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Laurie Trautman

Western Washington University

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Comparing U.S. & Canadian Foreign Worker Policies

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by Laurie Trautman

Web Address: www.wwu.edu/bpri

The programs listed below import workers in a range of positions either seasonally or for a limited number of years.

Canada's Temporary Foreign Worker Program:

- 41,000 High-skilled
- 17,000 Live-in Caregivers
- 28,000 Seasonal Agricultural Workers
- 40,000 Low-skilled Pilot

126,000 workers present in 2013

U.S. 'Guest Worker' Visas:

- 153,000 H-1B (high-skilled)¹
- 74,000 H-2A (agricultural)
- 57,600 H-2B (low-skilled)

284,600 visas issued in 2013

While the number of workers on these programs is relatively small in comparison to the overall labor force in both countries, they comprise an important source of workers for many small businesses. Furthermore, employer reliance on these programs can influence hiring strategies and labor market dynamics, particularly at the local scale and in certain sectors of the economy.

Introduction. In both the U.S. and Canada, immigration reform is a politically, economically and emotionally contentious issue. One component of immigration policy in particular – the use of temporary foreign labor – is an important aspect of policy reform in both countries. This *Border Policy Brief* explores the policies used by Canada and the U.S. to import temporary foreign workers, often referred to as 'guest workers,' particularly in lower-skilled occupations such as agriculture, hospitality and caregiving. Although both countries are increasingly relying on foreign workers to fill lower-skilled labor needs, they are doing so in very different ways.

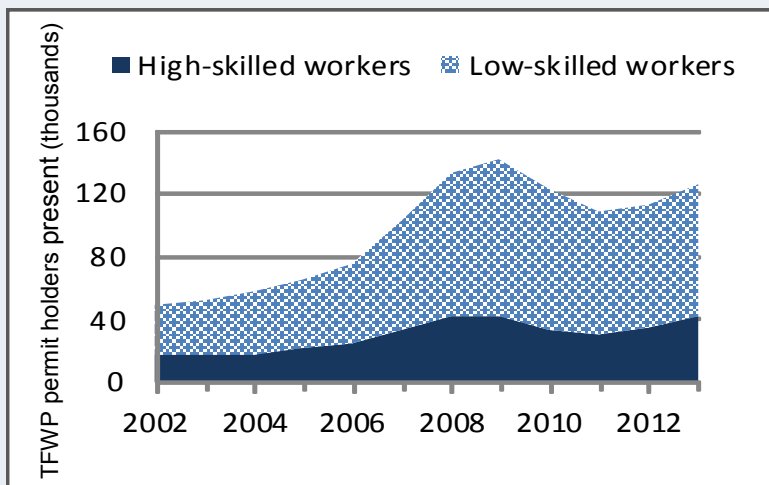
Background. Over the last two decades, a growing percentage of labor in the U.S. and Canada has consisted of foreign workers without permanent status. In the U.S., such workers remain largely unauthorized and have arguably become a structural element in many sectors of the U.S. economy. For example, it is estimated that nearly half of the farm labor force in the U.S. is unauthorized. Canada, on the other hand, has increasingly recruited foreign workers through official programs such as the Temporary Foreign Worker Program (TFWP).

Policies. Both Canada and the U.S. have a variety of programs for importing foreign workers, with separate streams for high-skilled, low-skilled, and agricultural workers. In both countries, the process for obtaining workers in the latter two categories is initiated by individual employers and requires approval from several separate agencies before employment can commence. Such workers have restricted work permits and are only able to switch between employers who have acquired a positive labor market certification. In order to achieve a positive certification, employers must first advertise the job for a defined period of time at a pre-determined wage to prove no native workers are available. In Canada, many positions are exempt from this process, while in the U.S. many higher-skilled positions require a simple labor market attestation in lieu of certification.¹

Canada

In 2007, for the first time in history, Canada welcomed more temporary residents than permanent residents – a trend which has persisted since. The growth in temporary residents has been driven primarily by the presence of foreign workers, who increased from 90,000 in 2000 to 386,000 in 2013. Foreign worker programs can be broken down into two main categories: International Mobility Programs (IMPs), created in 2014, and the Temporary Foreign Worker Program (TFWP). Broadly speaking, IMPs are for higher-skilled workers and do not require a labor market certification, while the TFWP is designed to meet acute labor needs, primarily in agriculture, hospitality and caregiving. Although some high-skilled workers do enter Canada under the TFWP, that program has been increasingly dominated by low-skilled workers since the early 2000s (Figure 1). Until policy changes in 2014, the TFWP was numerically unrestricted. From 2007 to 2009, the TFWP outweighed the number of workers arriving under historical programs equivalent to IMPs, although this trend has since reversed.

Figure 1. Skill levels for TFWP permit holders, 2002-2013.



