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## **Introduction**

America's immigration laws are colliding with reality, and reality is winning. Today an estimated eight million or more people live in the United States without legal documents, and each year the number grows by an estimated 250,000 as more enter illegally or overstay their visas. More than half of the illegal immigrants entering and already here come from Mexico.

In February 2001, two newly inaugurated presidents, George W. Bush and his Mexican counterpart Vicente Fox, agreed at a meeting in Guanajuato, Mexico, to work together to fix the problem. The meeting led to the creation of the U.S.-Mexico High-Level Working Group on Migration, composed of the U.S. attorney general and secretaries of state and labor and their Mexican counterparts, and commissioned to find a way to end the illegal flow of labor across the border. On September 7, 2001, after meeting for three days in Washington, Bush and Fox "renewed their commitment to forging new and realistic approaches to migration to ensure it is safe, orderly, legal and dignified." They endorsed an immigration policy that includes "matching willing workers with willing employers; serving the social and economic needs of both countries; respecting the human dignity of all migrants, regardless of their status; recognizing the contribution migrants make to enriching both societies; [and] shared responsibility for ensuring migration takes place through safe and legal channels."<sup>1</sup>

Expectations were running high at that point that the two countries could reach an agreement that would confer some kind of legal status on the estimated 4.5 million Mexicans living in the United States illegally and open a channel for Mexican workers to enter the U.S. labor market legally. But the terrorist attacks on the World Trade Center and the Pentagon only four days later knocked those plans off the burner entirely. Now, one year after those events, the underlying reality of migration that brought the two presidents together remains fundamentally unchanged and must be addressed.

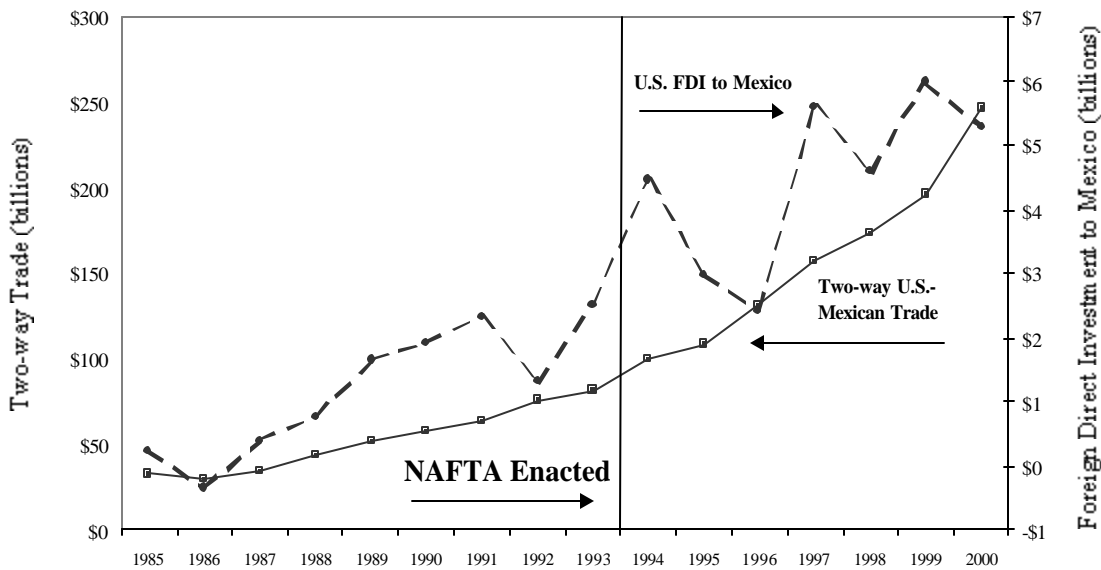
Immigration remains the most conspicuous piece of unfinished business between the United

States and Mexico. On almost every other front, U.S.-Mexican relations have made dramatic progress in recent years. After decades of state planning and protectionist "import-substitution," Mexico in the 1980s turned to more open and market-oriented economic policies. In the wake of the debt crisis of 1982, Mexico lowered trade barriers unilaterally, liberalized its domestic economy, and institutionalized open trade by joining the General Agreement on Tariffs and Trade in 1986 and the North American Free Trade Agreement in 1994. Under NAFTA, the United States, Mexico, and Canada agreed to dismantle barriers to trade and investment across their borders.

The most obvious result of Mexico's turn to the market has been growing economic integration with the United States. Mexico is now America's second largest trading partner, behind only Canada, and the flow of foreign direct investment between our two countries has grown as rapidly as trade (see Figure 1).<sup>2</sup> The number of individual Mexicans crossing the border each year, most as temporary visitors, has been rising steadily. The movement of goods, services, capital, and people has been facilitated by an improving infrastructure of roads, airports, and telecommunications. And those economic reforms, in turn, have tilled the soil for political reforms. On July 2, 2000, Mexicans elected Vicente Fox to a six-year term as president, the first opposition-party candidate in 71 years to break the ruling monopoly of the Institutional Revolutionary Party (PRI).

The one glaring exception to the trend is immigration policy. While the U.S. government has encouraged closer trade, investment, and political ties with Mexico, it has labored in vain to keep a lid on the flow of labor across the border. Since the mid-1980s, in its effort to stop illegal immigration, the U.S. government has imposed new and burdensome regulations on American employers and dramatically increased spending on border control. Despite those aggressive efforts, America's border policy has failed to achieve its principal objective: to stem the flow of undocumented workers into the U.S. labor market.

**Figure 1**  
**The Growing Economic Integration of the United States and Mexico**



Sources: U.S. Census Bureau, "U.S. Trade Balance with Mexico," [www.census.gov/foreign-trade/balance/c2010.htm](http://www.census.gov/foreign-trade/balance/c2010.htm);  
 Bureau of Economic Analysis, "U.S. Direct Investment Abroad 1982–2000: Balance of Payments and Direct Investment Position Data," [www.bea.doc.gov/bea/di/di1usdbal.htm](http://www.bea.doc.gov/bea/di/di1usdbal.htm).

The presence of such a large undocumented workforce creates political and economic problems on both sides of the border. For the United States, the presence of so many undocumented workers represents a black market in labor, with all the pathologies of smuggling, fraudulent documents, wage distortions, inefficiencies, and abuses that attend it. It also affronts common sensibilities about obeying the law and controlling our borders. And, in the aftermath of September 11, it complicates the government's war on terrorism. For Mexico, denial of legal status means that millions of Mexican citizens live in a legal netherworld without full protections and vulnerable to abuse from employers and border smugglers. More than 300 Mexicans die each year crossing the border illegally at remote locations.<sup>3</sup> For those reasons, President Fox has staked a good share of his domestic political credibility on gaining legal recognition for undocumented Mexican immigrants.

