

## The Employment Impact of Illegal Aliens

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Over its national history there are few influences that have been more important to the development of the population and the labor force of the United States than immigration. The descriptive phrase "a nation of immigrants" is no mere cliché. It correctly portrays both the quantitative magnitude of the mass number of people who have come and who are still coming to the United States as well as the vital qualitative characteristics of their skill contributions toward the building of the nation. The fact that the United States continues to receive substantial inflows of immigrants remains a distinguishing feature of the nation from the practices of all other countries of the world. Throughout the 1970s and extending into the early 1980s, the United States legally admitted twice as many immigrants and refugees in absolute numbers as did all of the remaining nations of the world combined. So substantial have been the flows of immigrants during the 1970s and early 1980s, that immigration has already become equal to fertility as an explanation for the annual growth increases in both the population and labor force of the country.<sup>1</sup>

Yet as the nation has grappled over the years to establish a viable immigration policy, large numbers of persons have consistently circumvented whatever regulatory system existed by simply entering illegally. Illegal immigration, therefore, is not a new issue. Rather, it has been a persistent problem that began in the 1880s when the first restrictions on immigration were imposed. Having conceded the long term nature of the illegal immigration issue, however, it is important to note that the adverse economic consequences as well as the scale of illegal immigration

have increased considerably over time. Hence, the mere fact of its long history is by no means a sufficient argument for a benign attitude toward its contemporary importance or resignation that it is futile to try to control.

Like all important national issues, illegal immigration is complex in the determination of its causes; complicated in terms of the ability to assess its impact, and controversial with regard to the implications of the needed policy reforms. By far, the most important issues surrounding the whole question of illegal immigration are those that relate to the economic effects. There are important non-economic issues to be sure, but the effects of illegal immigration on employment and income opportunities for citizen workers have emerged as the central issue of the on-going debate over the impact of illegal immigrants on American society. Moreover, labor market reforms have been the core of all of the policy proposals for addressing this issue.

#### The Classification of Illegal Immigrants

There are two different types of illegal immigrants. One consists of those who enter the United States in a surreptitious manner. They may swim, sail, row, drive, climb, or walk over some portion of the nation's land or sea borders. Sometimes they come as individuals; sometimes as groups. Many are guided or transported by human smugglers for a fee. The conditions of entry are often hazzardous and dangerous.<sup>2</sup> The unifying characteristic of this group is that they have entered the United States without appropriate documents. In the parlance of the Immigration and Naturalization Service (INS)--the government agency responsible for the enforcement of the nation's immigration laws, they are classified as persons who have "entered without inspection" (or EWIs). They are "undocumented." Typically, EWIs are from the neighboring nations of Mexico or Canada. The term may also apply to some persons of other nationalities who use Canada or Mexico as waystations

for eventual illegal entry into the United States. It is the act of entering without inspection that renders their status in the United States as being illegal.

The second group consists of those persons who legally enter the United States by passing through an established port-of-entry. At that time, they may present authentic documents but they subsequently violate the terms of their visa by overstaying past its expiration date or they seek work during their visa period when, except in prescribed circumstances, non-immigrants are prohibited from doing so. In other instances, they may be persons who present false documents when they enter or who illegally use someone else's documents as a means of entry. There are also some persons who unlawfully pose as American citizens when crossing a border. All of these types of persons are called "visa abusers". There is no typical visa abuser. They come from virtually every country in the world. They can be tourists, students, businessmen, crewmen, or a host of other categories of persons who have already entered the country. The fact that they overstay their visas or that they seek employment during their legal stay places them in violation of the immigration statutes.

Thus, the entry process of EWIs and of visa abusers are distinctly different even though both are collectively referred to as illegal immigrants.

#### The Statistics of Illegal Immigration

By the very circumstances of their presence, illegal immigrants seek to avoid contact with the established agencies of government. If they reveal themselves as either EWIs or visa abusers, they endanger their presence in the country. Hence, there is no effort made--nor can it be expected that there ever should be--to actually collect data through self-identification. The only available government data source, therefore, pertains to the number of apprehensions of deportable aliens or persons required to depart each year by the INS in the performance of its enforcement duties.

The number of reported illegal immigrants apprehended by the INS for the years 1925 to 1980 are shown in Table 1. The largest absolute number of apprehended illegal immigrants in any one year to date occurred in the early 1950s. These figures reflect the fact that the Eisenhower Administration launched an aggressive sweep--called "Operation Wetback"--of the southwestern border region during 1953 and 1954. Given the greatly enhanced sensitivities for the feelings of racial and ethnic subgroups of the population and the subsequent development of a number of strong Hispanic community organizations that have occurred since that time, it is unlikely that any such indiscriminate and massive roundups will ever again occur--nor should they.

If one considers the apprehensions during the 1953-4 period to be a tactical aberration, it was not until the mid-1960s that apprehensions surged upward again. The explanation for the increase at that time can largely be attributed to the unilateral termination of the Mexican Labor Program (often called the bracero program) by the United States on December 31, 1964. The "bracero program" was a labor importation program whereby non-immigrant workers from Mexico were legally allowed to be employed in agricultural jobs in the Southwest.<sup>3</sup> It was initiated during World War II as an emergency manpower program but continued for twenty-two years. Starting in the mid-1960s apprehensions increased steadily until 1980 when there was a slight drop. The long term trend of mounting apprehensions has occurred since 1964 despite the fact that there has been very little appreciable increase in the real budget of the INS (adjusting for inflationary increases) nor the number of its personnel.

There are severe problems associated with using the apprehension data as an indicator of the magnitude of illegal immigration. To begin with, the data cannot avoid multiple counting. Some persons--especially

Table V-1. Illegal Immigrants Apprehended,  
1925-1980

<u>Period</u>	<u>Number of Apprehended Illegal Immigrants</u>
1925-1930	128,484
1931	22,276
1932	22,735
1933	20,949
1934	10,319
1935	11,016
1936	11,728
1937	13,054
1938	12,851
1939	12,037
1940	10,492
1941	11,294
1942	11,784
1943	11,175
1944	31,174
1945	69,164
1946	99,591
1947	193,657
1948	192,779
1949	288,253
1950	468,339
1951	509,040
1952	528,815
1953	885,587
1954	1,089,583
1955	254,096
1956	87,696
1957	59,918
1958	53,474
1959	45,336
1960	70,684
1961	88,823
1962	92,758
1963	88,712
1964	86,597
1965	110,371
1966	138,520
1967	161,608
1968	212,057
1969	283,557
1970	345,353
1971	420,126
1972	505,949
1973	655,968
1974	788,145
1975	756,819
1976	866,433
1977	1,033,427
1978	1,047,687
1978	1,069,400
1980	910,361

Source: U.S. Department of Justice, Annual Reports of the Immigration and Naturalization Service.

in the Southwest--are caught more than once in any given year. But, presumably, the problem of repeat captures has always been in the data. There is no reason to believe that this multiple counting problem is proportionately more severe now than it was in the past. Hence, rising apprehensions, as reflected in the data in Table 1, can be used in a general way to infer increases in the absolute numbers of illegal immigrants despite the duplication problem.

The apprehension levels for any one year are, to some degree, a reflection of the staffing patterns of the border enforcement agency--i.e., the INS.<sup>4</sup> The slight drop in apprehensions in 1980, for instance, is seen to be a reflection of both budget cutbacks that year and a self-imposed moratorium on raids that was put into effect by the INS during the several months that the 1980 Census count was in progress. The moratorium was deemed necessary to assuage fears that Census participation might lead to persons being turned into the INS. Indications from preliminary data for 1981 and 1982 are that apprehensions have returned to the trend toward annually higher numbers.

