

Immigration Policy and American Unionism: A Reality Check
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Throughout its lengthy history, few issues have caused the American labor movement more agony than immigration. It is ironic this should be the case as most adult immigrants directly enter the labor force. So eventually do most of their family members. But precisely because immigration affects the scale, geographical distribution, and skill composition of the labor force, it affects national, regional and local labor market conditions. Hence, organized labor can never ignore immigration trends. Immigration has in the past and continues to this day to affect the developmental course of American trade unionism. Labor's responses, in turn, have significantly influenced the actual public policies that have shaped the size and character of immigrant entries.

If organized labor seeks restrictions on immigration levels as well as the active enforcement of prevailing laws, it risks alienating itself from the immigrants and makes it difficult to organize them. On the other hand, if they welcome immigrants, endorse liberal admission policies, favor lax law enforcement and support amnesties for violators, selective segments of the labor supply are inflated and the ensuing market pressures make it more difficult for unions to win economic gains for their membership. The reason most workers join unions in the United States is, after all, largely because they believe unions can improve and protect their economic well-being. It also means that organized labor's support for immigrant causes would be adverse to interests of those American workers who do not belong to unions and who would face increased competition for jobs as well as wage suppression pressures. Hence, immigration has always been a "no-win" situation for American unions.

At every juncture and with no exception prior to the 1980s, the union movement either directly instigated or strongly supported every legislative initiative enacted by Congress to restrict immigration and to enforce its policy provisions.¹ Labor leaders intuitively sensed that fluctuations in union membership were inversely related to prevailing immigration trends. When immigration increased, union membership tended to flounder; when immigration declined, union membership flourished. History has shown that those leader's perceptions were valid (see Figure 1).

But in the late 1980s, the leadership of organized labor began to waffle on the issue. By the 1990s, the labor movement was hesitant to support comprehensive reform despite the fact that the nation was in the midst of the largest wave of immigration it had ever experienced and the percentage of the labor force belonging to unions was declining rapidly. In February 2000, the Executive Council of the American Federation of Labor – Congress of Industrial Organizations (AFL-CIO) announced that it was changing its historic position.² It would now support expanded immigration, lenient enforcement of immigration laws, and the legislative agenda of immigrants (which include repeal of sanctions against employers who hire illegal immigrants; generous amnesties for illegal immigrants already in the United States' and liberalizing restrictions on foreign guest workers who seek to work in the United States). In the months that followed officials of the AFL-CIO declared that the organization was now "championing immigrant rights as a strategic move to make immigrants more enthusiastic about joining unions."³ Thus, the one societal body that had faithfully and consistently supported reasonable and enforceable immigration policies to protect the nation's working people was poised to

formally reverse its historic posture at its biannual membership convention in December 2001.

During the summer of 2001, the AFL-CIO Executive Council elaborated on its changing posture. It noted that across the country that: “many states and localities have embraced immigrant workers... [by] establishing day labor centers,... facilitating easier access to drivers licenses, and... helping more immigrant children attend college” [i.e., by allowing illegal immigrants to qualify for in-state tuitions that are lower than what is charged to out of state citizen children]. The Council stated: “the AFL-CIO welcomes these developments.”⁴ This position was entirely consistent with the views expressed by President George W. Bush that same month whose Administration was also commending Congressional proposals for a generous amnesty for illegal immigrants already in the country. It was in this context that President Bush declared: “We ought to make it easier for people who want to employ somebody, who are looking for workers, to be able to hire people who want to work.”⁵ During the first week of September 2001, the President of Mexico, Vicente Fox visited Washington D.C. and addressed a joint session of Congress. Fox sought to promote his legislative initiative for an extensive liberalization of U.S. immigration policy that included an amnesty for illegal immigrants from Mexico already in the United States; a new guestworker program whereby Mexican nationals could work in the United States and earn the right to become permanent residents aliens and stay; and an exemption for Mexican legal immigrants to legally enter the United States beyond the annual visa quotas that are imposed on all other countries (i.e., no single nation can have more than 7 percent of the total 675,000 visas that are issued in any one year).⁶ The

political bandwagon for dramatically expanding immigration levels and loosening immigration enforcement was in high gear.

Then it happened: September 11, 2001. The United States was attacked by a group of Al Qaeda terrorists—all of whom were foreign nationals (mostly from Saudi Arabia) who had used the nation's impotent immigration system to gain access to the country. More sympathizers were believed to be in the country. Suddenly, it was recognized that border and immigration policies do matter. They are the foundation on which national security itself rests. Government has no greater rationale for its existence than to protect its citizens from attack by foreign forces. The nation's politicians had failed in their duty to do so. In the days that followed, many political leaders and the national media feigned any knowledge of how inadequate the nation's prevailing immigration system was.

Border enforcement against illegal entries and internal efforts to identify and deport visas "overstayers" were recognized as being imperative steps to prevent terrorist opportunities. The use of false documents to gain access to the labor market can also be used to enter for terrorist purposes. The use of such documents must be recognized for what it is – a criminal activity and treated accordingly. Such document usage by anyone cannot be condoned. Likewise, there can be no more general amnesties for tens of thousands of illegal immigrants because such adjustments of status of people already in the country bypasses the requirement for background checks required of all applicants for legal immigration *before* they can enter.

Seemingly obvious to the horrendous events of September 11, 2001, the AFL-CIO at its membership convention held in Las Vegas, Nevada in December 2001 adopted

the aforementioned pro-immigration agenda put forth by its Executive Council.⁷ It is hard to image a worse-time to announce that the labor movement was abandoning its historic pro-worker stance on immigration to become a pro-immigrant advocated. The fact that both the unemployment rate and poverty levels were rising sharply at the same time cast even more doubt on the wisdom of such an action.

Only three months later, the U.S. Supreme Court rendered a major finding that illegal immigrants are not protected by the National Labor Relations Act if they are dismissed for union-organizing activities.⁸ As Chief Justice William H. Rehnquist stated in the majority decision, “awarding back pay to illegal aliens runs counter to policies underlying federal immigration laws.”⁹ The national interest is to keep people who violate immigration laws out of the labor market; it is not in the national interest to afford legal rights to people who are not legally entitled to be working in the country in the first place.

Accordingly, it would seem to be propitious time for a reality check with respect to wisdom of the AFL-CIO’s new organizing strategy. A reassessment of this stance is essential for the well-being of Americans workers in general and it is mandatory for the security of the nation.