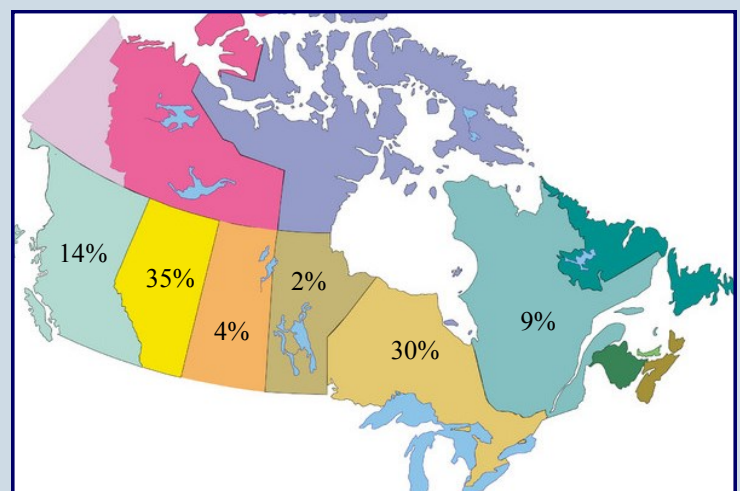
Source: Employment & Social Development Canada, 2013.

Over the last decade, several programs have been established and expanded to enable temporary foreign workers (TFWs) to apply for permanent residency, including the Canadian Experience Class, the Provincial Nominee Program, and a path to residency for live-in caregivers. These programs require work experience in Canada and particular skill sets. They are meant to be more responsive to the needs of the Canadian economy, as well as more efficient avenues to residency than the traditional federal immigration process.

The TFWP is used throughout Canada, with Ontario, Alberta and B.C. importing the largest percentages of workers (Figure 2). B.C. and Alberta saw significant growth in the number of foreign workers present (all streams), with increases of 348% and 560% from 2001 to 2012 respectively. Workers in these provinces arrived mainly from the Philippines, Mexico, U.S. and India.

Alberta currently has the largest number of foreign workers on the TFWP, employed primarily in construction, accommodation and food services.

Figure 2. Percent distribution of TFWP permit holders present December 1 by top provinces, 2013.

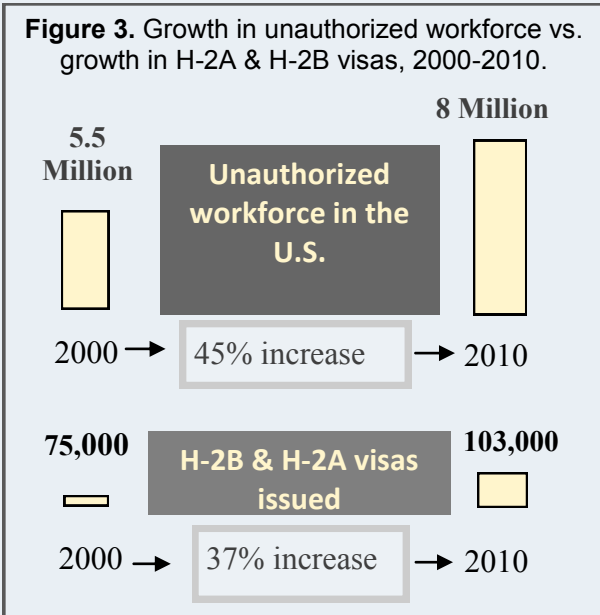


Source: Citizenship & Immigration Canada, 2013.

United States

The current H-2A and H-2B programs were established under the Immigration Reform and Control Act in 1986, the last major comprehensive immigration reform passed in the U.S. The H-2B program is used primarily to fill jobs in landscaping, recreation and housekeeping while the H-2A visa is for farm labor. Both programs import workers in industries that also tend to employ large numbers of unauthorized workers, who far outweigh the number of guest workers admitted annually (Figure 3). Since 1986, the H-2B program has had an annual cap of 66,000 visas although from 2005 to 2008 returning H-2B workers were exempted from the cap, and additional exceptions to the cap are often permitted. In contrast, H-2A workers remain numerically unrestricted, yet the program is not heavily utilized. For example, H-2A workers average less than 20% of hired crop farmworkers, while unauthorized workers account for roughly 50%.

Figure 3. Growth in unauthorized workforce vs. growth in H-2A & H-2B visas, 2000-2010.