Another serious bias problem in the apprehension data derives from the fact that the INS concentrates most of its border patrol activities on the Southwest border. Hence, over ninety percent of those persons apprehended each year are from Mexico. The INS has long ago recognized that it is much easier and cheaper to apprehend EWIs along the southwestern border region than it is to ferret-out visa abusers who can be living and working almost anywhere in the United States. As Mexicans are most likely to be EWIs, it is they who usually get caught. Illegal immigrants from nations other than Mexico are most likely to be visa abusers and are least likely

to be apprehended. The apprehension data, therefore, have contributed to the false public impression that illegal immigration is largely a Mexican problem. It is not. It is generally believed that Mexico accounts for 60 percent of the annual flow while 20 percent come from Caribbean countries and the remaining 20 percent come from other nations in both the eastern and western hemisphere.<sup>5</sup> There is, of course, no way to confirm the actual distribution since the population itself is unknown. The Department of Justice reports that "at least 60 countries are significant regular 'source' countries." Aside from Mexico, which is the acknowledged prime source, there are fourteen other nations that are considered to be the most prominent sources. Ranked in what is roughly believed to be the order of their significance beginning with the largest, they are: the Dominican Republic, Haiti, Jamaica, Guatemala, Columbia, Peru, Ecuador, the Phillipines, Korea, Thailand, Greece, India, Iran, and Nigeria.<sup>6</sup>

The most severe problem with the INS apprehension data, however, is the obvious one: namely, it only counts those who are caught. It is conceded by both INS and all other studies of illegal immigrants that apprehensions are only the tip of the iceberg. Most illegal immigrants--especially most visa abusers--are never caught. For instance, the only serious study of illegal immigrants who were not in an apprehension status at the time they were interviewed was done for the U.S. Department of Labor and released in 1979. It found that of the 1,970 illegal immigrants in Los Angeles who were employed at the time that they were interviewed, 69.6 percent had never been previously apprehended.<sup>7</sup> Most of the persons in their sample were Mexicans (92.6 percent) and EWIs. This study lends credence to the belief that the actual number of illegal immigrants entering the United States each year is certainly several multiples of the number

actually reported as being apprehended even when allowances for double counting are made.

A myriad of studies have been conducted by the INS, by academicians, by the Mexican government as well as by other interested commissions and government agencies in a futile quest to find a reliable estimate of the stock of illegal immigrants in the United States. Yet the situation remains unchanged from the state of affairs in 1979 when the National Commission on Employment and Unemployment Statistics completed its work on the adequacy of the nation's labor force indicators. With regard to illegal immigrants, the Commission concluded:

No single area in labor statistics is as undeveloped, incomplete, and imprecise as is our data on undocumented workers. Estimates of the illegal alien population, the labor market situation of undocumented workers, and the effects of their presence on the supply and the demand for resident workers vary widely.<sup>8</sup>

The Commission strongly recommended that "the scope and frequency" of studies that would estimate the size and impacts of illegal immigrants "should be increased."

Likewise, given its mandate when it was established by Congress in 1978, the Select Commission on Immigration and Refugee Policy also felt obliged to secure some estimate of the stock of illegal immigrants. The Commission, however, elected not to make an independent estimate of its own. Instead, it requested a report by the Bureau of the Census. The subsequent Census review placed the stock of illegal immigrants within a range of between 3.5 to 6 million persons.<sup>9</sup> The Census figures, however, were derived exclusively from a staff review of the existing literature as manifested by reports by the INS and some research by a few academicians. These earlier studies employed various methodologies to estimate the size of the illegal immigration population.



All were based on data for various years in the early to mid-1970s--not for 1981 when the Select Commission's final report was released. The important point is that the Bureau of the Census did not make any new estimates for the Select Commission. Hence, the quoted range supplied to the Select Commission and published in its final report is merely the result of the averaging of the modes of non-comparable "guestimates" from all of the previously mentioned studies--many of which were of dubious statistical validity--to get its range. Unfortunately, none of these limitations are known to most people who read the Report of the Commission--nor will the following qualification by the Census Bureau to its own review:

We have, unfortunately, been unable to arrive at definitive estimates of the number of illegal residents in the United States or the magnitude of the illegal migration flow. The phenomenon we have sought to measure, by its nature, is not an easy one to deal with. Researchers and policymakers will have to live with the fact that the number of illegal residents in the United States cannot be closely quantified. Therefore, policy options dependent on the size of this group must be evaluated in terms which recognize this uncertainty.<sup>10</sup>

As this warning is not mentioned in the Commission's Report, the quoted range has subsequently been mistakenly cited as being a maximum range for 1981 when it is, if anything a minimum estimate of the illegal immigrant population as of some time period in the early 1970s.

Frankly stated, there will never be any better data available on this question. The illegal character of the entire process forestalls the possibility that the actual number of persons involved will ever be known. Estimates and anecdotes are all that is ever going to be available. But before one despairs that little can be learned because the data is so poor, it should be realized that this also is the case with most of the major social problems of the day. Reliable data are unavailable about the size of energy supplies, local labor market conditions, crime, health, and mental health,

to name only a few issues of national concern. Yet in all of these other vital areas of public concern, the lack of data has not precluded major policy initiatives from being initiated to meet perceived needs. Furthermore, it makes little conceptual difference whether the stock of illegal immigrants in the nation is 3 million, or 6 million, or 9 million or 12 million persons. All of these numbers have been cited in various official reports and research studies in the 1970s. The precise number, however, is irrelevant if one concedes that the number of persons involved is substantial and that the direction of change is toward annually increasing numbers.

#### Public Policy and the Growth of Illegal Immigration

The multiple factors that have caused illegal immigration to become an issue of national consequence are beyond the scope of this present article. They involve the co-existence of "push" factors (they include such concerns as population pressures, unemployment, underemployment, poverty, lack of hope for political reform, and human rights violations) that permeate life in their respective homelands as well as "pull" factors (such as the prospect of a higher standard of living, higher wages, a broader array of occupations, and a democratic governmental structure) that emanate from the United States. But, for present purposes, it is vital to note that there is another vital contributing factor that is well within the means of the policymakers of the nation to correct. It is the gross permissiveness of the immigration system. For despite the fact that the nation has gradually constructed a unitary worldwide immigration system that is comprehensive in its coverage, it has failed to make that extant system enforceable. Illegal immigration has been allowed to make a mockery of any pretense that the system can actually regulate the flow of immigrants into the population and the labor force.

No matter how careful an examination is made of the causative factors that prompt people to leave their homelands or that attract people to the United States, the absence of any serious efforts to enforce the existing immigration statutes is a signal itself to many persons that the United States really welcomes them despite the legal pretense that it does not. In fact, there are Mexican scholars who have examined this issue and who are convinced that the lack of credible deterrence efforts is no accident. They argue that the United States actually wants to have illegal immigrants as a means of keeping the labor market for unskilled workers in constant surplus.<sup>11</sup> During the period in 1982 when the Simpson-Mazzoli bill was pending before Congress, for instance, it was reported that many Mexicans "commonly assume that the U.S. economy's demand for foreign labor is ineradicable, even in a recession; and many maintain a Marxist world-view leading them to believe business interests dominate Congress and, thus, would never allow Congress to pass or to enforce stiff employer sanctions."<sup>12</sup>

To be specific, there is an anomaly in the state of the law in the United States involving the employment of illegal immigrants. While it is against the law for non-resident immigrants to seek employment, it is not against the law for an employer to hire an illegal alien. The Immigration and Nationality Act of 1952 made the importation and harboring of illegal aliens a felony. As a concession to Texas agricultural interests, however, the Act contains a section stating that employment and the related services provided by employers to employees (i.e., transportation, housing, or feeding) do not constitute an illegal act of harboring. The effect of this "proviso" is to make employers immune from prosecution if they hire such workers. Thus, one of the most important barriers to effective control of illegal immigrants is the fact that the act of employment

of an illegal immigrant is not itself illegal. Since employers incur no risk, there is no apparent reason why they should refrain from doing so.

As for the illegal immigrants themselves, it is only an unimportant technicality that the law makes it a punishable offense for them to seek employment in the United States. Over 95 percent of those who are apprehended (who are, it should be recalled, overwhelmingly Mexicans) by the INS are simply given a "voluntary departure" and returned to their homeland by the most expedient form of transportation. Only the scant remainder (who are often multiple offenders or persons who have committed a criminal offense in the United States) are subjected by the INS to formal deportation proceedings that would render any subsequent entry a felony.<sup>13</sup> More frequent prosecution could serve as a deterrent. The U.S. government to date, however, has not believed that the issue warrants a sufficient increase in the number of hearing officers to raise the level of prosecutions significantly. As a result, those aliens allowed to leave through the voluntary departure system are in no way deterred from returning at will.

Thus, a realistic appraisal of the current situation is that if an illegal alien is caught, he is simply returned to his native land; if he is not apprehended, he works at a job that affords him an income higher than his alternatives in his homeland. For the businessman there is no risk of loss; there are only gains from tapping a cheap source of labor that is completely bound to arbitrary terms of employment.

Thus, despite the fact that the immigration statutes seek to regulate the total flow of immigrants in order to assure that the domestic labor force is not adversely affected in terms of their employment and income opportunities, there are no corollary laws to make this stance meaningful.