The Pro-Worker Era: A Review of the Pre-1990s Era

Efforts of working people in the United States to band together to form organizations to represent their collective economic interests date back to the earliest days of the Republic. But it was not until the 1850s that several national craft unions were able to establish of organizations that were strong enough to survive both business cycle fluctuations as well as the fierce opposition of employers and anti-labor court

rulings. Immigration had been an extremely controversial subject among the populace prior to this time but government had yet to formulate any specific policies to regulate the phenomenon. Early unions, nevertheless, had to confront the issue. Immigrants were used to break strikes and to forestall union organizing efforts. As the number of immigrants soared in the 1840s and 1850s, it became increasingly difficult for local unions to secure wage increases and improvement in working conditions for their members.

But with the coming of the Civil War in 1861, there was an enormous increase in the demand for the production of war materials while men of working age were being conscripted to join the military forces of the North. In response, the Act to Encourage Immigration was passed in 1864. It was the nation's first statutory law to influence the level of immigration. It is also known as the Contract Labor Law due to its provisions which required those workers whose transportation costs were paid to come to be repaid to the employers for whom the immigrants were obligated to work. Essentially, the workers received no wages during this period of what was essentially a period of indentured servitude. To cover their food and housing costs the contract workers usually had to extend their period of work obligation. Free labor, obviously, could not compete with workers hired under such obligatory terms. Contract workers were also used frequently as strikebreakers.

Under these conditions, contract labor quickly aroused the ire of existing unions. Following the war, the National Labor Union (NLU) was founded in Baltimore in 1866. It was a national federation of local assemblies of craft workers as well as some of the national craft unions that existed at that time. The NLU viewed the Contract Labor Act

as an artificial method to stimulate immigration by the government whose intention it was to create a labor surplus that depressed wages and caused unemployment. They made the repeal of the legislation an immediate legislative objective. They were successful in their efforts in 1868. But the repeal only ended government support for such efforts; it did not ban the practice so contract labor continued to thrive as a private sector recruiting device used by employers.

The NLU then turned its attention to the issue of large scale immigration of unskilled Chinese workers on the West Coast. Chinese immigration had begun shortly before the Civil War. Many were recruited under contract labor terms and were often paid far less by employers than were white workers. They too were used as strikebreakers. Indeed, when Chinese workers were introduced to the East Coast to replace white workers in a labor dispute in Massachusetts in 1869 and hired at less than one-third of the previous wage level, the NLU responded to the pleas of the white workers by lobbying to end such practices nationwide.

The immediate focus of NLU's efforts became the repeal of the Burlingame Treaty of 1868. This treaty had been negotiated as part of an effort by the United States to open China to trade with American businesses. As an ancillary part of the treaty, it specifically stated that immigrants from China could enter the United States on the same terms as immigrants from Europe but they could not become naturalized citizens. But, when the NLU sought to transform itself into a political party in order to advocate more effectively for worker causes during the presidential campaign of 1872, it collapsed.

The baton of opposition to the unregulated inflow of Chinese workers then was passed to the newly formed Knights of Labor. Founded in Philadelphia in 1869, it

idealistically sought to become a single national union of virtually all workers, skilled or unskilled. The Knights had a social agenda that encouraged a broad array of political reforms. They accomplished little of their political goals with one major notable exception: immigration restrictions. In this one area, everything they sought and fought for they accomplished.

Recognizing that immigration was depressing wages for most workers and that it provided employers with an increasing supply of would-be strikebreakers, the Knights launched a full-scale attack on prevailing immigration policy. In the late 1870s, they sought to repeal the Burlingame Treaty as a way to curtail unlimited Chinese immigration. In 1879 Congress voted to repeal the treaty but President Rutherford Hayes vetoed the legislation. Hayes did, however, appoint a commission to renegotiate the treaty and, as a consequence, the following year Congress enacted legislation allowing Chinese immigration to be “suspended.” Two years later, acting largely at the behest of the Knights and a number of independent craft unions, the Chinese Exclusion Act of 1882 was passed. It “suspended ” all Chinese immigration for 10 years (the suspension was renewed in 1892 for another 10 years and in 1902 it was made permanent until it was repealed in 1943).

The Knights then turned to the continuing issue of contract labor. As a result of their lobbying pressure, the Alien Contract Act of 1885 was adopted by Congress. It forbade all recruitment of foreign workers by American companies. But the legislation contained no enforcement provisions so the practice continued. The Knights then succeeded in having the legislation amended in 1887 to require inspection of new immigrants at ports of entry to ascertain the terms of arrival of new immigrants. If they

were contract workers, they were to be returned forthwith to their country of origin. But there were still no penalties on the American recruiters so the Knights again sought legislative relief. Another amendment was added in 1888 that provided fines for offending corporations who employed contract workers; payments to informers who provided information about violators of the law; and the expulsion from the country of any contract worker found to be employed within one year after arrival. The Alien Contract Act and its amendments remained in effect until 1952 when it was repealed. Since then, foreign recruitment of workers to compete in the domestic labor market has once more become a mounting problem for both organized labor and American workers.

By the late 1880s the Knights had lost support among workers for its emphasis on long term political reforms as the means to uplift the miserable economic status of most working people. The mantle of leadership shifted to the American Federation of Labor (AFL) that had been formally established in 1886. The AFL was a federation of national unions. Most of its members were craft unions but it was open to membership by industrial unions if they could successfully establish themselves. The AFL made the attainment of short run economic objectives—better wages, shorter hours, and improved working conditions—its organizational hallmark.