One year after the terrorist attacks of September 11, illegal Mexican migration has

re-emerged as a potent policy and political issue in the United States. At a meeting in Monterrey, Mexico, in March, Presidents Bush and Fox reaffirmed their previous joint statements on migration and the ongoing work of the High-Level Working Group. In July, House Minority Leader Richard Gephardt (D-Mo.) promised that the Democratic caucus would introduce a bill this fall to confer legal status on undocumented workers who meet certain conditions. Immigration critics within the president's own party have vowed to block any steps toward legalization. The issue can be expected to surface again when Presidents Bush and Fox meet in late October in Cabo San Lucas, Mexico, during a meeting of the Asian Pacific Economic Cooperation forum.

The Bush administration and members of Congress from both parties should work together to forge a border policy that accommodates the needs and aspirations of people on both sides of the border. This study examines the history, failings, and consequences of current U.S. immigration policies toward Mexican

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migration and proposes fundamental changes to the current, broken system.

## **A Failed U.S. Border Policy**

The United States and Mexico share a 2,000-mile land border, by far the longest in the world between an industrialized and a less-developed country. Even so, the remoteness and inaccessibility of the border kept the flow of workers from Mexico low throughout most of American history. Labor shortages during World War I and the economic boom of the 1920s brought the first large-scale Mexican migration to the United States. The Great Depression ended that first wave, but in 1942, in response to labor shortages caused by World War II, Congress authorized a guest worker program for Mexicans. From 1942 to 1964, the *Bracero* program allowed U.S. farms and companies to hire Mexican workers for temporary employment. During the life of the program, a total of 4.6 million Mexican workers entered the United States on a temporary basis to fill gaps in the labor market, principally in the farm sector. Workers were bused across the border into California, Texas, and other states to fill specific jobs for specific employers, who often provided housing and transportation. The program was shut down after domestic unions and church groups publicized poor working conditions.<sup>4</sup>

In 1965, Congress enacted a major reform of U.S. immigration law, repealing the racially based quota system enacted in the 1920s. That system had explicitly favored immigrants from northern Europe while severely limiting immigration from Southern and Eastern Europe and virtually banning immigration from Asia. Contrary to a popular misunderstanding, the 1965 act did not open the floodgates to immigration from Mexico. The quota system repealed by the 1965 law had never applied to Mexico or any other country in the Western Hemisphere. In fact, the 1965 act, for the first time, placed per-country limits on immigration from Latin American countries, including Mexico.

From 1965 to 1986, even though legal quotas were in place to restrict Mexican immigration, the

law did not forbid U.S. employers from hiring undocumented workers. In fact, under the "Texas Proviso" inserted into the 1952 Immigration and Nationality Act at the behest of the Texas delegation, authorities were explicitly prohibited from prosecuting employers for hiring them. Thus, millions of Mexicans were able to enter the United States during this period and work for U.S. companies and farmers without significant fear of government interference. The result of this benign neglect was a "de facto guest-worker program."<sup>5</sup>

By the early 1980s, the perception became widespread that the United States was being flooded with illegal immigrants from Mexico. In 1986, Congress passed the landmark Immigration Reform and Control Act, which contained three major provisions aimed at regaining "control of our borders." To dampen demand for undocumented labor, it required U.S. companies to check documentation of all prospective employees and, for the first time in American history, authorized fines against firms that knowingly hire illegal immigrants. To cut off the supply of unauthorized workers, it increased spending on the Border Patrol. And to address the problem of the millions of illegal aliens already in the United States, it granted permanent legal status, or "amnesty," to 2.8 million unauthorized immigrants who had been in the country continuously since January 1, 1982.

After initial declines, the number of Mexicans entering the United States began to rise again by the early 1990s. Soon after taking office in 1993, the Clinton administration tried to stem the rising tide through enhanced border enforcement in a policy it dubbed "prevention through deterrence." The policy focused on the major urban entry points along the U.S.-Mexican border. In 1993, Operation Blockade concentrated border patrol efforts in El Paso, Texas; Operation Gatekeeper in 1994 sought to do the same in San Diego; and Operation Safeguard in 1996 concentrated efforts near Nogales, Arizona. That same year, Operation Gatekeeper was extended 66 miles inland from San Diego and, in 1997, Operation Blockade, which by then had been renamed Operation Hold the Line, was extended west from El Paso into New Mexico.<sup>6</sup>

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Immigrant Responsibility Act further ramped up resources for border control, including funds for additional layers of fencing in San Diego, and imposed tougher penalties on smugglers, undocumented workers, and those who overstay their visas. From 1986 to 1998, the amount of tax dollars that Congress appropriated for the Immigration and Naturalization Service increased eightfold and for the Border Patrol sixfold. The number of Border Patrol agents assigned to the Southwest border doubled to 8,500.<sup>7</sup>

By any real measure of results, the effort since 1986 to constrict illegal immigration has failed. The number of undocumented immigrants in the United States today has doubled since then, from an estimated 4 million to 8 million, with the undocumented population growing by about 250,000 a year.<sup>8</sup>

One major reason for the failure is the problem of “visa overstayers.” Undocumented workers can enter the United States by two routes: they can sneak across the border without documents, or they can enter with documents through established ports of entry but then fail to leave when their visa expires. About 40 percent of all undocumented residents in the United States initially entered the country legally and have overstayed their visas. About one out of six Mexican illegal immigrants first entered the country legally.<sup>9</sup>

Fortified fences and beefed up border patrols are ineffective against overstayers. If the U.S. government were to seal the border against illegal entries, Mexicans who want to work in the United States would simply try to enter legally as temporary visitors and then overstay their visas. But to close the overstayer channel, the U.S. government would have to either identify and stop potential violators from entering the country in the first place, or mount a sweeping campaign within our borders to monitor, apprehend, and deport overstayers once their visas expire.