With specific reference to this paradox, the California Court of Appeals ruled in 1970 that the number of illegal aliens in the Southwest "represent an abject failure of national policy" and it observed that the lack of meaningful corrective action "must be ascribed to self-imposed impotence of our national government."<sup>14</sup>

The policy charade is carried one step further by recognition that the Immigration and Naturalization Service has been chronically underfunded and understaffed since its inception. As of 1981, for instance, the U.S. Border Patrol had an on-duty officer corps of only 2,093 officers.<sup>15</sup> Given the fact that there are eight hour shifts and five day work weeks, it is unlikely that there are more than 400 officers on duty at any given time. Most of these officers are assigned to the 1,945 mile border with Mexico but some are also assigned to the Canadian border and to other duties. In addition, for inland duty away from the border, the INS had only 1,489 immigration inspectors to cover the entire nation.<sup>16</sup> Thus, the total enforcement apparatus of the INS is actually smaller than the police force of the District of Columbia. Given the small number of enforcement officers relative to the magnitude of the responsibilities that they are assigned, it is amazing that they apprehend as many illegal immigrants as they do. On the other hand, the scant resources assigned to this task only contributes to the cynical attitude of those who do not really believe that the nation is serious when it says that it wishes to exclude illegal immigrants.

Thus, if it were not for the human tragedy that is associated with the illegal immigration phenomenon, the entire deterrence policy reads like a Mack Sennett comedy script. Employers who hire illegal immigrants commit no crime; most of those caught are given no penalty; and hardly any

manpower and resources are devoted to the management of entry. There is really little need to ponder or debate the complex causes of illegal immigration given the paltry state of enforcement activities and the reluctance of the Congress to date to give the subject any attention. Stronger deterrence measures by themselves will not stop illegal immigration but without them, absolutely nothing else makes any sense or has any chance of reducing the growing magnitude of this flow.

### The Labor Market Consequences

Although available research is limited, all studies of illegal immigrants in the United States conclude that the primary explanation for their presence is the search for jobs. They also show that, by and large, they are successful. Other motivations, such as criminal activity or income maintenance support from available income transfer programs appear to be relatively inconsequential. Thus, the question of labor market impact of illegal immigrants has repeatedly surfaced as one of the most critical and controversial issues surrounding the whole subject.

As noted earlier, there are no established data series for illegal immigrants. As the population of illegal immigrants is unknown, it is impossible to draw a random sample that would be scientifically reliable. Hence, research efforts to verify the occupational, industrial, and geographic employment patterns of illegal immigrants have been few in number. Even those that are available have had to conduct their studies under extremely restricted circumstances. There are only two studies that have made a serious attempt to capture some measure of these patterns. One was a nationwide study made of apprehended illegal immigrants by David North and Marion Houstoun in 1976.<sup>17</sup> The second was a study made of unapprehended

illegal immigrants in Los Angeles in 1979 by a research team from the University of California at Los Angeles (UCLA).<sup>18</sup> Both studies were funded by the U.S. Department of Labor. Both studies have their limitations but the conceptual weaknesses tend to be offsetting. The North and Houston study was composed entirely of apprehended illegal immigrants. Because a disproportionate number of apprehended Mexican illegal immigrants are employed in agriculture, the North and Houston study has a bias in the number of farm workers in their study. Conversely, the UCLA study was done entirely within the urban center of Los Angeles. As a result, it disproportionately underestimates the employment of illegal immigrants in agriculture. In the North and Houston study, the respondents had been in the United States for an average of 2.5 years while in the UCLA study the mean was 4.0 years. In the North and Houston study, there were 793 respondents of whom 48.6 percent were from Mexico; in the UCLA study, there were 2,792 respondents of whom 92.5 percent were Mexican.

The occupational patterns of the respondents in the two studies are shown in Table 2. Clearly, the illegal immigrants are concentrated in the unskilled occupations of farm workers, service workers, non-farm laborers as well as the semi-skilled occupations of operatives. A significant number are also in the skilled blue collar occupation of craft workers. Very few were found in any white collar occupation.

In comparison, Table 3 shows distribution of the occupational patterns in the United States for all workers; for all Hispanic workers (i.e., Mexican origin, Cubans, Puerto Ricans, and others of Spanish origin); for all Mexican origin; and all black workers for 1977 (the year closest to the dates in which the two studies of illegal immigrants were conducted).

Table 2. Employment Patterns of Illegal Immigrants from Two Research Studies Prepared for the U.S. Department of Labor.

	Detention Site Study, 1974-5 <sup>A</sup> All Apprehended Aliens	Los Angeles Community Study 1972-1975 <sup>B</sup>		
		Total	Previously Apprehended Aliens	Never Apprehended Aliens
<u>White Collar:</u>	5.4	10.5	6.6	12.1
Professional and Technical	1.6	4.3	2.7	5.0
Managers and Administrators	1.3	0.7	.8	.7
Salesworkers	1.1	1.9	.8	2.3
Clerical	1.4	3.6	2.3	4.1
<u>Blue Collar:</u>	55.2	73.0	79.0	70.4
Craft Workers	15.3	28.8	32.8	27.1
Operatives	25.1	31.8	31.1	32.1
Non-Farm Laborers	14.8	12.4	15.1	11.2
Service Workers	20.6	16.1	14.2	16.9
Farm Workers	18.8	.4	.2	.5
Total Percent	100.0	100.0	100.0	100.0

Sources: <sup>A</sup>David S. North and Marion F. Houstoun, The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Exploratory Study, Washington, D.C., Linton & Company, 1976, p. 104.

<sup>B</sup>Maurice D. Van Arsdol Jr., Joan Moore, David Heer, Susan P. Haynie, Non-Apprehended and Apprehended Undocumented Residents in the Los Angeles Labor Market. Final Draft submitted to the U.S. Department of Labor under Research Contract No. 20-06-77-16, (May, 1979), p. 65.



Table 3. Percent Distribution of all Employed Persons in U.S.; All Employed Hispanic Persons, all Employed Mexican Origin Persons, and All Employed Black Persons, 1977.

	All U.S. Workers	All Hispanics	Mexican Origin	Black Workers
Total Employed	90,546,000	3,938,000	2,335,000	9,812,000
Percent	100.0	100.0	100.0	100.0
Occupations:				
<u>White Collar:</u>	49.9	31.7	27.2	35.3
Professional and Technical	15.1	7.4	5.6	11.8
Managers and Admin.	10.7	5.6	4.9	4.8
Salesworkers	6.3	3.7	3.0	2.6
Clerical	17.8	15.0	13.7	16.1
<u>Blue Collar:</u>	33.3	46.6	49.3	37.6
Craft Workers	13.1	13.7	15.0	9.0
Operatives	11.4	20.9	20.4	15.1
Transport Operatives	3.8	4.1	4.6	5.2
Non-Farm Laborers	5.0	7.9	9.3	8.3
Service Workers	13.7	17.1	16.5	25.0
Farm Workers	3.0	4.4	6.9	2.2

Source: Morris Newman "A Profile of Hispanics in the U.S. Work Force," Monthly Labor Review (December 1978), pp. 3-13; and Employment and Training Report of the President, 1979 (Washington: U.S. Government Printing Office, 1979), pp. 262-3.

The data contained in Table 2 closely resembles the patterns of these racial and ethnic sub-groups in Table 3. With respect to Chicanos (i.e., those persons of Mexican origin who are citizen workers), they are employed disproportionately in exactly the same occupations as are most illegal immigrants in the cited studies. The employment pattern of Chicanos, in fact, better resembles the pattern of illegal immigrants than it does the distribution pattern of all U.S. workers. The fact that both Chicano workers and illegal immigrants are geographically concentrated in the same selected urban and rural labor markets of the five states of the Southwest makes it certain that the two groups are highly competitive in the same labor markets. In fact, a public opinion pool conducted by the University of Texas in 1982 designed to identify the most important problems in Texas found that more Mexican Americans cited the problem of illegal immigrants as the state's most pressing problem than did any other racial grouping.<sup>19</sup> The data on blacks in Table 2 is only given as a reference to add to the fact that there are millions of citizen workers who are employed in the same occupations as are illegal immigrants. Black workers, of course, are not geographically concentrated in the same general labor markets as are Chicanos or Mexican illegal immigrants. In a number of specific labor markets (e.g., in Los Angeles, Chicago, San Antonio, Miami, and Houston), however, they do compete. Likewise, it is increasingly the case that black workers in urban labor markets in the East (e.g., New York City and Washington, D.C.) are feeling the adverse effects of job competition from illegal immigrants from nations other than Mexico.<sup>20</sup>

The data supplied by these two empirical studies plus numerous anecdotal accounts from other sources strongly suggest that the impact of illegal immigrants is selective. Thus, it is not at the aggregate or macro level of the economy but, rather, in selective or micro labor markets, that their presence

is manifested. At least three separate circumstances would seem worthy of discussion: the sub-standard labor market (i.e., wages and working conditions that exist despite laws that ban such practices); the secondary labor market (i.e., wages are low but are at least in compliance with federal minimums while working conditions and benefits are minimal or nonexistent); the primary labor market (i.e., high paying jobs and substantial fringe benefits and desirable working conditions).