Samuel Gompers was chosen as president of the new organization in 1886 and, with the exception of one year, he held that office until he died 38 years later (in 1924). Gompers was himself a Jewish immigrant (from England) as were many of the members and leaders of the unions affiliated with the AFL. From his earlier days of involvement in his own craft union—the cigarmakers, Gompers became intimately aware of the adverse effects on wages and employment opportunities of Chinese immigrants on the

welfare of its members. Indeed, it was his own union that in 1872 introduced in San Francisco the usage of the union label to distinguish for consumers the cigars produced by workers employed under a union agreement from those made by non-union Chinese immigrant workers. Thus, despite his own immigrant roots, Gompers recognized that organized labor's first responsibility was to protect the economic well-being of workers and not immigrants *per se* when there was a conflict in their respective interests. Thus, when Gompers assumed the presidency of the AFL, "he fathered the anti-immigration policy of the AFL."¹⁰

Only six years after the founding of the AFL, the U.S. Supreme Court finally established in 1892 the clear-cut principle that the federal government has sole responsibility for the formulation and enforcement of the nation's immigration policy.¹¹ The stage was set for organized labor to press national political leaders to adopt an immigration policy that set limits and was accountable for its economic consequences. It was Gompers who boasted that "the labor movement was among the first organizations to urge such policies."¹² For, as he made manifestly clear, "we immediately realize that immigration is, in its fundamental aspects, a labor problem."¹³

Although the subject of immigration and its adverse effects on working people was a frequent subject of criticism at the early annual conventions of the AFL, it was not until 1896 that the leadership formally raised the issue and offered its first resolution to reduce the level of immigration. Gompers, speaking in its support, proclaimed that "immigration is working a great injury to the people of our country."¹⁴ At its 1897 convention, the AFL adopted a formal resolution for the imposition of a literacy test for would-be immigrants in their native language. As the vast preponderance of immigrants

at the time were illiterate, its enactment would have also dramatically reduced the level of immigration. In 1905, the AFL renewed its support for literacy tests and did so at every successive convention until such legislation was finally adopted in 1917.¹⁵

During the first decade of the 20th Century, immigration levels reached record heights. Organized labor and other groups became increasingly concerned. In response, President Theodore Roosevelt gave his support to a congressional proposal to create a commission to study the impact of mass immigration. Gompers and the AFL strongly supported the idea. Subsequently, the Immigration Commission (chaired by Senator William Dillingham (R-Vt.), was established in 1907 to conduct a comprehensive an investigation.

When the Immigration Commission issued its report in 1911, it confirmed the AFL's beliefs that mass immigration was depressing wages, causing unemployment, spreading poverty, and impairing organizational efforts of unions.¹⁶ Unfortunately, the report also sought to link the economic effects with dubious sociological and anthropological attributes of the more recent immigrants that questioned their ability to assimilate. The Commission's mixture of the legitimate economic arguments with highly questionable ethnocentric biases has plagued all subsequent efforts to dispassionately reform the nation's immigration system.

Nonetheless, the Dillingham Commission recommended that the nation place a ceiling on annual immigration admissions and that it be low enough to significantly reduce the annual rate of entry. It also proposed that the immigration system be much more selective as to whom it admits and whom it does not.

In the wake of the issuance of the Commission's final report, efforts to enact its policy recommendations commenced. As mentioned, the literacy test requirement was adopted in 1917 and so was an Asiatic Barred Zone created that, in conjunction with restrictions already in place, essentially banned almost all immigration from Asian countries. When mass immigration from Europe resumed after being interrupted by World War I, the Immigration Act of 1921 (a temporary step) followed by the Immigration Act of 1924 (a permanent step) sharply curtailed admissions. These actions placed a low ceiling on the number of immigrants (to about 154,000 visas a year plus immediate family members who were spouses and minor children) who could enter from the Eastern Hemisphere (countries in the Western Hemisphere were not covered). They also set country quotas that favored countries in Northern and Western Europe and disfavored those from Eastern and Southern Europe.¹⁷

The AFL and most national labor readers strongly supported all of these legislative actions. For instance, A. Philip Randolph, who would soon become president of a national union affiliated with the AFL and who in later years would become a prominent leader of the nation's civil rights movement, heralded all of these restrictive actions. In 1924, he stated that the nation was suffering from "immigration indigestion" and that even the newly enacted low quotas were still too high. He suggested that "zero" immigration was the appropriate level.¹⁸

With the passage of the restrictive legislation in 1924, which was followed by the depression decade of the 1930s and by World War II during the first half of the 1940s, immigration levels fell drastically. For the first time in over a century, immigration ceased to be an issue of significant threat to the labor movement. As a consequence,

organized labor could focus its attention on employer and governmental policies that opposed the spread of unionism. It was not long before union memberships soared (see Figure 1).

Following World War II, the AFL supported the efforts of President Harry Truman to find ways to admit some European refugees who had been displaced during the war years. But the AFL made it clear that it viewed their limited admissions as a very special circumstance.¹⁹

It was also in the postwar years that the AFL strongly criticized another aspect of the nation's immigration policy. It was the Mexican Labor Program (popularly called the "bracero" program). It had been initiated in 1942 at the behest of the agriculture's industry in the Southwest as a temporary wartime emergency measure. It permitted Mexican farm workers to work for American growers during planting and harvesting seasons and then return to Mexico. Ostensibly, the program provided employment guarantees to these workers pertaining to their wages and employment conditions. When the war ended, the program was continued until 1964—or for 22 years. Employers had become addicted to the ability to have a cheap and dependable supply of Mexican labor and resisted efforts to terminate the program. Organized labor, supported by extensive research findings, contended that employers regularly undermined the worker protections and wage requirements so that the program exploited Mexican workers while making it impossible to unionize American farmworkers. It also spawned illegal immigration. Hence, the AFL fought for its termination.

When the AFL merged with its rival federation, the CIO, in 1955, a resolution was passed at the inaugural convention that year in which the AFL-CIO joined with

immigration reformers who were seeking to end the overtly discriminatory admission systems that had been in place since 1924. It was widely recognized that the terms of that law was hampering the ability to achieve even its low admission ceiling. Nations with high quotas were unable to fill the slots available for them while nations with low quotas had massive backlogs of would-be immigrants who could not enter.

In the summer of 1963 such legislation was formally proposed by President John F. Kennedy but it was not until 1965 that Congress took up the issue. The AFL-CIO renewed its support for the reform legislation. The Immigration Act of 1965 was subsequently passed and signed by President Lyndon Johnson. As with all other supporters of the legislation, the AFL-CIO believed that the goal was to end the discriminatory national origins admission system. It was not the intention of the new law to raise the level of immigration by more than a very modest amount (i.e., to 290,000 plus immediate family members, which was expanded to include adult parents of immigrants). The foreign born population had been declining as a percentage of the nation's population for over 40 years. By 1965, it was at its lowest level (4.4 percent) in the history of the nation. No one anticipated that the door of mass immigration was about to swing open once again. But this is exactly what happened.