The first approach would require a super-human ability to discern the intentions of everyone crossing the border or a drastic reduction in temporary visas. In fiscal year 1999, border agents inspected 290.4 million individ-

ual entries from Mexico, an average of almost 800,000 border entries per day.<sup>10</sup> In fiscal year 2000, 4.1 million individual Mexicans entered the United States with temporary nonimmigrant visas to shop and vacation, conduct business, study, visit family, and work.<sup>11</sup> The only way to “control our border” to guarantee that no more illegal immigrants enter from Mexico would be to stop virtually all Mexicans from entering, whether legally or illegally. But slashing temporary visas from Mexico would have devastating economic and social consequences for both countries, especially for border cities. The second approach would require a dramatic increase in funding, personnel, equipment, and efficiency to keep track of the movements of millions of temporary visitors to the United States and to apprehend and deport them if they overstay. Either approach would come at great cost.

The length of the U.S.-Mexican border and the volume of legal border crossings virtually guarantee that current U.S. border control policy will fail. Moreover, the U.S. government’s expensive and coercive efforts to curb Mexican migration have caused a number of perverse and unintended consequences.

## Why Mexicans Migrate North

To understand why U.S. border policy has failed, we must first understand why Mexican workers migrate despite the U.S. government’s expensive campaign to keep them out. Mexican migration is a complex process driven by factors other than the mere difference in wages between the two countries. Other factors, such as risk diversification and social networks, weigh more heavily in the decision to migrate than a simple calculation of the cost of migrating versus the benefits of earning a higher wage.

Workers from less-developed countries migrate to wealthier countries to diversify risk and gain access to capital. Poor countries such as Mexico typically have underdeveloped insurance and capital markets. To protect themselves from downturns in their own economy, families will send a worker to a more

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advanced market to send back remittances—cash transfers sent across international borders. The remittances are also a ready source of capital in markets where families cannot easily obtain bank loans and other forms of commercial credit. Remittances can provide investment funds to improve housing, pay medical bills, and finance community improvements.

Most Mexicans who migrate to the United States do not come intending to settle permanently. They come to solve temporary problems of family finance—by saving dollars and sending them back home in the form of remittances. Their goal is to rejoin their families and communities after a few months or years as sojourners in the U.S. labor market. From the end of the *Bracero* program in 1964 until the passage of the IRCA in 1986—a period during which Mexicans were practically if not legally free to cross the border and work—the flow of labor was largely circular. During that period, Massey estimates that 28 million Mexicans entered the United States and 23.4 million eventually returned to Mexico, for a net immigration total of 4.6 million.<sup>12</sup> In other words, when free to enter and work in the United States, more than 80 percent of Mexican migrants still chose eventually to return to their homeland. “Given the relatively porous border” during that period, Massey concludes, “migrants knew that they could return to the United States for additional labor whenever the need arose, thus encouraging a pattern of circular rather than settled migration.”<sup>13</sup>

Immigration is also driven by “social capital.” Migrants do not typically set out blindly and autonomously in an effort to maximize income. Rather, they rely on well-established networks, following in the footsteps of friends and relatives who migrated before them. In this way, immigration is self-reinforcing, as established communities of immigrants increase the likelihood that friends and relatives in the home country will join them. The *Bracero* program of the 1940s and 1950s deepened the networks that had been established in the 1910s and 1920s, and then laid the foundation for the migration of the 1980s and 1990s. Migration today is the natural result of the

social capital resulting from past U.S. immigration policies and cannot be easily shut off like a bathtub spigot.

Finally, immigration is driven by demand for labor in the U.S. market. Mexicans migrate to the United States not simply because wages are higher but because Americans want to hire them. Drawing on their social capital, migrants commonly enter the U.S. labor market after learning that specific jobs are available in specific locations. For a Mexican worker, being unemployed or underemployed is far more expensive in the United States than back in Mexico. If jobs are not available for migrants in the United States, a journey north of the border will be far less attractive no matter what the wage differential. If jobs are available, current U.S. border policy will not keep them out.

## **America's Underground Labor Market**

While it has failed to stop the flow of workers, the U.S. government's campaign against economic migration from Mexico has spawned an underworld of smuggling, document fraud, and other criminal activity. To make the difficult crossing through unfamiliar territory, migrants have been forced to hire the services of smuggling networks or of individual guides known as “coyotes.” As a direct consequence of the government's “prevention through deterrence” campaign, the share of illegal immigrants who use smugglers to enter from Mexico increased from 70 percent in the early 1990s to nearly 90 percent by the end of the decade. Fees that coyotes charge also increased during that period, from an estimated average of \$500 to \$1,000 or more.<sup>14</sup> And to circumvent employer sanctions once in the United States, undocumented migrants are supplied with false documents by a well-developed underground cottage industry.

### **From Circular to Permanent Migration**

By raising the cost and risk of crossing the border, the decade-and-a-half campaign to suppress Mexican migration has backfired by mak-

ing it more likely that Mexican migrants, once in the United States, will stay longer before undertaking another round trip across the border. Once in the United States, illegal Mexican workers must remain longer to pay the higher cost of crossing the border, and they are reluctant to repeat the increasingly costly and dangerous trip more often than necessary. Yet the cost of crossing the border remains low enough that hundreds of thousands of Mexicans succeed in entering the United States illegally each year. Those who do are staying longer and adding to the stock of Mexican migrants already in the country. Before passage of the IRCA in 1986, the median stay in the United States of undocumented migrants from Mexico was 2.6 years; by 1998, after the border crackdown of the Clinton years, the median stay had risen to 6.6 years.<sup>15</sup> A U.S. border policy aimed at reducing illegal immigration to the United States has perversely encouraged illegal immigrants to stay.

Another consequence of the suppression policy has been to divert migration flows from a few traditional, urban crossing points to more scattered rural areas—to the frustration of rural residents and the peril of migrants. Until the mid-1980s, the large majority of Mexican migrants entered the United States via three narrow, urban gates—San Diego, California; and El Paso and Laredo, Texas.<sup>16</sup> In response to enhanced border enforcement in those cities, migration patterns shifted to remote rural areas such as the Arizona-Mexico border, where patrols are more scattered but conditions are also more dangerous. The diverted flow has caused headaches for Americans living in those areas as migrants have trespassed on private property, disturbed livestock, and destroyed property.<sup>17</sup> The remote topography and hostile desert climate have also resulted in the deaths of thousands of migrants since the crackdown began. In 2001, 336 migrants were found dead along the border from dehydration and other causes, down slightly from 377 deaths in 2000, but up sharply from the death toll in earlier years.<sup>18</sup>

### **Depressed Wages and Stunted Skills**

Employer sanctions have artificially depressed wages of undocumented workers by

reducing their bargaining power and complicating the task of hiring them. Sanctions have increased the paperwork for business and encouraged hiring through subcontractors and off-the-books cash payments. A Labor Department study on the effect of employer sanctions contained in the 1986 IRCA bill concluded that “employer sanctions are viewed as a tax on the employment of unauthorized workers and are incorporated directly into the labor demand schedule of the firms. As a result, the direct effect of employer sanctions is to lower wages.”<sup>19</sup>

Because of their status, undocumented workers are less able to bargain individually with employers for a full market wage. Through the use of false documents, many illegal immigrants do find work with major employers who offer competitive market wages and benefits, but others can only find work in the secondary market, where they are more likely to be paid in cash or hired through subcontractors willing to assume the risk. The result is submarket wages and submarket working conditions for undocumented workers and for documented workers who compete with them in the labor market. As a result, sanctions have acted as a kind of tax on low-skilled workers in the United States, whether immigrant or native-born.