#### The Substandard Case

Some portion of the illegal immigrant work force are no doubt taken advantage-of or sought-out primarily because they can be exploited. This situation, however, appears to be the exception rather than the rule. The North-Houstoun study, for instance, found that 76 percent of its respondents had earned the federal minimum wage or better in the job they held at the time of their apprehension.<sup>21</sup> Even this percentage is probably low due to the disproportionate number of Mexicans who were employed in agriculture in the North-Houstoun study. The UCLA study of urban illegal immigrants did not collect wage data. It did compute, however, "income" data, which shows that the income of their respondents averaged about \$1,000 a year more than that of the North-Houstoun interviewees.<sup>22</sup>

For those who work under exploitive conditions, it is unlikely that illegal immigrants take any significant number of jobs that would otherwise be held by citizens. Yet this is certainly no excuse for the perpetuation of their presence. If it is wrong for citizens to work under unfair work standards, it is equally wrong for illegal aliens to do so. Job protection laws exist to safeguard all who work in the United States irrespective of their immigration status or their personal desires to be protected.

### The Secondary Labor Market

The preponderance of illegal immigrant workers are employed in the secondary labor market of the economy. It seems that, in the process of their development, the structure of labor markets in industrial societies change. Co-existent with the creation of high paying, stable, and rewarding jobs, there are also jobs created that lack all of these features. In comparison, these jobs appear far less attractive to would-be workers. These less desirable jobs comprise what has become known as a secondary labor market.<sup>23</sup> The quandary for the industrialized nations of the world is, therefore, how is it possible to fill these jobs that, while they may seem to be undesirable, are, nonetheless essential to the operation of these economies. Michael Piore has argued that in the past these societies have looked toward the margins of the labor force to find these types of workers. There they have found youths, housewives, and farmer-workers as well as to the minority groups that have been denied opportunities in the past to have access to the better jobs. But, given the developments in the United States in the 1970s and early 1980s, these traditional sources of workers are often no longer available. Youths have proven to be undependable for many jobs as they often do not identify themselves with permanent workers. They are often "target earners" who are seeking income from a job only to buy a particular object--a car, a stereo, or for pocket money--rather than as a means of support (which is often provided by parents). Housewives, with the rise of the feminist movement and a trend toward smaller families, are increasingly inclined toward career development rather than marginal work attachments. Likewise, the dramatic decline in agricultural employment due to extensive mechanization in recent decades means that there are fewer farmers who can be attracted to work second jobs or off-season in the

non-agricultural sector. And, of course, the progression of the civil rights movement since the 1960s has been increasingly directed toward improvement in the preparation for better jobs and toward opening up access to a wider range of jobs for minority workers. It is alleged, therefore, that these traditional segments of the labor force who have been available to the secondary labor market are either unavailable or unwilling to fill these types of jobs in contemporary times. Hence, in Western Europe and the United States employers have turned increasingly toward temporary workers to fill-in the gaps in the secondary labor market.<sup>24</sup> In Europe, foreign worker programs that were supposed to be of temporary duration were created in the post-World War II era and lasted through to the early 1970s. In the United States, there have also been some temporary worker programs but it has been illegal immigrants who have come to be relied upon as sources of unskilled labor supply in some industries and occupations. Also, in Europe illegal immigration since the termination of the foreign worker programs has also become an increasingly important source of workers for certain types of jobs.<sup>25</sup> Piore's view, therefore, is that it is fruitless to try to restrict illegal immigration as long as the secondary labor market exists. Other scholars have echoed this belief and drawn the similar conclusion that illegal immigrants take only jobs that citizens shun so that there is a minimal displacement effect.<sup>26</sup> Consequently, if the nation really wants to reduce the flow of illegal immigrants, Piore argues that it will be necessary to abolish the secondary labor market as a source of labor demand. He suggests this could be done by raising substantially the federal minimum wage, by sharply increasing the enforcement of job protection laws, and by legislatively encouraging the opportunities for unionization of many low wage industries. He is not optimistic that the policymakers of

the nation are willing to take any of these steps. Hence, he feels illegal immigration will continue for as long as it is useful to employers.

There are some key deficiencies in the Piore thesis. To begin with, Piore does not give credence to the importance of "push" factors in the illegal immigrant process. The analysis is conducted solely in terms of an alleged demand for unskilled workers that cannot be otherwise filled. But any careful review of the economic, political, population, and social conditions in all of the countries that are the sources of illegal immigrants as well as the permissive state of existing public policy in the United States will show that these factors have contributed as much or more to the flow of illegal immigrants as any such demand conditions.

It is important to realize that Piore and the others who have adopted his assertions of a minimal job displacement effect in the secondary labor market do not provide any direct empirical evidence to support their hypothesis. To the contrary, it is impossible for those who support this view to name a specific occupation in the U.S. economy in which Census data cannot be used to show that the vast preponderance of workers doing that type of work are citizen workers. Indeed, Malcolm Lovell, the Under Secretary of Labor in testimony that "in 1981, close to 30 percent of all workers employed in this country, some 29 million people, were holding down the same kind of low-skilled industrial, service, and farm jobs in which illegals typically find employment."<sup>27</sup> He added:

The available data also does not support the claim that Americans will not take low wage jobs. In 1981, an estimated 10.5 million were employed in jobs at or below the minimum wage and 10 million more were earning within about 35 cents of that level.<sup>28</sup>

Hence, it seems absurd to contend that illegal immigrants do work that citizens will not do when there are currently millions of workers who are

currently employed in these same occupations. Lovell also pointed out that the unemployment rates for the segments of the labor force that compete most directly with illegal immigrants are consistently higher than the national average--a fact that at least challenges the notion of the nonavailability of citizen worker.

Furthermore, when there is a shift in the supply of labor, there are also simultaneous wage effects. These wage effects are typically overlooked by those who simplistically assert only the employment argument--that illegal immigrants largely fill jobs that citizens will not take. The presence of a significant number of illegal immigrants in selected labor markets will reduce the absolute wage rates below what the market would have otherwise set. It will also open up relative wage gaps between occupations and industries that vary with the degree of participation by illegal immigrants. It is in the context--the artificial suppression of wages due to the presence of illegal immigrants--that the argument by some employers that citizen workers are unavailable needs to be appraised. But this is a self-fulfilling prophecy. It is an argument based upon induced economic influences rather than the dubious sociological contention that U.S. workers will not do certain types of work. The working of a normal labor market--one without the additional shadow labor force of illegal immigrants--should provide an ample supply of labor if the employers are willing to pay a competitive wage rate. A survey of employer attitudes in San Diego toward the employment of illegal immigrants found that they could afford to pay the competitive wages needed to attract citizen workers and stay in business but that they preferred not to because they could obtain illegal immigrants at lower wages. The study concluded,

that "there is a definite strategy for pulling-in illegal labor from across the border and that this strategy is an excellent way to avoid more expensive American labor."<sup>29</sup> Consequently, the study found that significant displacement did occur, as a result of the wage depression effect caused by the bountiful presence of illegal immigrant workers.

As for the characteristics of those workers who compete most directly with illegal immigrants, all studies and reports are unanimous in their conclusions that it is the young and the less skilled citizens that are the most adversely affected by the presence of illegal immigrants. These citizen groups are disproportionately composed of women and minorities along with youths in general. In the theory of welfare economics, those persons who are hurt by a particular policy (i.e., the toleration of illegal immigrants in the labor market) could be compensated financially for their losses by taxing those who benefit (i.e., those who can buy items or services cheaper or who can hire workers at lower wages) so that society is no worse off by the action. But if these transfer payments are not actually made-- and no policy proposal has even remotely suggested that this should be or could be done--this benign principle does not apply.

In the United States, there is a substantial pool of workers who have employment and earnings difficulties in the labor market. One comprehensive study placed this number at 40 percent of the people who participated in the labor force in 1980.<sup>30</sup> Not all of these people, of course, are affected by the presence of illegal immigrants. There is a pronounced geographical concentration of illegal immigrants so it is essentially only those workers who are in the secondary labor markets of selected localities (essentially the same areas that are also the largest recipients of legal immigrants as well) who are confronted with the direct competition.<sup>31</sup> But these geo-



graphic labor markets--such as Los Angeles, San Francisco, Houston, New York City, Chicago, and San Antonio, to name some of the most prominent--are among the largest and most influential labor markets in the United States. Hence, the number of needy citizen workers who are affected by the competition is likely to be substantial.