The Immigration Act of 1965 ended the national origins admissions system. A new system was created that emphasized family reunification (74 percent of the available visas each year); downgraded the number of employment-based visas (20 percent of the available visas); and created new refugee admission categories (6 percent of the available visas). The legislation did not, however, provide provisions to assure that its terms were enforced against those who might seek to enter illegally. Furthermore, the new law had

unanticipated consequences. Legal immigration levels more than doubled (due to there being more immediate family members than were anticipated); the refugee provisions were overwhelmed by political decisions to admit far more persons than the law provided (especially from Cuba and Indochina); and there was a veritable explosion of illegal immigration due to the lack of effective enforcement provisions.

For these reasons, the issue of immigration reform was back on the national policy agenda by the mid-1970s. Responding to legislative proposals made by President Jimmy Carter, Congress authorized the creation of a commission to study all aspects of the nation's immigration system. Known as the Select Commission on Immigration and Refugee Policy (SCIRP), it was chaired by the Rev. Theodore Hesburgh, president of Notre Dame University. When it issued its final report March 1981, the Select Commission declared that the nation's immigration system was "out of control," and it made numerous recommendations for reform.²⁰

Because of the rapidly worsening of the refugee issue at the time, the Select Commission's proposals for refugee reforms were enacted before the actual issuance of its final report. They were embodied in the Refugee Act of 1980 that separated refugee admissions from the remainder of the nation's immigration system. The Commission's remaining proposals pertained to changes in the legal immigration system and to add enforcement muscle to combat illegal immigration. These reforms were incorporated into a bipartisan bill proposed by Senator Alan Simpson (R-Wy) and Representative Romano Mazzoli (D-Ky) in 1982. Their efforts to pass comprehensive immigration reform, however, were unsuccessful in both 1982 and 1984. Thus, a new tact was taken: piecemeal reform. The issue of illegal immigration was selected for first attention.

Legislation making it illegal for employers in the United States to hire illegal immigrants while providing four different amnesties for most of those persons already in the country illegally was adopted in 1986 with the passage of the Immigration Reform and Control Act (IRCA).

The AFL-CIO strongly supported the 1986 legislation.²¹ At its 1985 convention, policy resolutions were passed that supported the adoption of sanctions against employers who hire illegal immigrants; favored the creation of “an eligibility verification system that is secure and non-forgable;” created an amnesty program for illegals already in the United States; did not provide for “any new ‘guestworker’ or ‘bracero’ program;” and the careful regulation of programs to admit foreign temporary workers only for “those situation where U.S. workers cannot reasonably be found.”²² After IRCA was passed, the AFL-CIO adopted a resolution in 1987 that called the legislation “the most important and far reaching immigration legislation in 30 years” and, it noted that in particular “the AFL-CIO applauds the inclusion in that law of employer sanctions and of a far-reaching legalization [i.e., amnesty] program.”²³

The Pro-Immigrant Era: The Post 1990 Era

When Congress next turned its attention in the late-1980s to reform of legal immigration, the AFL-CIO did not take a prominent role in the political posturing preceding the ultimate passage of the Immigration Act of 1990. It did not clearly articulate what it favored; it did specify what it was against.²⁴ At its 1989 Convention, a resolution was adopted that stated that it “opposes any reduction in the number of family-based visas or any erosion in the definition of the family.” Furthermore, it opposed increasing the number of employment-based immigrants because they represented “a

brain drain” of other nations and the AFL-CIO preferred to expand domestic policies “to increase out investment in education and job training in this country.” The only specific provision the AFL-CIO sought to influence was a section of non-immigrant labor policy governing the temporary admission of foreign performing talent and their accompanying technical workers (e.g., foreign film crews).²⁵

The Immigration Act of 1990 did pass. It significantly raised legal immigration levels to 700,000 visas a year beginning in 1991 through 1994 and to 675,000 visas a year thereafter. It did not reduce the number of family-based visas (in fact, it increased them) nor did it change the definition of what constitutes a family. The number of employment-based visas was significantly increased from 54,000 to 140,000 a year. It added a new “diversity” admission category (originally with 40,000 visas a year but increasing to 55,000 visas a year beginning in 1995); and it expanded the ease by which employers could get access to a variety of foreign workers on a temporary basis. Labor did obtain the tidbit it sought. A cap of 25,000 visas a year was placed on the annual number of newly created “P visas” available for foreign workers in the entertainment industry. The cap was later repealed.

At its 1993 convention, the AFL-CIO reversed course entirely. The convention adopted a resolution that praised the role that immigrants have played “in building the nation and its democratic ideas.”²⁶ The resolution went even further. It demonized unidentified advocates of immigration reform for launching “a new hate campaign cynically designed to exploit public anxiety by making immigrants and refugees the scapegoats for economic and social problems.”²⁷ It concluded that “immigrants are not the cause of our nation’s problems” and stated that “the AFL-CIO reiterates its long

standing commitment to...provide fair opportunities for legal immigration and...due process of law for all people who enter, or attempt to enter, the United States illegally.”²⁸

The resolution also encouraged affiliated unions “to develop programs to address the special needs of immigrant members and potential members” and called for member unions to work with “immigrant advocacy groups and service organizations” to protect the interests of new immigrants.²⁹ Clearly, an entirely new immigration attitude was emerging within the leadership of the AFL-CIO.

Meanwhile, the Immigration Act of 1990 also authorized the creation of another commission to study the impact of the new legislation and the effectiveness of existing immigration laws. It was the Commission on Immigration Reform (CIR). For most of its six year life, CIR was chaired by Barbara Jordan (a former congresswoman but a professor of public policy at the University of Texas at the time). CIR issued a series of interim reports and culminated its work with a final report in 1997.³⁰ CIR concluded that “our current immigration system must undergo major reform” and requires “a significant redefinition of priorities.”³¹ It recommended a 35 percent reduction of legal admissions back to the pre-1990 levels; the elimination of the extended family preferences for admission; the elimination of the employment-based provision that permits unskilled workers to be admitted; a return to the policy of including refugees within the total number of immigrants that are to be admitted each year; and there should be no new foreign guestworker programs.