Furthermore, by diverting millions of Mexican workers into an underground labor economy, U.S. immigration law has discouraged those workers from investing in their human capital and has exposed them to substandard treatment by employers. Workers without legal documents have limited incentives to learn new skills because of the lingering threat of deportation and the uncertainty that causes.

### **Show Your Papers**

Beyond economics, America’s prohibition of low-skilled immigrant labor indirectly threatens the civil liberties of all Americans, native and immigrant alike. To address the failures of the employer sanctions system, critics of immigration have proposed a national identification card that would supposedly safeguard against fraud.<sup>20</sup> A national ID card, however, is fraught with potential dangers to civil liberties.

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It could be used by the government to gather information on citizens that may have nothing to do with employment documentation. It could easily become, in the words of Cato scholar Adam Thierer, “a domestic passport that citizens are required to produce for the most routine daily tasks.”<sup>21</sup>

A related proposal would be to create a centralized government database of legally qualified workers, a plan endorsed by the Center for Immigration Studies.<sup>22</sup> Before hiring an individual, the employer would be required to verify that the worker is listed in the computerized database as being authorized to work in the United States. An American citizen’s ability to work and support his or her family would be dependent upon the worker’s file being accessible in a computerized government database—a database vulnerable to hackers, human error, technical failure, and governmental abuse. In pursuit of a questionable policy, Americans would be forced to surrender an important aspect of their freedom.

Employer sanctions and increased border patrols have flunked the test of good public policy. They have failed to achieve their principal policy objective of reducing the inflow of undocumented Mexican workers. That failure has been compounded by the unintended consequences of more permanent and less circular migration, smuggling, fraud, and unnecessary deaths at the border, artificially depressed wages, and threats to civil liberties. Most importantly of all, current U.S. border policy is out of step with the economic needs of both the United States and Mexico and runs counter to the legitimate aspirations of millions of people on both sides of the border.

### **Benefits of an Open, Integrated Labor Market**

The migration of Mexican workers to the United States is a rational and mutually beneficial response to underlying economic needs on both sides of the border. Immigration, like the international flow of goods, services, and capital, typically benefits most people in both

the sending and receiving countries.

Immigration benefits the U.S. economy by providing workers to fill gaps in the labor market. According to the “segmentation hypothesis,” immigrants tend to be disproportionately represented in occupations where the gap between the supply of workers and the demand for them is greatest, typically in the highest-skilled and lowest-skilled jobs. That hourglass shape of the immigration labor pool complements the native-born workforce, where a much larger share of workers falls in the middle range in terms of skills and education. As a result, immigrants do not typically compete for the kinds of jobs held by the vast majority of American workers. Instead, immigrants migrate to those segments of the job market where most Americans are either over- or underqualified.<sup>23</sup>

Immigration provides a safety valve for the U.S. labor market, allowing the supply of workers to increase relatively quickly to meet rising demand. In a closed domestic market, the size of the labor force is relatively fixed (or, in economic terms, “inelastic”) in the short run. New workers cannot be produced as rapidly as corn, semiconductors, or mobile telephone service when demand rises. They must be “grown” and educated over the course of at least 16 years before they can join the labor force. Immigration allows new workers to enter the labor force rapidly to fill a variety of positions in response to rising demand for labor. When demand falls, would-be immigrants can decide not to enter, and those already here can decide to return home. The result is a more efficient economy that can achieve a higher rate of sustainable growth without encountering bottlenecks or stoking inflationary pressures.

Economists generally agree that immigration benefits the United States as a nation. Immigration does lower the wages of the relatively small segment of the workforce that competes directly with immigrants, but those losses are exceeded by the higher return to owners of capital and the lower prices that all workers pay for the goods produced by immigrants. In one of the most comprehensive economic studies ever done on the impact of immigration on the U.S.



economy, the National Research Council concluded in a 1997 report that immigration delivers a “significant positive gain” of \$1 billion to \$10 billion a year to native Americans.<sup>24</sup> The President’s Council of Economic Advisers, in its February 2002 *Economic Report of the President*, estimated that immigrants raise the income of Americans by \$1 billion to \$14 billion a year.<sup>25</sup> Those sums may seem trivial in a \$10 trillion economy, but the gains from immigration are positive and real and recur year after year.

America’s recent history confirms that our economy can prosper during times of robust immigration. During the long boom of the 1990s, and especially in the second half of the decade, the national unemployment rate fell below 4 percent and real wages rose up and down the income scale during a time of high immigration levels. According to a study by the Council of Economic Advisers, household incomes rose strongly from 1993 through 1999 across all income groups, including the poorest one-fifth of American households. America’s poverty rate fell by three percentage points during the 1990s, and by almost 10 percentage points among African Americans.<sup>26</sup> Those remarkable gains occurred during a decade of large immigration inflows, including low-skilled immigrants from Mexico.