One of the major ways to increase the number of job opportunities and the rewards for seeking earned income for the low income workers and to enhance labor force participation by potential workers in these labor geographic labor markets is to reduce the uncontrolled supply of new entrants into the existing low wage sector of the economy. Many of the jobs performed by low wage workers are essential to the operation of our economy. Farm workers, dishwashers, laborers, garbage collectors, building cleaners, restaurant employees, gardeners, maintenance workers, to name a few occupations, do perform useful and often indispensable work. The tragedy is that their remuneration is often so poor. One reason why this is the case is the fact that there is already a large pool of persons available. Most of these tasks are not going to go away even if wages do increase. One way to make these jobs more attractive to citizen workers is to reduce the unfair addition of millions of illegal aliens into this sector of the economy. It is not ordained that workers who do useful things must be paid poorly. The normal operation of the labor market should see wages increase in response to the demand for their essential services. This will not happen, however, if the supply of such workers is increasing. If the illegal aliens were flooding into the legal, medical, educational, and business executive occupations of this country, the problem would have received the highest national attention and it would have been solved. But because it is the blue collar, agricultural, and service workers who bear most of the burden

of the competition, the issue remains largely unaddressed. There is a definite class bias to the permissiveness associated with American immigration policy.

Illegal immigrants are not the only cause of unemployment and persistent low income patterns among certain sub-groups of the American labor force but they certainly are a factor. The formulation of any serious full employment strategy for the United States in the 1980s, therefore, will have to include measures to curtail illegal immigration.

#### The Primary Labor Market

As for the primary labor market, (e.g., jobs in construction and manufacturing), there is no debate that the illegal aliens employed in these positions cause a displacement effect. Even though citizen workers are readily available, illegal aliens are sometimes regarded as "preferred workers". They are less likely to join unions, or to complain about denial of equal employment opportunity, safety violations, or sex harassment or to make other entitlement demands upon employers. One study in 1982, which disclosed that illegal immigrants were widely employed in the high-paying construction industry of Houston, Texas, found that foremen and supervisors preferred to hire illegal immigrants over citizen workers because they could easily "extract bribes" in the form of wage kickbacks from them.<sup>32</sup>

Because there is little debate about the labor displacement effects of citizen workers by illegal immigrants when they are employed in the primary labor market, it is this sector that the federal government is most vigilant in its limited enforcement activities. Helping the most privileged of our society has always been a popular role for government agencies.

#### Full Employment: The Special Case

It is only in the case of a fully employed economy that it is conceivable

that the presence of illegal immigrant workers could provide some aggregate economic benefits to society in the form of higher production due to the additional supply of labor. Under such special circumstances, it might even mean that the aggregate costs to society would be lower because of the increased competition between citizen and alien workers for jobs could reduce wage pressures. But all of these conceivable benefits would be very limited because most illegal immigrants--especially those from Mexico--are unskilled and poorly educated. There are technological limits on the amount of production that society can obtain as the result of simply increasing the supply of workers with limited human capital endowments. Given minimum wage laws, there are also limits on how low nominal wages can be legally reduced even if the supply of labor is artificially increased. Moreover, even under conditions of full employment there would be severe costs imposed on those particular sub-groups--youth, women, and minorities--who would bare the direct competition with illegal immigrants in the form of lower wages and discouraged labor force participation.<sup>33</sup> These specific costs would have to be balanced against any possible societal benefits.

Any talk about the theoretical benefits that might accrue to the nation from illegal immigrants in the context of full employment is a question of only academic interest. Throughout the 1970s and early 1980s unemployment rates were consistently and persistently high. Moreover, there is a growing consensus among economists that it may not even be possible to reduce this rate below 6 to 6.5 percent without triggering unacceptable inflation rates.<sup>34</sup> In this context there can be no justification for a benign attitude toward any factor that contributes to unemployment of citizen workers.

### Non-Economic Effects of Illegal Immigration

In addition to the direct employment and wage effects of a large and growing shadow labor force of illegal immigrants in the economy, there are non-economic factors that may even be of greater long term concern to the welfare of the nation. These involve both the human rights violations that derive as a natural by-product of such an issue and the long run political consequences to the nation of institutionalizing the existence of a sub-class within the population.

For those persons who "enter without inspection", the entire entry process is dangerous to the safety of the people involved. It often involves the use of professional smugglers (called "coyotes") who extract exorbitant fees for the transportation and the false documents that they provide.<sup>35</sup> Often their charges may consume the life savings of the individuals involved. If the individuals do not have sufficient funds, they may be loaned the additional amounts by "loan sharks" who charge outrageous interest rates and enforce repayment by the use of brute force. Some "coyotes" rob and otherwise abuse the illegal immigrants.<sup>36</sup> In many cases, the smugglers use means and tactics of transportation that are life threatening.<sup>37</sup>

Once in the United States, illegal immigrants must live under constant fear of detection by authorities or of being taken advantage of by opportunists. As one illegal Mexican immigrant explained: "Being here is like a prison, a golden prison; you have everything but you have nothing."<sup>38</sup> Nominally, illegal immigrants are entitled to the protections of the nation's laws but, in fact, their illegal status often means that they are fearful to exert their rights to protection.

In sum, there is nothing romantic about the illegal immigration process. They are often placed at the mercy of the most undesirable elements of both

nations. In the United States, the indifference of society and of policy-makers toward the plight of illegal immigrants represents one of the most seamy aspects of contemporary American life. One explanation has been offered by a congressional official who observed, "nobody gives a damn" about illegal immigrants since they are "nobodies constituents."<sup>39</sup>

Increasingly, the treatment of illegal immigrants from Mexico in the United States has become a subject of complaint by the Mexican government. For example Luis Echeverria, during his term as President of Mexico, declared:

We insist upon the defense of the human and labor rights of those who work in foreign countries.... Even though they carry on an illegal activity in the territory of another state, they should nevertheless be protected by law as 'migratory workers without papers.'<sup>40</sup>

His successor, President Lopez Portillo was equally vehement in his demands for their protection. But, any demand that the United States protect the rights of people who clandestinely enter the country in violation of its laws and who, accordingly, are forced into a sub rosa life style of constant fear of detection can hardly be taken seriously. There is very little that can be done in any realistic way to protect the rights of these helpless people. In fact, the government of Mexico cannot even protect the illegal immigrants from mistreatment by their fellow Mexican citizens who often serve as "coyotes," or who also sell counterfeit documents at exorbitant prices, or who are the Mexican border officials who sometimes arrange their exodus or prey upon them when they return and demand a "mordida" (i.e., a bribe or extortion payment). Once in the United States, illegal immigrants are vulnerable to other opportunistic elements (who are often Chicanos) as well as some employers who wish to exploit their total dependence for economic gain. Sometimes, they fall victim to violent elements

both in the border towns and inland areas who subject them to physical abuse.<sup>41</sup> Of course, officials in the United States should try to stop all of these inhuman and often illegal acts but, in reality, the very nature of their illegal status makes it virtually impossible to prevent these actions from occurring. At best, all the United States government can do is to react to the exploitation and the abuses after they have occurred. It can and should seek punishment where civil and criminal violations can be documented. But even in these circumstances, it is difficult to take action if the illegal immigrants themselves do not report offences; or are unwilling or unavailable to press charges and to testify at hearings; or if local district attorneys will not prosecute and local juries refuse to convict offenders. The fact is that illegal immigration is a process that brings to the surface the worst human elements in both Mexican and United States societies. There is only one real human rights policy that can be advocated: stop illegal entry before it takes place.

Even more insidious is the fact that as the number of illegal immigrants continues to mount, the United States is rapidly acquiring a sub-class of persons whose rights are circumscribed from those of the larger citizenry. Although technically able to avail themselves of many legal rights and protections, few illegal aliens do so. To make matters worse, they and their family members are being legislatively excluded from much of the basic social legislation in this nation. These exclusions vary from the Federal level where illegal aliens are denied eligibility for Supplemental Security Income, Medicaid, and Aid to Families with Dependent Children, to individual state exclusions from unemployment compensation programs and general assistance.<sup>42</sup> In Texas, an attempt was even made to forbid children of illegal immigrant families from attending public schools without being charged tuition. In

a close 5-4 vote, the U.S. Supreme Court in June 1982 struck down the Texas statute. The majority opinion of the Court held that education is of unique importance to both individuals and society and that it would be unfair to force innocent children to bear the burden of their parents' illegal status.<sup>43</sup> Collectively, these actions represent embarrassing efforts by our society to avoid the legitimate costs of our own policy inadequacies.