Against the backdrop, the AFL-CIO entered the fray by opposing all of the proposed changes. In 1995, it repeated its charge that immigration reformers were making immigrants “scapegoats” and that proposals for comprehensive immigration

reforms were being used “to unfairly exploit public concern over illegal immigrants.”³² Despite extensive research findings to the contrary, the policy resolution asserted “the notion that immigrants are the blame for the deteriorating living standards of America’s low-wage workers must be clearly rejected.”³³ Rather than immigration reform, it proposed increasing the minimum wage, adopting universal health care, and enacting labor law reform as the remedies for the widening income disparity in the nation.

Aware of the principle findings of CIR by this time, Congress took up the issue of immigration reform in the spring of 1996 even though CIR’s final report had yet to be issued. During its debates, the AFL-CIO allied itself with the National Association of Manufacturers, Americans for Tax Reform, the National Christian Coalition, and civil libertarians to oppose most of the proposed changes. Together, they succeeded in having Congress separate all the legal reform measures from the pending bill and then killing them; stripping from the remaining bill the key proposals for verification of the authenticity of social security numbers as a way to reduce illegal immigration; and dropping efforts to limit refugee admissions. By joining with a coalition of some of the most anti-union organizations in the country, labor leaders succeeded in blocking immigration reform design primarily to protect the economic well-being of low skilled workers in the nation. The rationale offered by labor officials was that their new organizing targets have increased the encounter of some unions with large urban concentrations of immigrants. Hence, the labor movement needed to undertake a more accommodative stance.

The AFL-CIO believes that all workers who are in the United States ought to receive the full protection of existing labor laws regardless of their legal status. This is

seen as a social justice issue at the work site, which is a traditional union concern. But it is also the case that there are self-defense motivations involved. Some employers use the threat (or the actual practice) of turning illegal immigrants into federal immigration authorities if they seek to vote (or do vote) in union certification elections.³⁴ U.S. courts have upheld the right of “all employees –including those who may be subject to termination in the future...to vote on whether they want to be represented by a union.”³⁵ Furthermore, the federal government announced in the Spring of 1999 that it was essentially abandoning enforcement of employer sanctions at the work site in favor of focusing on human smuggling activities, border management, and criminal deportations. This means that illegal immigrants have little to fear about government enforcement raids and little to fear unless employers report them.³⁶ Thus, if illegal immigrants are at the work site, unions have to organize the workers that employers hire. If the government is not going to police work sites, unions must seek to enlist the illegal immigrants as members or abandon their organizing efforts with the enterprise in question. Should unions give up such organizing, employers will have an even greater incentive to hire more illegal immigrants than they already do. Thus, organizing and protecting illegal immigrants is not viewed as a matter of principle, it is seen as a matter of necessity. But attempting to organize illegal immigrants at the worksite should not mean that national immigration laws should be weakened to allow more to enter the labor force in the future.

At its October 1999 biyearly membership convention held in Los Angeles, the pro-immigrant element within the AFL-CIO made its move. Gaining support from unions representing janitors, garment workers, restaurant workers and hotel housekeepers, they argued that unions needed to overtly embrace immigrants if the

movement is to survive.³⁷ They buttressed their case by citing incidents whereby employers used immigration law to intimidate or to dismiss immigrant workers who were involved in trying to form unions. In particular, these advocates sought to end the employer sanctions provision created by IRCA in 1986 (which organized labor had strongly supported) and to enact yet another general amnesty for those illegal immigrants now in the country. Support for this effort was far from unanimous and a floor fight seemed probable.

To avoid a public confrontation, AFL-CIO officials agreed that the motion would be briefly debated and then referred to a committee for study. It was done. When the AFL-CIO Executive Committee met in New Orleans in February 2000, it consummated its break from the past. It was announced that the AFL-CIO would seek to have the employer sanctions provisions of IRCA repealed and that it favored a new amnesty to cover most of the 6 million illegal immigrants believed to be in the United States.³⁸ The president of the Hotel and Restaurant Employees Union, John Wilhelm, after the meeting said “the labor movement is on the side of immigrants in this country.”³⁹ Business lobbyists hailed the new policy stance.⁴⁰ *The New York Times*, on the other hand, editorialized that “the AFL-CIO’s proposal should be rejected” as it would “undermine the integrity of the country’s immigration laws and would depress the wages of the lowest-paid native born workers.”⁴¹

As noted earlier, the new policy was formally adopted by the AFL-CIO at its membership connection in December 2001.

Research Supports Labor’s Pre-1990s Restrictive Posture

Research on the impact of mass immigration on the economic well-being of workers have consistently found that organized labor's earlier support for restrictive measures was amply justified. In the post Civil-War era when the fledgling labor movement initially began to press immigration reforms, Economists Timothy Hatton and Jeffrey Williamson found that urban real wages would have been 14 percent higher in 1890 were it not for the high immigration levels of the preceding 20 years.⁴² There findings supported the earlier conclusions of Stanley Lebergott that real wages in the 25 years following the Civil War tended to move inversely with the ebbs and flows of immigration levels over this timespan.⁴³

Likewise, studies of the massive immigration that occurred between 1890 and 1914 were even more supportive of the AFL's strenuous efforts to reduce immigration levels during this era. Hatton and Williamson found that, in the absence of the large-scale immigration that occurred after 1890, the urban real wage would have been 34 percent higher in 1910. Parenthetically, they observed that "with an impact that big, no wonder the Immigration Commission produced a massive report in 1911 which supported quotas!"⁴⁴ Likewise, economists Harry Millis and Royal Montgomery wrote of this era that organized labor was correct in its assessment of adverse economic impact of immigration on American workers "as labor markets were flooded, the labor supply was made more redundant, and wages were undermined."⁴⁵

Following the passages of the restrictive Immigration Act of 1921 and of the Immigration Act of 1924 that enacted the first ceilings on immigration in U.S. history, the economic gains to workers were found to be immediate. Indeed, labor historian Joseph Rayback called the Immigration Acts of 1921 and 1924 "the most significant

pieces of 'labor' legislation enacted during" the post-World War I era.⁴⁶ Millis and Montgomery likewise observed "from the international viewpoint the morality of the postwar immigration policy of the United States may be questioned, but of its economic effect in raising real earnings there can be little question."⁴⁷ Lebergott, who attributed this tripling of real wages for urban workers that occurred in the 1920s to the substantial immigration reductions that occurred in this period, observed that "political changes in the supply of labor can be more effective in determining wages than even explicit attempts to fix wages."⁴⁸ What more powerful statements can be made about the significance of the adoption of reasonable immigration policies to the enhancement of worker welfare in the United States?