### **Meeting Demand for Low-Skilled Workers**

Low-skilled immigrants, a category that describes most migrants from Mexico, benefit the U.S. economy by filling jobs for which the large majority of American workers are overqualified and that they’re unwilling to fill. Important sectors of the U.S. economy have turned to low-skilled immigrant workers, documented and undocumented, to fill persistent job vacancies. Hotels and motels, restaurants, construction, manufacturing, health care, retailing, and other services are major employers of low-skilled immigrant labor. Of the roughly 5 million undocumented workers in the U.S. labor force, the Pew Hispanic Center estimates that 1 million are employed in manufacturing, 600,000 in construction, 700,000 in restaurants, and 1 million to 1.4 million in agriculture. More than half—58 percent—of those workers are from Mexico.<sup>27</sup>

The demand for less-skilled labor will continue to grow in the years ahead. According to the Department of Labor, while the fastest-growing occupations in the next decade in percentage terms will require high degrees of skill and education, the largest growth in absolute numbers will be in those categories that require only “short-term on-the-job training” of one month or less. In fact, of the top 30 categories with the largest expected job growth between 2000 and 2010, more than half fall into that least-skilled category (see Table 1). Those categories include: combined food preparation and servicing workers, including fast food; waiters and waitresses; retail salespersons; cashiers; security guards; nursing aides, orderlies, and attendants; janitors and cleaners; home health aides; manual laborers and freight, stock, and materials movers; landscaping and groundskeeping workers; and manual packers and packagers—all occupations where low-skilled immigrants from Mexico can be expected to help meet the rising demand for workers.<sup>28</sup> Across the U.S. economy, the Labor Department estimates that the total number of jobs requiring only short-term training will increase from 53.2 million in 2000 to 60.9 million by 2010, a net increase of 7.7 million jobs.<sup>29</sup>

Meanwhile, the supply of American workers suitable for such work continues to fall because of an aging workforce and rising education levels. The median age of American workers continues to increase as the large cohort of Baby Boomers approaches retirement age. From 1990 to 2010, the median age of U.S. workers is expected to increase from 36.6 years old to 40.6.<sup>30</sup> Younger and older workers alike are now more educated as the share of adult native-born men without a high school diploma has plunged, from 53.6 percent in 1960 to 9.0 percent in 1998. During that same period, the share with college degrees has gone up from 11.4 percent to 29.8 percent.<sup>31</sup>

With the number of low-skilled jobs expected to grow by more than 700,000 a year, and a shrinking pool of Americans willing to fill those jobs, Mexican migrants provide a ready and willing source of labor to fill the growing gap between demand and supply on the lower rungs of the labor ladder.

**Important sectors of the U.S. economy have turned to low-skilled immigrant workers, documented and undocumented, to fill persistent job vacancies.**

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**Table 1  
America's Growing Demand for Low-Skilled Workers**

Occupations	Employment (thousands of jobs)		
	2000	2010	Growth
Food preparation and serving	2,206	2,879	673
Retail salespersons	4,109	4,619	510
Cashiers (except gaming)	3,325	3,799	474
Office clerks (general)	2,705	3,135	430
Security guards	1,106	1,497	391
Waiters and waitresses	1,983	2,347	364
Nursing aides, orderlies, attendants	1,373	1,697	323
Janitors and cleaners (nonhousehold)	2,348	2,665	317
Home health aides	615	907	291
Manual laborers and movers	2,084	2,373	289
Landscaping and groundskeeping	894	1,154	260
Personal and home care aides	414	672	258
Truck drivers and delivery services	1,117	1,331	215
Manual packers and packagers	1,091	1,300	210
All jobs requiring short-term training	53,198	60,871	7,673

Source: U.S. Department of Labor, "Occupational Employment Projections to 2010," *Monthly Labor Review*, November 2001.

### **Better Skills, Higher Wages**

Legalization of undocumented workers would restore the normal incentive for them to upgrade their skills and would increase their bargaining power with employers. As evidence, a 1995 Labor Department study found that undocumented workers who were legalized in the 1980s as part of the IRCA "amnesty" provisions responded by investing in their skills and education. "For many, legalization appears to have been a turning point. Suddenly, there was a surge of investment in language skills, education, and training," the study found. Specifically, 43 percent of Mexican men undertook some kind of skill enhancement training following legalization, "more than a doubling of the previous rate of human-capital accumulation for most origin groups."<sup>32</sup>

Another beneficial consequence was an increase in wages paid to newly legalized workers. The same study found that real wages paid to undocumented workers were flat for most of the decade until 1987-88, but then rose 15 percent in the five years following legalization.<sup>33</sup> Legalization

put previously undocumented workers on an equal footing with documented workers, allowing them to more credibly withhold their labor or consider other job offers instead of forcing them to accept what a limited group of employers were offering. Legalization eliminated the need for off-the-books payments, middlemen, and other subterfuges that had acted as a tax on their labor.

### **Aiding Mexico's Development**

A legal, orderly, aboveground labor market would benefit those Mexicans who remain in their home country. Their loved ones who migrate would be at less physical risk and would be free to return home more frequently while working in the United States without fear of apprehension at the border. As in the United States, migration can act as a kind of safety valve for the Mexican economy, allowing families there to receive remittances to maintain family incomes during times of economic downturns and to build capital for family and community investments.

The remittances that Mexican workers send home have become an important tool of development in Mexico. In 2001, Mexican workers in the United States sent \$9.3 billion back to Mexico in the form of remittances—the third largest source of foreign income for Mexico behind only oil exports and tourism.<sup>34</sup> Unlike government-to-government foreign aid, remittances bypass the political process and go directly to individual families and communities. They are typically used in Mexico to pay for daily living expenses, health care, improved housing, business startups, education, and community projects such as parks, churches, schools, electrification, roads and sewers.<sup>35</sup> Legalization would allow Mexican workers to send more remittances back to Mexico by raising their earning power and by eliminating the need to pay middlemen to cross the border and secure work.

### **An Alternative to Illegal Immigration**

A final benefit of legalized immigration would be the almost certain reduction of illegal immigration. If a wide enough channel were opened so that the supply of workers from Mexico could be legally matched with the demand for their labor in the United States, the rationale for the current illegal flow of Mexican migrants would vanish. Why would Mexican workers bear the cost and risk of sneaking across the border, and then pay a tax on their wages and working conditions for their undocumented status, when they could instead enter the country and work legally? The experience of the *Bracero* program demonstrates that workers prefer the legal channel. Faced with large-scale illegal immigration in the early 1950s, the Immigration and Naturalization Service more than doubled the number of *Bracero* visas, enough to meet growing demand, especially in the agricultural sector. The result: Illegal immigration from Mexico plummeted to almost nothing during the second half of the decade.<sup>36</sup> Illegal migration was supplanted by legal migration.

## **Concerns about Mexican Migration**

In the debate so far over Mexican migration, skeptics of legalization raise at least six major

objections. They warn that legalizing Mexican migration will unleash a flood of new immigrants to the United States; hurt low-skilled native-born Americans; burden taxpayers; create a permanent, unassimilated underclass; reward lawbreaking; and compromise border security as we fight global terrorism. None of these concerns can be ignored, but each has to one degree or another been exaggerated or misunderstood, or can be addressed through the right policies. None of them, in the final analysis, outweighs the broad benefits of legalization.