In addition, if illegal immigrants pay social security taxes, they are likely to be contributing to fictitious accounts for which they will never receive any benefits even though they may some day desperately need the social protections that this system is designed to provide. At all levels, illegal immigrants are denied the political right to vote.

Certainly the growth of a sub-class of rightless illegal aliens can not be in the nation's long term interest. Once before the nation tried to function with a sub-class in its midst. Then it was slavery and the nation is still trying to overcome the legacy of that episode. It is an experience that, if it can be helped, should not be repeated.

#### Policy Reform to Address the Question of Illegal Immigration

When it released its final report in 1981, the Select Commission on Immigration and Refugee Policy observed that illegal immigration had reached such a magnitude that there was a widely held perception in the nation that "immigration policy was out of control."<sup>44</sup> In response to these concerns as well as other needed reforms in the nation's immigration status, a comprehensive immigration bill was introduced to address some--but not all--of the more blatant policy deficiencies. The bill was known as the Immigration Reform and Control Act (or popularly as the Simpson-Mazzoli Bill). It passed the Senate in August 1982 but died on the floor

of the House of Representatives in December 1982 in the waning hours of the 97th Congress. The bill was re-introduced with the same name in February 1983 in the 98th Congress.

Contained in the myriad of studies, reports, and legislative proposals that have addressed the issue of illegal immigration, a variety of policy changes have been suggested. Not surprisingly, there is more agreement about the need than there is for the precise means of reform. The following topics, however, have been the most prominent topics of concern.

#### Employer Sanctions

Any strategy to combat illegal immigration must start with the need to curtail their demand. Thus, repeal of the "Texas proviso" and the adoption of a law to make the employment of illegal immigrants an illegal act have been natural starting points of all reform movements. An employer sanction law would set the moral tone. It would define precisely who is in compliance with the laws of the land and who is not. Presently, all employers who hire illegal immigrants are fully within their rights to do so. An employer sanctions law will clearly state the fact illegal immigrants are not wanted as workers in the United States.

Tentative steps toward the enactment of a national employer sanctions bill have already begun. In 1974, the Farm Labor Contractor Registration Act of 1963 was amended to require that employers of migrant farm workers in the United States as of 1976 are prohibited from "recruiting, employing, or utilizing, with knowledge" any illegal immigrants.<sup>45</sup> The Act itself places numerous other requirements upon labor contractors that are designed to protect migrant farm workers from unscrupulous activities by the contractors for whom they are technically employed (as opposed to the agricultural growers who contract with the contractor).



Twice during the early 1970s, the U.S. House of Representatives passed legislation that would have enacted an employer ban on hiring illegal immigrants only to see both bills die in committees of the Senate. In the meantime, several states who were concerned about the growing number of illegal immigrants in their midst adopted employer sanctions laws. It was widely believed at the time, however, that these laws were unconstitutional since immigration matters were believed to be the sole prerogative of the federal government. To the surprise of most legal scholars, however, the U.S. Supreme Court upheld the constitutionality of a California employer sanctions law in 1976.<sup>46</sup> Since then, at least eleven states passed similar laws but, as of 1980, only one employer in any of these states had been convicted and given a pittance fine for such an offense.<sup>47</sup> The problem appears to be that states do not have sufficient experience with the enforcement of immigration laws and they have been reluctant to set up the legal apparatus that would be needed to enforce such a law. Also, of course, the state laws vary immensely in their provisions and penalties. The actions by these states, therefore, should be interpreted as an act of desperation that is designed to be more of a prod to the federal government to assume this responsibility as part of its broader immigration enforcement responsibilities than as a genuine desire for the states themselves to enter into this area of law enforcement.

In 1981, the Select Commission voted 14-2 in favor of a recommendation that Congress adopt a law that makes "it illegal for an employer to hire undocumented workers."<sup>48</sup> The Simpson-Mazzoli bill, in turn, sought to accomplish exactly that task. The bill envisioned a prohibition

on the employment of illegal immigrants with civil penalties that would range from warnings to fines for first and second time offenders and criminal penalties that include higher fines and even jail terms for repeat offenders. Small employers (of less than 3 employees) would not have been covered.

The most vocal opposition to the concept has consistely come from Hispanic organizations and other groups generally sympathetic with the plight of illegal immigrants. In general, their opposition stems from fear that employers will use such sanctions as an excuse to discriminate against persons who have accents or Spanish surnames or stereotypical attributes. The United States Civil Rights Commission, whose views are also shared by a number of other civil liberties organizations, had also taken an earlier stand--by a vote of 3-2--against the concept of employer sanctions. It stated in 1980 that:

An employer sanctions law would be an unjustifiable imposition of law enforcement duties upon private persons and corporations with undesirable consequences not only for the employer but for the due process of job applicants. Moreover, increased employment discrimination against United States citizens and legal residents who are racially and culturally identifiable with major immigrant groups could be the unintended result of an employer sanctions law.<sup>49</sup>

As a consequence, the Commission, on another split vote of 3 to 2, explicitly recommended in 1980 that "Congress should not enact an employer sanctions law."<sup>50</sup>

#### A National Identification System

Obviously, if an employer sanctions law is enacted, it is necessary to specify exactly what an employer must do to be in compliance. A mere query is hardly adequate. With fraudulent documents readily available both inside

and outside the country, existing forms of identification (i.e., birth certificates, social security cards, driver's licenses, etc.) are absolutely insufficient.<sup>51</sup> Without the establishment of some sort of universal identification system, the result of a strong employer sanctions law could be that employers might act in a discriminatory manner toward citizens from ethnic groups that are similar to those that comprise the majority of illegal immigrants. This concern is real. Hence, the required identification must be something that is required of all work-seekers.

One suggestion has been that a new form of social security cards be used.<sup>52</sup> Since January 1, 1973, citizenship or resident alien status has been specifically required as a condition to receive a social security card.<sup>53</sup> But the existing card is easily counterfeited. Hence, any new card must be both non-counterfeitable and unalterable. Through the use of cards with special codes already developed by cryptographers and computer experts it would be easy to verify the citizenship status of any would-be employee. The card could be similar to those issued since 1977 by the Immigration and Naturalization Service to resident aliens (i.e., the ADIT card or Alien Documentation, Identification, and Telecommunications system) which includes a photograph, signature, fingerprint, and several rows of coded numbers. The social security numbers could be used to supply these identification numbers for general usage. The Social Security card--or more specifically the social security number--is already required as a condition of employment in the private sector for virtually everyone. The same is true for most public employees. Thus, the issue of principle with respect to the fact that U.S. citizens must have identification numbers has already been settled. Like it or not, the Social Security number has already become a national

identifier. The Social Security number is used as a student identification number on many campuses; it is used as the driver's license number in eight states; it is used by the Internal Revenue Service to identify taxpayers; and it is the serial number of all people in the military. The point is: It is absurd to worry about whether something will happen if it has already happened. The only questions that remain are, should Social Security cards be made noncounterfeitable and should checks be made of these cards to ensure that those who are using them to seek employment are legally entitled to have them?

David North and Marion Houstoun, who have given close study to the identification issue as it relates to the problem of illegal immigration, have recommended a work permit system similar to that used in many other industrialized nations as being better "than any other proposed system."<sup>54</sup> The details of a workable proposal were spelled out in a later study by North.<sup>55</sup> The system would involve the establishment of a nationwide data base. Workers entering the labor force or changing jobs would be required to obtain a work authorization number that would be on file at the federal data bank. The number would be issued only after the individual offered some proof that he or she was a citizen or resident alien. Employers would only have to call-in to a toll free data bank after they had hired someone to check the citizenship eligibility of the newly hired person. In return, they would receive a transactions number from the data bank that would suffice to be in compliance with the employer sanction provisions. The advantage of this system would be that it would not involve any type of card or require employers to make any type of judgment themselves about the eligibility of a job applicant. A would-be worker would have to make application for a work permit at the nearest office

of the public employment service. Several options would be available to the applicant to prove his or her eligibility through reliance on some sort of historic data (e.g., among these would be proof of payment of income taxes for a number of past years; proof of paid social security taxes for a set number of past years; service in the military; government employment; naturalized citizenship status; etc.) An applicant would have to provide at least two different proofs. Only information provided by the applicant would be on file. A check of the provided information could be made with existing data already on file in various government data banks. If the computers confirmed the individuals legal presence in the nation, the work permit would be issued. This system was specifically endorsed by Ray Marshall, the Secretary of Labor during the Carter Administration and a member of the Select Commission on Immigration and Refugee Policy.<sup>56</sup>

There are other types of identification.<sup>57</sup> But for the present purpose, the point is that a new identification must be included in any employer sanction program if it has any hope for success. Yet, the members of the Select Commission--who overwhelmingly endorsed an employees sanction law--voted only 8 to 7 (with one absent) in favor of coupling the proposed sanctions measure with some form of secure employee identification system. Moreover, the meager majority "was unable to reach a consensus as to the specific type of identification that should be required for verification."<sup>58</sup> The use of a counterfeit proof Social Security card had the strongest support of the ideas that were considered.