Research Does Not Support Labor's Policy Shift

In 1997 a special panel created by the National Research Council (NRC) issued a report on the economic effects of the contemporary immigration experience of the United States.⁴⁹ The research had been contracted by the Commission on Immigration Reform (CIR) to provide the basis for the conduct of its six-year investigation of the impact of immigration on the people of the nation. The NRC report catalogued the fact that the educational attainment levels of post-1965 immigrants have steadily declined. Consequently, foreign-born workers, on average, earn less than native-born workers and the earnings gap has widened over the years. Those from Latin America (including Mexico) presently account for over half of the entire foreign-born population of the nation, and they earn the lowest wages. Thus, the NRC, found no evidence of discriminatory wages being paid to immigrants. Rather, it found that immigrant workers are paid less than native-born workers because, in fact, they are less skilled and less

educated. The relative declines in both skills and wages of the foreign-born population was attributed to the fact that most immigrants are coming from the poorer nations of the world, where the average wages, educational attainment, and skill levels are far below those in the United States. As a direct consequence, post-1965 immigrants are disproportionately increasing the segment of the nation's labor supply that has the lowest human capital endowments. In the process, they are suppressing the wages of all workers in the lowest skill sector of the labor market. More specifically, the study documented the fact that almost half of the decline in real wages for native-born high school dropouts (i.e., unskilled workers) from 1980-1994 could be attributed to the adverse competitive impact of unskilled foreign workers. It was for this very reason that Chair Barbara Jordan summarized CIR's proposed recommendations on legal immigration reform by stating:

What the Commission is concerned about are the unskilled workers in our society. In an age in which unskilled workers have far too few opportunities opened to them, and in which welfare reform will require thousands more to find jobs, the Commission sees no justification to the continued entry of unskilled foreign workers.⁵⁰

It was in the same macro context that the Council of Economic Advisers (CEA) to the President identified post-1965 mass immigration as being one of the contributing factors to the worsening income disparity that the nation experienced has since 1968. In 1994 the CEA explained that "immigration has increased the relative supply of less educated labor and appears to have contributed to the increasing inequality of income."⁵¹

In addition, there has been a host of studies at the micro level that have documented the adverse impact that immigration has had on the ability of unions to organize workers; to retain representation rights; and to achieve economic gains for those

who are organized.⁵² A survey of some of these experiences, done jointly in a report by the U.S. Department of Justice and the U.S. Department of Labor in 1999, concluded that “unions have been weakened directly by the use of recent immigrants.”⁵³

Concluding Observations

With only two brief exceptions, membership in American unions has over time moved inversely with trends in the size of immigration inflows (see Figure 1). One exception was from 1897 to 1905, when both union membership and immigration increased. But it was a period when the nation was recovering from a major depression and the economy was rapidly industrializing. The other was from 1922 to 1929 when, conversely, both union membership and immigration declined. But this was an era of all-out assault on unionism by business, government and the courts⁵⁴. Other than these two periods when very special circumstances prevailed, the inverse relationship has generally prevailed. It has been manifestly the case since 1932.

Since 1965, when policymakers inadvertently awakened the phenomenon of mass immigration from out of the nation’s distant past, the foreign-born population of the United States has increased by 282 percent, (from 8.5 million immigrants to 32.5 million immigrants); the civilian labor force has risen by 100 percent (from 74.4 million workers, to 148 million workers); but union membership has fallen by 11.5 percent (from 18.2 million members, to 16.1 million members) over this interval. Since 1968 (the year the Immigration Act of 1965 took full effect), the distribution of income within the nation has steadily become more unequal. The decline in union membership and the impact of mass immigration have been both identified by the CEA as contributing explanation for the worsening income inequality in the nation.⁵⁵

In this environment, mass immigration has once more done what it did in the past: it has lessened the effectiveness of unions and, accordingly, diminished their attractiveness to workers. To be sure, there are other factors involved in the decline of union membership.⁵⁶ The nation's labor laws, for instance, that supposedly protect the practice of collective bargaining are woefully inadequate when confronted with willful employer opposition. They too need to be reformed. Likewise, globalization and technological change have radically altered the nation's industrial and occupational structures to the disadvantage of organized labor's historic membership strengths. But the drastic weakening of the economic status of many working people in this new era argues for increased union representation now more than ever. The mass immigration – especially of unskilled and poorly educated persons – has significantly contributed to all of the income disparity pressures besetting the work force (be they native born or foreign born).

The nation's immigration laws need to be strengthened, not weakened or repealed. Employer sanctions set the moral tone for immigration policy at the workplace. The identification loopholes need to be plugged and worksite enforcement given priority, not neglected. There should not be more mass amnesties for persons who have brazenly violated the laws that, since 1986, clearly state that illegal immigrants should not be in the workplace in the first place. Such amnesties only encourage others to enter illegally and hope for another amnesty. The mass amnesty of persons who are overwhelmingly unskilled and poorly educated only adds to the competition for low wage jobs with the citizens and permanent resident aliens. Moreover, as noted earlier, mass amnesties since

the onset of foreign terrorism endanger national security because they bypass meaningful background checks that are required by all legal immigrants.

Rather than pursue its past role as a careful monitor of the impact of the nation's immigration policies on the economic well-being of working people, the AFL-CIO has chosen to become an advocate for the pro-immigrant political agenda. But this strategy comes with a heavy cost. First, it means that success in the organization of immigrants will not translate into any real ability to increase significantly the wages or benefits of many such organized workers. As long as the labor market continues to be flooded with low-skilled immigrant job seekers, unions will not be able to defy the market forces that will suppress upward wage pressures. Secondly, the focus on the advancement of the interests of low-skilled immigrants can only cause the alienation of low-skilled native-born workers who must compete for these same jobs because they lack the human capital to qualify for better ones. How long can it be until these other workers recognize that their ambitions for higher wages and better living standards cannot be achieved as long as mass immigration is allowed to flood low wage labor markets?

The fundamental issue for labor has never been, should unions organize immigrants? Of course they must, as they have always done. Rather, it is should labor seek to organize workers specifically because they are immigrants, and in the process, become a proactive advocate for immigrant causes? Or should unions do as they have in the past: seek to organize all workers purely on the grounds of their pursuit of economic well-being?

