Difference-in-differences models using microdata from the American Community Survey (2005–2010 waves) and county tabulations from the Census of Agriculture (1997, 2002, and 2007) yield robust evidence that county enforcement efforts have reduced immigrant presence in adopting jurisdictions. The authors also find evidence that wages of farm workers, patterns of farm labor use, output choices, and farm profitability may have been affected in a manner consistent with farm labor shortages.

Levine, L. (February 2005). “Farm Labor Shortages and Immigration Policy.” *Congressional Research Service*.

http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1206&context=key_workplace

Trends in the agricultural labor market generally do not suggest the existence of a nationwide shortage of domestically available farmworkers, in part because the government’s databases cover authorized and unauthorized employment. (This finding does not preclude the possibility of spot agricultural labor shortages, however.) Hired and contract farm employment did not show the same upward trend of total U.S. employment during the robust expansion of the 1990s. The length of time hired farmworkers are employed has changed little or decreased over the years, depending on the measure examined. Their unemployment rate has varied little and remains well above the overall average. Underemployment among farmworkers also remains substantial. And, although two data series show different levels and trends in the wages of field workers, they do concur that these agricultural employees earn little more than 50 cents for every dollar paid to other employees in the private sector.

Miller, Laurie. (Spring 2011). “H Temporary Visa Report.” *Cornell Institute for Public Affairs*.

[http://www.cipa.cornell.edu/engagement/capstone/upload/PublicEngagement_Capstone AFLCIO Link.pdf](http://www.cipa.cornell.edu/engagement/capstone/upload/PublicEngagement_Capstone_AFLCIO_Link.pdf)

The Cornell Institute for Public Affairs (CIPA) domestic Capstone course was tasked with researching and analysing the H-1b, H-2A, H-2B visa program for the AFL-CIO. The class was divided into three respective research groups to study the three visa programs. The groups provide recommendations for improving the integrity of each visa.

PROGRAM EVALUATION

Griffith, D. (2006). "American Guestworkers: Jamaicans and Mexicans in the U.S. Labor Market." Penn State University Press. <http://www.psupress.org/books/titles/0-271-02949-8.html>

The H-2 program, originally based in Florida, is the longest running labor-importation program in the country. Over the course of a quarter-century of research, Griffith studied rural labor processes and their national and international effects. In this book, he examines the socioeconomic effects of the H-2 program on both the areas where the laborers work and the areas they are from, and, taking a uniquely humanitarian stance, he considers the effects of the program on the laborers themselves.

Jacoby, T. and Zavodny, M. (October 2010). "The Economic Impact of H-2B Workers." *Immigration Works USA and U.S. Chamber of Commerce.*

http://www.whitehouse.gov/sites/default/files/omb/assets/oira_1205/1205_12202011-3.pdf

The H-2B program allows employers to bring low-skilled foreign workers into the United States to fill temporary and seasonal jobs in sectors other than agriculture. Large and small employers in every state and in a wide variety of industries turn to the program when they cannot hire enough U.S. workers. H-2B visa holders play a small role in the U.S. economy. The number of visas is capped at 66,000 per year, and H-2B workers account for less than one-tenth of one percent of total U.S. employment. Despite the small size of the program, many employers who use it say their businesses would have to downsize or close if H-2B workers were not available. And H-2B visas are essential to several regional seasonal industries that sustain the economy in their states: seafood processing on Maryland's Eastern Shore, restaurants and inns on Nantucket and ski resorts in Colorado, among other businesses.

Moran, R. E. (July 2013). "Actions Needed to Improve the Transparency and Reliability of Labor's Data on the H-2A Program." *Government Accountability Office.*

<http://www.gao.gov/products/gao-13-144r>

This GAO report focuses on recommendations to the Department of Labor, calling for increased accuracy, consistency, and transparency of data released relating to temporary H-2A visas. GAO found that much of the data Labor reported from applications submitted on behalf of multiple employers for this same period contained inconsistencies and that Labor lacked internal controls to monitor and prevent these inconsistencies. To inform users of the data's reliability and completeness and to improve the quality of future data, GAO recommends that Labor take steps to disclose the limitations of the H-2A data it posts on its website, and that Labor verify the data provided on multi-employer applications.

Moran, R. E. (September 2012). "H-2A VISA PROGRAM: Modernization and Improved Guidance Could Reduce Employer Application Burden." *Government Accountability Office.*

<http://www.gao.gov/products/GAO-12-706>

This study was done in response to perceived and experienced inefficiencies and delays affecting employers and applicants during the H-2A visa application process. GAO was asked to examine (1) any aspects of the application process that present challenges to agricultural employers, and (2) how federal agencies have addressed any employer challenges with the application process. GAO analyzed Labor and DHS data; interviewed agency officials and employer representatives; and conducted site visits in New York, North Carolina, and Washington. The report offers specific recommendations to improve the timeliness and efficiency of application processing.