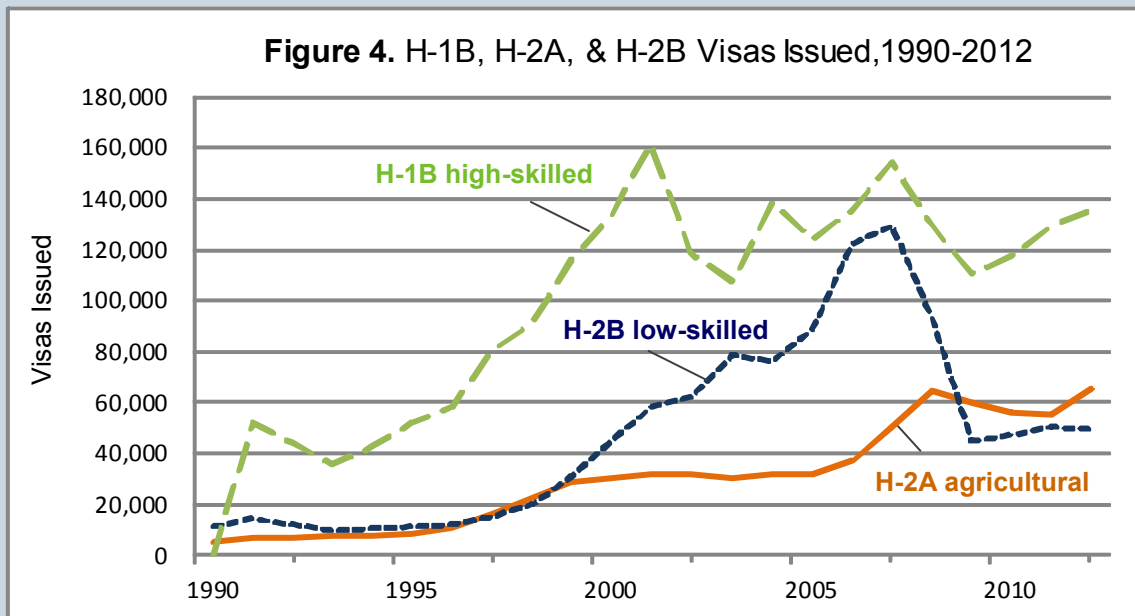


Source: U.S. Department of State, 2013 and Pew Research Center, 2010.

In comparison to the massive expansion of low-skilled workers under Canada’s TFWP (which tripled between 2002 and 2009 and grew by 165% from 2002 to 2013) the growth of H-2B (low-skilled) and H-2A (agricultural) workers in the U.S. has been relatively moderate, increasing by 40% from 2002 to 2013. Although both programs peaked around 2008/2009, it is important to note that the TFWP did not have any numerical restrictions, while the expansion of the H-2B program occurred under a temporary three year policy that only pertained to returning H-2B workers.

Overall, the number of H-1B (high-skilled) workers has expanded considerably since 1990. However, since 2000 H-1B visas have continued to fluctuate rather than exhibit a consistent increase (Figure 4).

Figure 4. H-1B, H-2A, & H-2B Visas Issued, 1990-2012



Source: U.S. Department of State, 2013.

Policy Implications. As a result of the expansion of the TFWP in Canada, particularly in low-skilled occupations, recent policy changes have aimed to tighten the program's hiring process to better protect Canadian workers. According to the Government of Canada, although the program was created as a "last and limited resort," it has led to a "growing practice of employers building their business model on access to the TFWP" (ESDC, 2014). Other policy changes include reduced stay for low-wage workers, reforming the labor certification process, increasing fees and introducing a cap on the percentage of TFWs that individual businesses can employ. Small businesses in particular may experience difficulties as a result of these changes, which have yet to be felt.

In contrast to the recent efforts to overhaul Canada's TFWP, guest worker programs in the U.S. have remained relatively unchanged since 1986, reflecting broader difficulties in reforming immigration policy. As the U.S. continues to debate comprehensive immigration reform, which has been stalled since early 2013, important changes to its guest worker program are also being proposed. One current proposal would considerably expand guest worker programs and replace the employer-based model that requires individual labor certifications with an open work permit. Concerns about unauthorized immigration continue to drive much of the debate and, despite an acute downturn during the recent recession, there are indications that the number of unauthorized immigrants arriving annually in the U.S. is again trending upward.

Lessons Learned. Canada's formal reliance on TFWs relative to the overall labor force far outweighs the U.S. However, U.S. dependence on unauthorized workers, who accounted for 5.2% of the labor force in 2010, also signifies a heavy reliance on temporary foreign labor, albeit in an informal manner. For both TFWs and unauthorized workers, their social, economic, and geographical mobility is severely restricted. They remain vulnerable to exploitation while at the same time employers have developed a structural dependence on a workforce that is inhibited from participating fully in both the economy and society. These issues reflect broader concerns about labor mobility and citizenship in North America, particularly as economic integration is liberalized, while the movement of labor remains heavily regulated.

Under the system of Canadian federalism, provinces have some ability to shape TFWPs and define criteria for permanent residency. For example, the Provincial Nominee Program enables employers to nominate TFWs for residency. While this policy may overcome some concerns about social and economic mobility, privatization of permanent residency may also exacerbate the exploitation of TFWs, as they become more strongly tied to their employers. In the U.S., matters of immigration remain primarily the responsibility of the federal government, yet some devolution has occurred.² If individual states are ever granted greater control over guest worker policies or the unauthorized population, it will be important to learn from Canada's experience.

Endnotes

1. Attestation requires employers state that no native workers are available instead of advertising to prove the need for foreign workers.
2. For example, the 287G program (created in 1996) enables local law authorities to initiate deportation proceedings.

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