### **“A Flood of Immigrants”?**

A common concern is that legalization will open the floodgates for millions of new Mexican immigrants, swamping the U.S. labor market and overwhelming the ability of U.S. society to absorb new entrants. By lowering the cost and risk associated with migration, legalization would indeed encourage some Mexicans to migrate who would otherwise hesitate, but those increased incentives would be offset by other factors that would probably discourage a net increase in overall numbers.

While more Mexicans may migrate to the United States if allowed to legally, others already in the United States may decide to return home—restoring the circular pattern of migration that prevailed before the crackdown began in the mid-1980s. If Mexican migrants knew they could return to the United States legally to work should the need arise, they would be more likely to return to their families and communities in Mexico after they had achieved their objectives in the U.S. labor market. They would be less inclined to bring their families to the United States if they knew they were able to freely return home. Immigration opponents like to quip that “Nothing is as permanent as a temporary worker,” but the high rate of return to Mexico under previous, more open immigration regimes refutes that statement.

The international labor market is to a large degree self-regulating. Immigration flows respond to underlying economic conditions: When demand for work is high, the supply of immigrant workers tends to rise to meet it. When demand is low, as during economic

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slowdowns and recessions, the net inflow of immigrant workers drops accordingly. This has been the pattern through much of U.S. history.<sup>37</sup> The recession in the United States that began in the first half of 2001, combined with tighter post-September 11 security measures, has resulted in a slowdown in Mexicans entering the United States. According to the INS, the number of apprehensions at the U.S.-Mexican border—a rough proxy for the flow of illegal immigrants—dropped in the first six months of fiscal 2002 to half the level of two years ago. “The number of Mexicans caught trying to cross the border illegally has fallen to levels not seen since the early 1990s,” according to one news story.<sup>38</sup>

Because immigration is driven by more than wage differentials, flows will typically reach an equilibrium long before wages equalize. Demographers call this the “migration hump”—the point at which immigration pressures begin to recede even if wage differentials between two countries remain large. For example, immigration to the United States a century ago was virtually unlimited by law, yet we were not overwhelmed by a tidal wave of immigrants from Southern and Eastern Europe and Latin America—regions that were far poorer than the United States. In fact, one-quarter to one-third of immigrants during the Great Migration of a century ago eventually returned to their homelands voluntarily because they had either achieved their goals or had given up trying.<sup>39</sup>

The Commonwealth of Puerto Rico offers another example of the self-limiting nature of immigration flows. As U.S. citizens, Puerto Ricans are completely free to enter the United States to reside and work for unlimited periods. They can travel between the island and the mainland easily and affordably and join a large Puerto Rican community already in the United States. As with Mexico, a wide gap exists between living standards in Puerto Rico and the United States, with Puerto Rican wages less than half those of the U.S. mainland.<sup>40</sup> Net out-migration to the United States peaked in the 1950s at 470,000 for the decade and then fell sharply for the next four decades.<sup>41</sup> By the 1990s, out-migration from Puerto Rico had

stopped completely, despite persistently high unemployment and the more than 2-to-1 wage disparity with the mainland.<sup>42</sup> Like migration from Mexico during periods of relative openness, Puerto Rican migration has been highly circular. In the 1980s, 46 percent of Puerto Ricans who moved to the mainland United States did so for a period of between six months and two years.<sup>43</sup>

Within the next two decades, ongoing changes in Mexico will exert further downward pressure on immigration. Declining birthrates in Mexico are already reducing the growth rate of the Mexican workforce. In fact, the number of young workers entering the Mexican domestic workforce is expected to decline by half in the next decade.<sup>44</sup> Meanwhile, political and economic reforms, including development and integration through NAFTA, will create economic opportunities at home for Mexican families, allowing them to access capital and insure against loss of income without the need for family members to migrate. The 1997 Binational Study on Migration concluded that “currently high levels of Mexico-United States migration may represent a ‘hump’ or peak in the volume of Mexico-United States migration. Within the next fifteen years, we think that demographic and economic factors within Mexico are likely to reduce emigration pressures.”<sup>45</sup> Restoring the traditional circular flow of Mexican migration, combined with Mexico’s changing demographics, would make an immigration flood unlikely.

### **Impact on Low-Skilled Americans**

Another fear is that legal Mexican migration will hurt poor families by driving down wages for native-born American adults who lack a high school diploma. As Steven A. Camarota of the Center for Immigration Studies warns, “By reducing the wages and employment opportunities available for workers without a high school education, Mexican immigration can only make it more difficult for the unskilled to escape poverty, move off welfare, and afford health insurance.”<sup>46</sup>

If the number of Mexicans entering the U.S. labor market were to increase significantly

because of legalization, it probably would further depress wages paid to high school dropouts, who are most likely of all American workers to compete directly with Mexican immigrants. The 1997 National Research Council study found that the increased supply of low-skilled workers due to immigration between 1980 and 1994 had lowered the wages of high school dropouts by about 5 percent, or about 44 percent of the total decline in wages of high school dropouts observed in that period.<sup>47</sup> (International trade and technological change are generally believed to be the other major causes of the declining wages of high-school dropouts.)

The impact of legalization on low-skilled American workers would be mitigated, however, if, as the evidence suggests, it were to encourage more circular migration rather than an increase in net migration. And because newly legalized immigrants would be able to exert more bargaining power in the labor market, their own wages and those of competing low-skilled workers might actually increase after legalization, as they did after amnesty in the 1980s.

In fact, competition from immigrants actually gives native-born high school dropouts an even greater incentive to complete their education and enhance their skills. Competition from the last “Great Migration” of less-skilled immigrants a century ago was one of the major reasons for the dramatic increase in the high school graduation rate between 1910 and 1930, according to one study.<sup>48</sup> As James P. Smith, chairman of the panel that authored the NRC report, told the Senate Immigration Subcommittee in 1997, “The competition created by immigration increases the likelihood that native-born Americans will stay in school rather than drop out. As we documented in the report, immigration increases the wages of native-born high school graduates relative to native-born high school dropouts. This bigger wage premium from completing high school gives native-born Americans an extra incentive to get their high school diploma. If young native-born Americans want to avoid competing with immigrant workers—my advice is simple—get your high school diploma.”<sup>49</sup>

U.S. immigration policy should not be driven by the short-term interest of the small and shrinking subset of American adults who have failed to finish high school. As our economy becomes more technologically advanced and more integrated in the global economy, skills and knowledge will become even more important for economic success, and adult workers without a high school education will be increasingly disadvantaged relative to the rest of society—regardless of changes in immigration policy. Barring low-skilled Mexican workers from the U.S. workforce may keep wages for some native-born workers higher than they would otherwise be, but it would not reverse the underlying economic trends arrayed against the least skilled and educated. What those workers need for their long-term success is not less competition from immigrants but more skills and education.