When the Reagan Administration offered its proposals on this issue, it recommended employer sanctions but it too was reluctant to face squarely

the identification issue. Attorney General William F. Smith stated "the Administration is opposed to the creation of a national identity card" but, he added, "the Administration does recognize the need for a means of compliance with the law that would provide an employer with a good faith defense if he examines documentary proof of eligibility to work."<sup>59</sup> Accordingly, the Administration recommended that acceptable proof of eligibility to work would be permanent resident alien card issued by INS or a temporary worker visa for non-citizens and for citizens any two of the following documents: a birth certificate, drivers license, social security card, or a registration certification issued by the Selective Service System. In addition, for every newly hired person the employer and the new employee would sign a form certifying that the newly hired employee is eligible to work in the United States and that the employer has inspected the specified documents offered by the new employee. The employer would be required to retain the form for possible inspection by the INS if requested.

Despite the views of the Attorney General that this approach was sufficient, the drafters of the Simpson-Mazzoli bill were not satisfied. They clearly believed as did many others, that all of the documents that were mentioned were easily available in counterfeit form. Accordingly, if this was to be the identifier system, it was felt that the intentions of the employer sanctions law would be effectively negated. Hence, the bill rejected the Reagan proposals and, instead, it would have mandated that the President design and implement a fraud-resistant system for determining the eligibility of applicants for employment. The bill specified that the President would have a three year period in which to establish such a system.

The system could only be used for the purposes of verifying that employees had the right to work in the United States. Wisely, from a political standpoint, the bill did not specify or endorse any specific identification system. Such specificity, it was felt, would divert attention away from the principle itself--the need for a fraud resistant identification system--to a particular means.

In the Congressional debate--especially in the House of Representatives--this issue proved to be especially worrisome to many congressmen. The U.S. Civil Rights Commission also had specifically rejected the idea that any type of national identification system be established. It contended that "such a national identity card would provide a tool that could be used to violate the right to privacy of the individual."<sup>60</sup> Responding to a similar concern made by others, the Rev. Theodore Hesburgh, who not only had been chairman of the Select Commission but was himself a former chairman of the U.S. Civil Rights Commission, dismissed these fears. He wrote in 1982 that:

Identification systems to be used upon application for a job and for work purposes are no different from other forms of identification required by our society today and readily accepted by millions of Americans: credit cards which must be checked by merchants; identification cards other than driver's licenses used for cashing checks; social security numbers to open bank accounts, register for school or obtain employment.

...Raising the specter of "Big Brotherdom", calling a worker identification system totalitarian or labeling it "the computer taboo" does not further the debate on U.S. immigration policy; it only poisons it. <sup>61</sup>

### Increased Funding for INS

The necessity of significantly enlarging the enforcement activities of the INS is too obvious to be belabored. It is the one issue about which there has been no opposition from any quarter. The Reagan Administration, after initially calling for a reduction in "funds for enforcement," later, reversed itself and made the INS an exception to its general non-military budget reduction efforts in 1982. It subsequently went so far as to actually seek an increase in the appropriations for INS activities. This action was done despite the fact that the Simpson Mazzoli bill--which contained a "sense of Congress" provision that funding for this purpose should be significantly increased--did not pass that year.

### Less Reliance on the Voluntary Departure System

Unfortunately, there was virtually no attention given to the voluntary departure system as a factor that contributes to illegal immigration in the work of the Select Commission or the debates on the Simpson-Mazzoli bill. But it is doubtful that any policy to stop illegal immigration can ever be taken seriously so long as there is virtually no chance of any penalty being imposed on offenders. Until all illegal immigrants can be identified, records kept, and repeat offenders subjected to formal deportation (which would permanently preclude those individuals from ever becoming legal immigrants), there is no reason for an illegal alien even to ponder the risks. The alien has nothing to lose. More reliance on legal procedures, however, will be costly and time-consuming and will also necessitate an increase in the INS budget. But these costs, as well as expenses related to the acquisition of



more detection hardware, must be weighted against the costs of allowing this mushrooming problem to continue. It will be far less costly to assume a strong posture of prevention than it will be to respond to the social problems inherent in this issue after they accumulate.

#### Enhanced Trade and Development Assistance

International policies must be part of the policy mix to reduce the flow of illegal immigrants. They are needed to address the "push" factors. They should be directed primarily at efforts to assist in the economic development of Mexico and the Caribbean area. These measures should include extensive offers of technical and financial assistance to our neighbors. These efforts may have to be made through established multinational agencies--such as the World Bank, the International Monetary Fund, or the United Nations--instead of unilaterally. Mexico, in particular, is a proud nation; its leaders have traditionally abhorred the concept of direct foreign aid from the United States.

It must be realized that to some degree the problem of illegal aliens from Mexico is a by-product of past actions by the United States. For too many years, Mexico was seen as a pool of cheap labor that could be tapped at will throughout the Southwest. Hence, U.S. policymakers cannot be oblivious to the legacy of past actions in the creation of present problems. For this past role the United States is obligated to assist the Mexican government in reducing the economic forces that continue to "push" many of its citizens into the illegal immigration stream. To be sure, the population explosion, rural-to-urban migration, and the structural labor-market changes resulting from the introduction of capital intensive technologies in Mexico would have caused the illegal alien flow

to occur regardless of any past actions by the United States. But that contention is really moot. The fact is that the United States did contribute to some of the forces that have institutionalized illegal migration. The United States cannot place the full responsibility for stopping the flow upon Mexico.

The United States should carefully reassess its trade and tariff policies pertaining to Mexico and the entire Caribbean Basin. Efforts to lessen the restrictive barriers on agricultural and manufacturing imports from the countries of this area are essential. Such actions would enhance the opportunities for export industries in these nations to expand and reduce some of the pressures causing illegal entry. It would also acknowledge the fact that Mexico in particular and many other nations in this region in general are already major importers of U.S.-made goods.

The Reagan Administration in 1982 did seek to enact a Caribbean Basin program that would seek to accomplish most of these outlined objectives. This initiative was not specifically linked to the immigration reform legislation although it certainly has implicit implications that are to that effect. The explicit rationale for the program, instead, was couched in terms of good foreign policy relations. The proposal would have restricted aid to non-communist nations in the region. Among its provisions was a proposal for a twelve year moratorium on duties on certain imports into the United States. The 28 eligible countries would not have to reciprocate with respect to U.S. exports to their countries. It also contained incentives for U.S. firms to invest in these nations as well as financial aid to help stimulate economic development. Unfortunately, this bill also died in the waning hours of the 97th Congress when the Senate failed to act even though the House of Representatives had overwhelmingly passed it.

An Increase in the Number of Legal Immigrants Permitted from Mexico

The Simpson-Mazzoli bill sought to make a special exception for Mexico and Canada with respect to the number of legal immigrants that could be admitted from these neighboring nations each year. Currently, there is a ceiling of 20,000 visas a year that can be issued to would-be immigrants from any single country. The bill proposed that this ceiling be maintained except for these two neighboring nations. Each would have had its ceiling increased to 40,000 and a reciprocity agreement was included that would have allowed one nation to use any of the unused visas of the other. Since Canada has not in recent years used all of the 20,000 visas available to it, the immediate intention is clear: Mexico could gain a significant number of additional visas. The increase in visas would reduce the massive backlog in Mexican visa requests totalling 271,854 visas as of January 1, 1982, and, accordingly, it would help reduce some of the pressures to become illegal immigrants or to remain one if the individual had already illegally immigrated while waiting for his or her visa request to be acted upon.

As a step toward the reduction of the number of illegal immigrants in the U.S. labor market, this change should be made. It was a mistake in 1976 to have put legal immigration from Mexico on the same footing as that of other nations. As equitable as it might have seemed at the time, it does not recognize the reality of Mexican immigration pressures. Similar proposals were made by the Carter Administration and by the Select Commission.