PROJECTIONS

Dixon, P. B. et al. (May 2012). “The Potential Impact of Changes in Immigration Policy on U.S. Agriculture and the Market for Hired Farm Labor: A Simulation Analysis.” *Economic Research Service, United States Department of Agriculture*. <http://strategies.workforce3one.org/practices/571>

This report explores the possible economic implications of large shifts in the supply of foreign-born, hired farm labor that could result from substantial changes in U.S. immigration laws or policies. A computable general equilibrium (CGE) model of the U.S. economy is used to evaluate how changes in the supply of foreign-born labor might affect all sectors of the economy, including agriculture. Two scenarios are considered: an increase in the number of temporary nonimmigrant, foreign-born farmworkers, such as those admitted under the H-2A Temporary Agricultural Program, and a decrease in the number of unauthorized workers in all sectors of the economy. Longrun economic outcomes for agricultural output and exports, wages and employment levels, and national income accruing to U.S.-born and foreign-born, permanent resident workers in these two scenarios are compared with a base forecast reflecting current immigration laws and policies.

Huffman, Wallace. (2011). “Investing in a Better Future through Public Agricultural Research”. *Council for Agricultural Science and Technology*. <http://www.cast-science.org/download.cfm?PublicationID=2963&File=f030f29907dabc7612d2134142d312363716>

The U.S. and world populations are expected to grow by approximately 30% by the year 2050, and world real income per capita is expected to grow by 98%. Population and income growth translates into rapid growth in the demand for high-valued food—e.g., meat, fish, fresh fruits, and vegetables—and for feed for livestock. These changes will place increasing demands on arable land and freshwater. Moreover, climate change threatens to shift the comparative advantage for crop and livestock production farther away from the equator and toward more northerly areas in the Northern Hemisphere as well as to increase the variability of local weather conditions. Although agricultural productivity growth during the last two decades of the twentieth century was sizable in developed countries and in some developing countries, they built on past investments in agricultural research. Worldwide and in the United States, however, investments in public agricultural research have slowed since 1980.

VISA DATA

Monger, R. (August 2013). “Nonimmigrant Admissions to the United States: 2012.” U.S. Department of Homeland Security. <https://www.dhs.gov/publication/nonimmigrant-admissions-united-states-2012>

Nonimmigrants are foreign nationals granted temporary admission into the United States. The major purposes for which nonimmigrant admission may be authorized include temporary visits for business or pleasure, academic or vocational study, temporary employment, or to act as a representative of a foreign government or international organization. The Department of Homeland Security (DHS) collects information on the characteristics of certain nonimmigrant admissions from I-94 arrival records. This Office of Immigration Statistics Annual Flow Report presents information gathered from I-94s on the number and characteristics of nonimmigrant admissions to the United States in 2012.

“Temporary (Nonimmigrant) Workers.” (Updated: September 2011). U.S. Citizenship and Immigration Services. <http://www.uscis.gov/working-united-states/temporary-workers/temporary-nonimmigrant-workers>

In order for you to come to the United States lawfully as a nonimmigrant to work temporarily in the United States your prospective employer must generally file a nonimmigrant petition on your behalf with USCIS. The main nonimmigrant temporary worker classifications are listed in the table below. For more information about the filing requirements for particular nonimmigrant classifications, see the specific classification links under "Temporary Workers" to the left.

OTHER SOURCES

David, et al. v. Signal International, LLC, et al.

American Civil Liberties Union

<https://www.aclu.org/human-rights/david-et-al-v-signal-international-llc-et-al>

Farmworker Health Factsheet

National Center for Farmworker Health, Inc.

<http://www.ncfh.org/docs/fs-Facts%20about%20Farmworkers.pdf>

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The Executive Office of the President

<http://www.whitehouse.gov/sites/default/files/uploads/ag-rural-report-07292013.pdf>

FY 2012 Annual Report, OFLC Performance Data

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<http://www.foreignlaborcert.doleta.gov/performance/cfm>

H-2A, ICE, RICO

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http://migration.ucdavis.edu/rmn/more.php?id=1550_0_4_0

How Do Low-Skilled Workers Fit Into Equation of Immigration Reform?

PBS Newshour

http://www.pbs.org/newshour/bb/politics-jan-june13-immigration_05-27/

Immigration and Agriculture Conference

UC Davis

<http://migration.ucdavis.edu/cf/index.php>

Immigration in Maryland

Immigration Policy Center

<http://www.immigrationpolicy.org/immigration-maryland>

Immigration Policy and Its Possible Effects on U.S. Agriculture

USDA

<http://www.ers.usda.gov/amber-waves/2012-june/immigration-policy.aspx#.U0U-Gq1dVy9>

Low-skilled immigrants: Economic burden or boon?

The Washington Post

http://www.washingtonpost.com/national/low-skilled-immigrants-economic-burden-or-boon/2013/08/24/b1b88858-ed5b-11e2-9008-61e94a7ea20d_story.html

Our Future, Together: Immigrants & The American Economy

Center for American Progress

<http://images2.americanprogress.org/our-future-together/>

Work Authorization for Non-U.S. Citizens: Temporary Nonagricultural Workers (H-2B Visas)

U.S. Department of Labor

<http://www.dol.gov/compliance/guide/tnw.htm>

Work H-2B Temporary Non-Agricultural Workers

U.S. Citizenship and Immigration Services

<http://www.uscis.gov/working-united-states/temporary-workers/h-2b-non-agricultural-workers/h-2b-temporary-non-agricultural-workers>

Visas Are Urged for Lower-Skilled

The New York Times

http://www.nytimes.com/2013/02/22/us/politics/business-and-labor-leaders-urge-visa-system-for-low-skilled-work.html?_r=0