When Work and Citizenship Are One: A Case Study Analysis of Workers in the U.S. Temporary, Non-Agriculture Employment Visa Program

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Introduction

Citizenship Rights ➔ Employment

Vs.

Employment ➔ Citizenship Rights
Citizenship Rights in the Context of Temporary Foreign Employment

• Economic Integration + Political Subjection
  Form of Citizenship?

• Importance of work authorization in a post-*Hoffman Plastics* environment

• Fixed-term, *contingent* citizenship rights?
Overview of U.S. Employment Visa Programs

• Bracero Program (1942-1964)
• Caribbean workers/H-2 Program (~1943/1952)
  – “The scheme sounded a bit too much like indentured servitude.”
• H-2A and H-2B Programs (1986)
Exploitation in U.S. Employment Visa Programs: Words vs. Actions

• Bracero Program
  – “…significant legal protections…” for workers

• H-2B Program
  – U.S. Chamber of Commerce: H-2B workers can form unions!
Inherent Exploitative Risks Within U.S. Employment Visa Programs

• Lack of Portability
• Economic Coercion
• Recruitment via Debt
• Ability to Subcontract
• Inability to Change Visa in Labor Dispute

Inherent Exploitative Risks Within the U.S. Employment Visa Programs

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<td>H-2B</td>
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H-2B Employment Visa Program

• Temporary, Non-Agriculture
  – One-time occurrence, seasonal in nature, peakload need, or intermittent need

• Labor Attestation
  – U.S. workers aren’t available
  – Will not adversely affect wages and working conditions of U.S. workers

• Cap: 66,000/fiscal year

• Duration: Up to 3 years
H-2B Employment Visa Program

- Number of H-2B workers (FY 12)
  - DOL: Approved labor certifications for 75,458 H-2B jobs
  - DHS: Admitted 82,291 H-2B workers
  - DOS: Granted 50,009 H-2B visas
- Top Certified Occupations (FY 12)
  - Landscaping (Approved LCAs for 24,094 jobs)
  - Forest Worker (Approved LCAs for 7,522 jobs)
Case Studies

- Methodology
  - H-2B workers in three industries
    - Seafood
    - Hospitality
    - Metal Trades
  - Semi-structured interviews
  - Review of relevant documents
Case Studies: CJ’s Seafood
Case Studies: Decatur Hotels
Case Studies: Signal International
Conclusion/Discussion

• Employers maintain significant control over H-2B workers’ “citizenship rights”
• Employers can and do use this control in coercive manner
• Use of this control impacts U.S. workers
• A caution to policy makers, and a call to researchers