### Enforcement of Labor Standards

Although the available research shows that the overwhelming number of illegal immigrants are not "exploited" in the legal sense that they are paid below federal minimum wage levels or work under conditions that are inferior to those of comparable citizen workers, some are. Hence, all of the various studies, and legislative proposals, that have addressed the problem of illegal immigration have included homilies about the need to enforce existing fair labor standards. Presumably, if these laws were adequately enforced, the need for illegal immigrants would recede and the illegal immigrants stop coming. Michael Piore has even gone so far as to make this policy the centerpiece of his policy recommendations.<sup>62</sup>

Certainly no one can argue against the need for more effective enforcement of prevailing labor standards for all workers--citizens or not. But this, it seems, is a weak reed upon which to place the weight of an attack upon illegal immigration. To begin with, it is doubtful that most illegal immigrants are legally exploited in the work place. Some are and so are some citizens. Greater enforcement efforts might lead to less abuse of the nation's labor laws but it is doubtful that it can do very much to stop the employment of illegal immigrants. After all, these laws can only be used to assure that minimum standards prevail. If they do, than that is all that can be enforced. Moreover, while it is true that some labor standard enforcement activities are initiated by government agencies, most of the violations that are reported are the result of employee-initiated complaints. This is the way it has always been and, probably, always will be. But illegal immigrants are less likely to know how to make such complaints and, more importantly, if they do know they are certainly--given their precarious status in the country--quite unlikely to file complaints.

### "Forgiveness" to Those Already Here

No matter what estimate is made of the stock of illegal immigrants residing in the United States, it is acknowledged to be a large number of persons. If immigration reform should eventually succeed in outlawing the employment of illegal immigrants, the immediate question is what is to become with all of those who are already in the country. The tolerant policy to date has unofficially condoned the influx of illegal immigrants. It is totally unrealistic to believe that any roundup of existing illegal immigrants--who have established themselves in jobs and often have families with them--could be accomplished without immense personal hardship, extensive litigation, and expensive financial costs. Hence, it is essential that some form of forgiveness, or amnesty, be given to those who have resided in the country prior to a specified date. The date, of course, has to be set in the past in order to preclude any mass flood of new immigrants who might seek to beat a future amnesty deadline.

All of the proposals for immigration reforms have contained some form of forgiveness that would cover what is believed to be the vast majority of the illegal immigration population. In general, the proposals would offer the opportunity for citizenship if they were to register within a set grace period; if they could prove that they have lived in the United States on a continuous basis prior to and since some specified date; and if they are not specifically a member of one of the thirty-three categories of people who are excluded from being admitted as immigrants from any country. There is not much difficulty in handling the procedures that would apply to those who have been in the country for many years. Congressional actions on three past occasions have allowed persons to register to become eligible

for citizenship if they have lived in the country continuously since a set date (as of 1982, the date in June 30, 1948). These registry revisions represent precedents that could be used again for this portion of the illegal immigrant population. For those who have been in the country for say, 3 to 5 years, the proposals generally have provided for a temporary holding status after which the people involved would probably be allowed to adjust their status to become a resident alien. The exact permanent status of this class, however, is seldom specified. For those that have entered recently, say within a year or two prior to the date when the proposed laws become effective, there would be no amnesty. Presumably they and other illegal immigrants who did not avail themselves of the opportunity to register during the grace period or who were found to be ineligible for citizenship would be subject to return to their native land if they were apprehended. For this residual group, in other words, there would be no change from the status quo nor would there be any accommodation for illegal immigrants who enter the country in the future and who are apprehended.

The forgiveness issue has always been one of the most controversial features of all of the reform packages. Many people feel that to extend a form of amnesty to people who violated the laws of the nation serves to reward wrong-doers. Would-be immigrants are supposed to wait to be admitted. Many applicants for immigration are found ineligible--especially those who do not have family relatives who are already citizens or permanent resident aliens. Others are found to be members of an excludable class. Most of

these individuals must resign themselves to staying where they are. But, the argument goes, those who are either not eligible or who have shown no respect for the laws of the nation by illegally immigrating are given by amnesty what they seek. On the other hand, those who have adhered to the law and either wait their turn or accept the fact that they cannot immigrate are essentially punished. Amnesty to many people seems entirely undeserved. Moreover, they feel that amnesty will set a bad precedent. They fear that having once given amnesty and, given the immense "push" factors that are involved in the illegal immigration process, it will be necessary to do it again and again in the future.

Another factor that has added to the fears of those who are opposed to amnesty pertains to the potential cost. Given the disproportionate number of persons who are unskilled and poorly educated, it is feared that many among the illegal immigration population will suddenly become eligible for the broad array of social services that are available to similarly situated citizens. Among these are food stamps, medicaid, aid for families with dependent children, unemployment compensation, and housing subsidies, to name some of the more prominent entitlement programs. There is already some evidence, although it is inconsistent, that there is "substantial use or attempted use" of the existing federal and state income transfer systems by illegal immigrants despite the fact that they are specifically excluded from eligibility from these programs.<sup>63</sup> The National Association of Counties (NACO) in 1982 stated that its support for amnesty in the Simpson-Mazzoli Bill was contingent upon two conditions: "that strong enforcement measures, including employer sanctions, be implemented to control future illegal immigration; and that the federal government reimburse state and local government for additional costs resulting from a legalization program."<sup>64</sup>

NACO estimated that the total cost of governmental cash and medical assistance to illegal immigrants who would be granted amnesty under the Simpson-Mazzoli bill (i.e., with an eligibility cut off of being in the country prior to January 1, 1980) would be \$1.1 billion dollars. NACO estimated that over half of this sum--\$546.8 million would be borne by state and local governments.<sup>65</sup> Given the geographical concentration of illegal immigrants, it is likely that this burden would be carried by only a few states and local governments. For them, of course, this burden--if it materialized--could be substantial. Estimates of anticipated local costs, however, could be higher than those made by NACO. For not only do some states and localities have many more illegal immigrants than do others but some have more liberal coverage provisions and more types of social programs than do others. For instance in California, the costs of an amnesty program to the state were estimated to be \$1.3 billion.<sup>66</sup> In New York City, no specific dollar cost was computed but officials believed that the cities total welfare budget could rise from "5 to 10 percent" and that "with legalization, New York City can expect a significant rise in utilization of municipal hospitals and out-patient clinics, which are 100 percent city-funded, as well as a substantial increase in the state and local shares of total Medicaid, public assistance, and social service expenditures."<sup>67</sup>

In response to these concerns, it has been argued that these numbers may be excessive since, supposedly, a person would not be eligible to adjust his or her status if there is any likelihood that they will become a public charge (i.e., they would belong to an excludable class). Also, Senator Allan Simpson argued that "these people are not refugees; these people came to the United States for one reason: to work."<sup>68</sup> Hence, he felt that these cost concerns about a dependency population will prove to be unfounded.



It was the case, however, that the Simpson-Mazzoli bill did not include any federal reimbursement provisions for any incurred costs that would fall upon the state and local governments. Presumably, the federal government would be responsible for its share of any costs that did materialize from increased use of jointly funded income transfer programs.

### Concluding Observations

Illegal immigration into the United States is not a problem that has a definite solution. In many ways it is a dilemma of a free society. It is unlikely that the United States will ever be able to stop completely the flow of persons who illegally seek to enter. Yet the problem is not one that can be ignored simply because of the difficulties that may be involved in designing appropriate policy responses. The policy objective, therefore, is not to seek to stop illegal immigration entirely--that would be impossible. Rather, the goal is to bring the flow under control by significantly reducing both its scale and its incumbent adverse impacts. Laws against speeding on the nation's highways have not stopped all speeders but they have probably reduced the incidence of speeding from what it would be in their absence. Moreover, laws against speeding have enabled law enforcement officials to focus attention upon the most serious offenders. The same expectations can be made about policy measures to control illegal immigration. Presently, there are not meaningful deterrents to illegal immigrants which, at least implicitly, signals to many people of other countries that the nation is not really serious when it says that it wishes to have a regulated immigration policy. This incongruity needs to be rectified.

If by chance the United States should achieve full employment in the near future and if, under these special circumstances, labor shortages in certain low skilled occupations do occur, there is a preferable alternative to reliance upon illegal immigration as a means of filling such needs. It is, of course, through the front door to the nation's labor force by making use of the occupational preference categories of the legal immigration system. Presently, it is only highly skilled and educated immigrants who are admitted under these provisions in response to perceived labor market shortages for the demand for their talents. But, there is no reason why the legal system could not be adapted to meet real shortages--if they should exist--for low skilled workers as well.

There is absolutely no justification that can be made for the use of illegal immigration as a means to supply workers to the labor force. If there are no real labor shortages, illegal immigrants endanger themselves and do positive harm to the employment and income opportunities for citizen workers; if there are or should be real labor shortages, the honorable course is to enlarge the flow of legal immigrants who are unskilled and poorly educated to meet any such labor market shortages.

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