#### **A Burden on Taxpayers?**

Another concern about legalization is that it will impose a burden on taxpayers because of increased expenditures for welfare, schools, and health care. Mexican immigration, according to the Center for Immigration Studies, has “added significantly to the size of the poor and uninsured populations, and to the nation’s welfare case load . . . heavy use of means-tested programs creates very significant fiscal costs for the country.”<sup>50</sup>

Because low-skilled immigrants earn lower-than-average incomes, they and their households do tend to pay less in taxes and to use means-tested programs more frequently than do American households on average. But it would be wrong to characterize immigrants as heavy users of welfare. The typical Mexican immigrant comes to the United States to work, not to collect welfare. Hispanic men display one of the highest labor force participation rates of any subgroup surveyed by the Department of Labor, 80.6 percent vs. 74.7 percent for non-Hispanic white men.<sup>51</sup> Specifically, a report from the Federal Reserve Bank of Dallas found that the labor force participation rate among working-age male Latin American immigrants was three percentage

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points higher than the corresponding rate for the native-born.<sup>52</sup> Two-thirds of low-income immigrant households with children are two-parent families compared to only 40 percent of low-income native-born households, which further reduces immigrant demand for welfare relative to similar American households.<sup>53</sup>

Recent changes in U.S. welfare law have made it harder for immigrants to become a burden to taxpayers. The 1996 welfare reform legislation, the Personal Responsibility and Work Opportunity Reconciliation Act, contained an entire title (Title IV) aimed at keeping immigrants off welfare. The law declared that immigrants entering the country after August 22, 1996, would be ineligible for a range of means-tested programs, and required immigrant sponsors to sign a legally enforceable affidavit pledging financial support until the immigrant naturalizes or works 40 quarters.

The legislation worked. While welfare use among native-born Americans dropped sharply after passage of reform, use among immigrants dropped even more steeply. A comparison of the U.S. Census Bureau's 1995 and 2000 Current Population Surveys by Michael Fix and Jeffrey Passel of the Urban Institute found "substantial declines between 1994 and 1999 in legal immigrants' use of all major benefit programs."<sup>54</sup> For legal, low-income immigrant families with children, use rates for Temporary Assistance for Needy Families dropped by more than half from 1994 to 1999, to 8.7 percent, and use of food stamps dropped 38 percent, to 21.9 percent.<sup>55</sup> The share of undocumented immigrant households receiving TANF during that period for their U.S.-citizen children also dropped sharply.<sup>56</sup> Welfare reform, a strong work ethic, and maintenance of two-parent families keep the large majority of even low-income immigrant households off welfare.

Immigrants as a whole do not impose a fiscal burden on native-born Americans. The 1997 NRC study calculated the fiscal impact of immigrants and all their descendants over their lifetimes—that is, expected tax payments minus the expected cost of government services they would consume. Those services include welfare, Social Security, Medicaid and Medicare, public schools, police and fire pro-

tection, and government health services. The NRC found that the typical immigrant and his or her descendants paid \$80,000 more in taxes than they consumed in services during their lifetimes. The fiscal impact was even more positive—\$105,000—on the federal level, where immigrants typically begin to pay immediately into Social Security and Medicare but do not collect benefits until decades after they arrive. The federal surplus was partially offset by a negative \$25,000 impact on state and local governments, where taxes collected did not offset such immediate costs as government schools, health care, and public safety.

Nonetheless, low-skilled immigrants do impose a fiscal cost under current law when all government services used and taxes paid are considered. For immigrants without a high school education, which describes most immigrants from Mexico, the NRC model determined the net fiscal impact to be negative \$13,000. The original low-skilled immigrants themselves impose a lifetime net fiscal cost of \$89,000 each, but that cost is almost entirely offset by the surplus of \$76,000 in taxes that their descendants pay during their lifetimes.<sup>57</sup> Furthermore, those results from the NRC model did not include the 1996 changes in welfare law. When reduced access to welfare is factored in, the positive fiscal impact of the typical immigrant family increases from \$80,000 to \$89,000. A \$9,000 improvement in the impact of low-income families would reduce their fiscal impact to a net present value of negative \$4,000, a trivial sum when spread across the lifetimes of multiple generations. Another round of welfare reform would further reduce the fiscal impact of low-skilled immigration, and could even turn it into a net positive for taxpayers.

It would be shortsighted to judge the economic impact of an immigrant solely on whether he paid more in taxes than he collected in government services. Immigrants make our economy more productive and efficient, lowering costs for consumers and raising real wages and returns on investment for native-born Americans. The cost to taxpayers tends to be front-loaded, as immigrant families gain a foothold in the U.S. econo-

my and as their children become educated. The benefits to the economy from the higher productivity and lower prices, however, accumulate over the years and decades.

### **A Permanent Underclass?**

A broader concern is that newly legalized Mexican immigrants and even their descendants will fail to assimilate into American society. Political scientist Samuel Huntington calls it “the Mexican problem”: Unlike other immigrant groups in our nation’s past, Mexican migrants retain close ties to their nearby homeland, dominate other immigrant groups in sheer numbers, and concentrate geographically into insular, Spanish-speaking communities that slow their assimilation.<sup>58</sup> Patrick Buchanan, immigration critic and former presidential candidate, warns, “Mexican immigration is a challenge to our cultural integrity, our national identity, and potentially to our future as a country.”<sup>59</sup>

In purely economic terms, Mexican immigrant households as a group do not reach income parity with other Americans even after several generations. Incomes and education levels rise sharply from the first generation of immigrants to the second, but then progress seems to stall relative to that of the rest of U.S. society. Indeed, the NRC study found that the wage gap for immigrants narrowed almost universally with time spent in the United States for immigrants in general, but not at all for those from Mexico.<sup>60</sup> The most obvious reason is education levels. Mexican immigrants are the least educated group of immigrants to enter the United States. The typical immigrant enters the United States with 12 years of education, but Mexican immigrants have only 7.7 years. Children of Mexican immigrants on average complete 11 years of schooling, which leads directly to their higher earnings, but then education levels do not increase in the third generation.<sup>61</sup>

This should not, however, disqualify Mexicans from legally immigrating to the United States. Mexican immigrants and their children are not predestined to be low-wage earners. Those that invest in their education and skills realize higher incomes and opportunities. Millions of Mexican immigrants have succeeded in achieving middle-class incomes and all the indicators that go with

it, such as home ownership. Again, the right policy response is not to systematically bar Mexicans from migrating to the United States, but to encourage those that do to raise their own level of education and that of their children.