If labor seeks to organize immigrants on the same basis as it does native-born workers (i.e., making no distinction between the nativity of workers), there is no reason

to embrace the broad range of immigrant policy issues. Indeed, the hard reality of the lessons of labor history is that the more generous the immigration policy, the worse it is for all workers in their efforts to raise wages, to improve working conditions, and to secure employment opportunities. The wisdom of Melvin Reder, a pioneer in the analysis of the labor market impact of immigration, should always be kept in mind:

Our immigration policy inevitably reflects a kind of national selfishness of which the major beneficiaries are the least fortunate among us. We could not completely abandon the policy, even if we so desired.⁵⁷

The distinguishing feature of the American labor movement from those of other countries has always been its pragmatic focus on the achievement of economic gains for its members rather than the abstract pursuit of political objectives. The recent actions taken by the AFL-CIO reverse this course. In seeking to join with the “rainbow” political alliance, it offers policies that are patently harmful to the well-being of the nation’s workers. What is bad economics for working people cannot be good politics for unions.

Notes

- ¹ For elaboration of the entire issue, see Vernon M. Briggs, Jr., *Immigration and American Unionism*, (Ithaca: Cornell University Press, 2001).
- ² "Immigration," *AFL-CIO Executive Council Actions*, (February 16, 2000), pp.1-4.
- ³ Steven Greenhouse, "Singing Labor's Song to Immigrants, Legal or Not," *New York Times*, (February 17, 2001) p. A-10 [The quotation is attributed to Linda Chavez-Thompson, Executive Vice President of the AFL-CIO.]
- ⁴ "Immigration," *AFL-CIO Executive Council Actions*, (July 31, 2001), p. 1.
- ⁵ "Guest Workers, Legislation," *Migration News* (August 2001), p. 2.
- ⁶ "Fox Visits Bush," *Migration News* (October 2001), pp 4-5.
- ⁷ AFL-CIO Restitutions #4: <http://www.aflcio.org/convention01/resolutions/htm>; See also, Tom Ramstock, "AFL-CIO Adopts Amnesty Proposal," *Washington Times*, (December 5, 2001), p. C6.
- ⁸ *Hoffman Plastic Compounds v. National Labor Relations Board*, (2002).
- ⁹ Gina Holland, "Politics: Court Decides Illegal Immigrants Not Entitled to Same Rights as U.S. Workers," *Associated Press On-Line* (March 27, 2002) p. 1, [wysiwyg://7/http://www.nandotimes.com/politics/story/38115p-2763275c.htm].
- ¹⁰ Charles A. Madison, *American Labor Leaders*, (New York: Harper & Brothers Publishers, 1950),p. 74
- ¹¹ *Ekiu v. U.S.* (1892): 142 US 651
- ¹² Samuel Gompers, *Seventy Years of Life and Labor*, (New York: E.P. Dutton & Company, 1925), Volume 2, p. 154
- ¹³ *Ibid.*, p. 157.
- ¹⁴ Philip Taft, *Organized Labor in American History*, (New York: Harper and Row Publisher, 1964), pp 247-248.
- ¹⁵ A.T. Lane, "American Trade Unions, Mass Immigration, and the Literacy Test", 1890-1917." *Labor History*, (Winter, 1984), pp. 5-25.
- ¹⁶ U.S. Immigration Commission, *Abstracts of the Reports of the U.S. Immigration Commission*, (Washington D.C., U.S. Government Printing Office, 1911), Volume 1.
- ¹⁷ See Vernon M. Briggs Jr., *Mass Immigration and the National Interest*, (Armonk, N.Y.: M.E. Sharpe Inc., 1996), 2nd edition for elaboration of these changes
- ¹⁸ Daryl Scott, "Immigrant Indigestion: A Philip Randolph, Radical and Restrictionist," *Backgrounder*, (Washington D.C.: Center for Immigration Studies 1999), pp. 3.
- ¹⁹ *Report of the Proceedings of the Sixty-Fifth Convention of the American Federation of Labor*, (Washington D.C.: American Federation of Labor, 1946), pp. 520-521.
- ²⁰ Select Commission on Immigration and Refugee Policy; *U.S. Immigration Policy and the National Interest*, (Washington D.C.: U.S. Government Printing Office, 1981).
- ²¹ *Proceedings of the Sixteenth Convention of the AFL-CIO*, Vol. 2 (Washington: AFL-CIO, 1985), pp.173-175.
- ²² "Immigration Reform," *AFL-CIO Policy Resolution Adopted October 1985 by the Sixteenth Constitutional Convention*, (Washington D.C.: AFL-CIO, 1986), pp.45-46.
- ²³ "Immigration Reform," *AFL-CIO Policy Resolutions Adopted October 1987*, (Washington D.C.: AFL-CIO, 1988), pp. 47-48.
- ²⁴ "Immigration Reform," *AFL-CIO Policy Resolutions Adopted November 1989*, (Washington D.C.: AFL-CIO, 1990), p. 46.
- ²⁵ "Immigration Reform," ...*Resolutions Adopted 1987*, *op. cit.*, p. 49.
- ²⁶ "Immigrants and the Labor Movement," *Policy Resolutions Adopted October 1993 by the AFL-CIO Convention*, (Washington D.C.: AFL-CIO, 1994), p. 13.
- ²⁷ *Ibid*, p. 14
- ²⁸ *Ibid.*
- ²⁹ *Ibid.*
- ³⁰ U.S. Commission on Immigration Reform, *Becoming an American: Immigration and Immigrant Policy*. (Washington D.C.: U.S. Commission on Immigration Reform, 1997).

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- ³¹ U.S. Commission on Immigration Reform, *Legal Immigration: Setting Priorities*, (Washington D.C.: U.S. Commission on Immigration Reform, 1996), see letter of transmittal, p. i.
- ³² "Immigration Reform," *Policy Resolution Adopted October 1995 by the AFL-CIO Convention*, (Washington D.C.: AFL-CIO, 1996), p. 68.
- ³³ *Ibid*
- ³⁴ E.g., see Kimberly Hayes Taylor, "Hotel Housekeepers Released from INS Custody," *Minneapolis Star-Tribune*, (October 20, 1999), p.1.
- ³⁵ *National Labor Relations Board v. Kolkka*, 9th Cit., No. 97-71132 (March 17, 1999).
- ³⁶ "Meissner Announces New INS Strategy to Combat Smuggling of Illegal Workers," *Daily Labor Report*, (March 31, 1999), No. 61, p. A-9; "Ex-Panel Member Blasts INS Decision to de-Emphasize Worksite Enforcement" *Daily Labor Report*, No. 127, p. A-3.
- ³⁷ Nancy Cleeland, "Union Questioning Sanctions Against Employers Over Hiring," *Los Angeles Times*, (October 12, 1999), p. 1.
- ³⁸ Franks Swoboda, "Unions Reverse on Illegal Aliens," *Washington Post*, (February 17, 2000), p. A-1.
- ³⁹ *Ibid*.
- ⁴⁰ *Ibid*.
- ⁴¹ "Hasty Call for Amnesty," *New York Times*, (February 22, 2000), p. A-22.
- ⁴² Timothy H. Hatton and Jeffrey G. Williamson, "The Impact of Immigration on American Labor Markets Prior to the Quotas," *Working Paper No. 5185*, (Cambridge: National Bureau of Economic Research, Inc, 1995), p. 30.
- ⁴³ Stanley Lebergott, *Manpower in Economic Growth*, (New York: McGraw-Hill Book Company, 1964), p. 163.
- ⁴⁴ Timothy H. Hatton and Jeffrey G. Williamson, *op. cit.* p. 30. [Emphasis is in the original]; See also Stanley Lebergott, *op. cit.*, p. 162.
- ⁴⁵ Harry A. Millis and Royal E. Montgomery, *Labor's Progress and Some Basic Labor Problems*, (New York: McGraw Hill Book Company, Inc., 1938), p. 31; see also pp. 239 and 244 for related discussions.
- ⁴⁶ Joseph G. Rayback, *A History of American Labor*, (New York: Free Press, 1966), p. 278.
- ⁴⁷ Millis and Montgomery, *op. cit.* p. 211.
- ⁴⁸ Lebergott, *op. cit.* p. 164.
- ⁴⁹ National Research Council, *The New Americans: Economic, Demographic and Fiscal Effects of Immigration*, Edited by James P. Smith and Barry Edmonton (Washington D.C.: National Academy Press, 1997).
- ⁵⁰ Statement of Professor Barbara Jordan, Chair U.S. Commission on Immigration Reform, (News Release by the U.S. Commission on Immigration Reform, Washington D.C., June 7, 1995).
- ⁵¹ Council of Economic Advisers, *Economic Report of the President, 1994*, (Washington D.C.: U.S. Government Printing Office, 1994), p. 120.
- ⁵² E.g. see: Richard Mines and Jeffrey Avina, "Immigration and Labor Standards: the Case of California Janitors," in *U.S.-Mexico Relations: Labor Market Interdependence*, Edited by Jorge Bustamante, et. al., (Stanford, CA: Stanford University Press, 1992), pp. 429-448; Louise Lamphere, Alex Stepick, and Guillermo Grenier, (eds.), *Newcomers in the Workplace: Immigrants and the Restructuring of the U.S. Economy*, (Philadelphia: Temple University Press, 1994); Mark Grey, "Pork, Poultry, and Newcomers in Storm Lake, Iowa," *Any Way You Cut It: Meat Processing and Small Town America*, Edited by Donald Stull, David Griffith, and Michael Broadway (Manhattan, KS: University of Kansas Press, 1995), pp. 109-127; Catherine L. Fisk, Daniel J.B. Mitchell, and Christopher L. Erickson, "Union Representation of Immigrant Janitors in Southern California: Economic and Legal Challenges," in *Organizing Immigrants: The Challenge for Unions in Contemporary California*, Edited by Ruth Milkman, (Ithaca: ILR-Cornell University Press, 2000), pp. 169-198; Philip L. Martin, *Promises to Keep: Collective Bargaining in California Agriculture*, (Ames, IA: Iowa State University Press, 1996,) pp. 100 and 205-302; Peter Kwong, *Forbidden Workers: Illegal Chinese Immigrants and American Labor*, (New York: The New Press, 1997), pp. 161-183 and 207-233; Charles Craypo, "Meatpacking: Industry Restructuring and Union Decline," *Contemporary Collective Bargaining*, Edited by Paula Voos, (Madison: Industrial Relations Research Association, 1994), pp. 63-96.
- ⁵³ U.S. Department of Justice and U.S. Department of Labor, *The Triennial Comprehensive Report on Immigration*, (Washington D.C.: U.S. Department of Justice 1999), p. 113; for a more complete review see Briggs, *Immigration and American Unionism*; *op cit*, Chapter 7.

⁵⁴ For elaboration, see Briggs, *Immigration and American Unionism*, *op. cit.*, Chapter 4

⁵⁵ Council of Economic Advisors, *Economic Report of the President, 1995*, (Washington, D.C.: U.S. Government Printing Office, 1995), p. 182; and Council of Economic Advisors, *Economic Report... 1994*, *op. cit.*, p. 120. See also Daniel H. Weinberg, "A Brief Look at Postwar U.S. Income Inequality," *Current Population Report*, P60-191, (Washington D.C.: U.S. Bureau of the Census, 1996), p. 1.

⁵⁶ For elaboration, see Briggs, *Immigration and American Unionism*, *op. cit.*, Chapter 6.

⁵⁷ Melvin W. Reder, "The Economic Consequences of Increased Immigration," *The Review of Economics and Statistics*, (August, 1963), p. 31.

Sources for Figure 1 are:

- 1 Foreign Born Data:
1790-1850: Elizabeth W. Gilbey and Edgar Hoover "Population and Immigration," in *American Economic History*, Edited by Seymour Harris. (McGraw-Hill, 1961). Table 6; 1860-2002: U.S. Bureau of the Census (various reports)
- 2 Union Data:
1870-1890: Lloyd Ulman "The Development of Trade and Labor Unions," in *American History*, Edited by Seymour Harris, (McGraw-Hill, 1961), p. 363.; 1890-1980: Leo Troy and Neil Sheflin, *U.S. Union Sourcebook*, (Industrial Relations and Information Sources, 1985). 1990-2002 U.S. Bureau of Labor Statistics (Note: The percentage is of unionized of wage and salaried employees for this latter data series).

**Figure 1. Comparisons of the Percentage of the Labor Force Who Belong to Unions
(Since 1860) with Percentage of Population that is Foreign Born (Since 1790)**