Assimilation has been an important theme in America’s immigration history. Previous waves of immigrants and their children have been expected to support themselves in the economy, learn English, and become active participants in American society. As a rule, immigrants have done just that throughout our history—despite doubts by contemporary critics about each wave of “new” immigrants. Irish in the mid-19th century, Germans in the late 19th century, and Italians, Poles, Austro-Hungarians, Greeks, and Russian Jews in the Great Migration of a century ago were all considered too different culturally and even racially to assimilate.<sup>62</sup>

Although Mexican immigration in the past two decades is high in absolute terms, it is not historically unprecedented when compared to the size of the U.S. population. In the 1990s, an estimated 4.2 million Mexicans immigrated to the United States, both legally and illegally.<sup>63</sup> That represents 1.5 Mexican immigrants per year per 1,000 U.S. residents. In comparison, during the two decades from 1841 to 1860, the nation absorbed an average of 3.6 Irish immigrants per year per 1,000 U.S. residents—more than double the current inflow of Mexicans. For half a century, from 1841 to 1890, the rate of German immigration was heavier in every decade than the current inflow of Mexicans. In the first decade of the 20th century, Russian, Italian, and Austro-Hungarian immigration each separately surpassed the current rate of Mexican migration (see Table 2).<sup>64</sup> Yet the United States managed to absorb each of these distinct cultural and linguistic cohorts into American society despite the apprehensions of their contemporaries.

Like previous immigrant groups, Mexican immigrants are dispersing beyond the traditional gateway states of California, Texas, and Illinois.<sup>65</sup> The number settling in such nontraditional destinations as Portland, Oregon; Las Vegas; Atlanta; Orlando; Raleigh-Durham; and Washington, D.C., has been rising dramatically since 1980,

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according to a study by the Pew Hispanic Center and the Brookings Institution.<sup>66</sup> The study found that more than half of the nation's Latino population now lives in suburbs and that Latinos are dispersing geographically at a rate faster than the great waves of European immigrants who moved from gateway cities to the rest of the country a century ago.<sup>67</sup> The dispersion of Mexican immigrants beyond traditional receiving areas should reduce apprehensions about linguistic concentrations.

While Spanish has grown dramatically as a second language in the United States, there is no evidence that Mexican immigrants and their families are failing to learn English. With English advancing as the global language of business, transportation, science, pop culture and cyberspace, it seems implausible that a subgroup within the United States could insulate itself for long from the language of the realm. In fact, America has historically been considered a "language graveyard" because of an almost irresistible incentive for immigrants, and especially their children, to learn English. Among all long-term immigrants in the United States, only 3

percent report speaking English "not well" or not at all, and virtually all second- and third-generation immigrants report good English-language skills.<sup>68</sup> Hispanic immigrants are no exception. In a 1998 longitudinal study of thousands of immigrant families, sociologist Ruben Rumbaut of the Michigan State University found that 88 percent of the children of immigrants in the Hispanic immigrant enclaves of southern California and southern Florida preferred to speak English, even though 90 percent spoke another language at home. By the third generation, most speak English only.<sup>69</sup> "This pattern of rapid linguistic assimilation is constant across nationalities and socioeconomic levels and suggests that, over time, the use of and fluency in foreign languages will inevitably decline—results which directly rebut nativist alarms about the perpetuation of foreign-language enclaves in immigrant communities," Rumbaut concluded.<sup>70</sup>

Finally, despite assertions to the contrary, Mexican Americans do not exhibit the characteristics of a seething underclass resentful of

**Table 2  
Mexican Immigration in Perspective**

Decades	Country of Origin	Immigrants to the U.S.	Average U.S. Population	Immigrants per year per 1,000
1841–50	Germany	434,626	20,130,665	2.16
	Ireland	780,719		3.88
1851–60	Germany	951,667	27,317,599	3.48
	Ireland	914,119		3.35
1861–70	Germany	787,468	35,630,885	2.21
1871–80	Germany	718,182	44,987,116	1.60
1881–90	Germany	1,452,970	56,551,749	2.57
1901–10	Austria-Hungary	2,145,266	83,983,421	2.55
	Italy	2,045,877		2.44
	Russia	1,597,306		1.90
1991–2000	Mexico	4,200,000	264,859,151	1.51

Source: *Immigration and Naturalization Service Yearbook 1997*, Table 2, for immigration figures before 1980; *2001 Statistical Abstract of the United States*, for U.S. population.

Note: Decade population calculated by averaging the Census population at the beginning and end of each decade.



the country where they have chosen to reside and work. In fact, like almost all immigrants throughout American history, Mexican migrants appreciate the freedom and opportunity available to them in American society. According to the Binational Study of Migration, "Very few Mexican Americans migrants believe that they have been victimized by racism or discrimination; Mexican Americans seem eager to embrace a meritocratic vision of American society."<sup>71</sup> On the campaign trail in June 2000, then-candidate George W. Bush concurred:

Latinos come to the U.S. to seek the same dreams that have inspired millions of others: they want a better life for their children. Family values do not stop at the Rio Grande. Latinos enrich our country with faith in God, a strong ethic of work, community and responsibility. We can all learn from the strength, solidarity, and values of Latinos. Immigration is not a problem to be solved, it is the sign of a successful nation. New Americans are to be welcomed as neighbors and not to be feared as strangers.<sup>72</sup>

Proficiency in English and respect for the norms of a free society are important attributes for citizens and permanent noncitizen residents alike. All newcomers to the United States should be encouraged to integrate into American civil society. Unfortunately, government programs such as bilingual education in public schools and an undue emphasis on "multiculturalism" can actually retard the process of integration, to the detriment of immigrants and society. Once again, the right policy response is not to suppress the migration of an entire ethnic group but to remove any artificial impediments to America's traditional process of absorbing immigrants into our nation's civic life.

### **The War on Terrorism**

In the wake of September 11, the immigration debate in America shifted from economics to national security. No task of government is more fundamental than protecting the nation from

attack. Thus, keeping terrorists out of the country has become the principal focus of U.S. border policy. Long-time opponents of immigration have seized on September 11 to argue against legalization of Mexican migration and in favor of drastic cuts in existing levels of legal immigration.

The connection between the September 11 attacks and illegal immigration from Mexico is tenuous. None of the 19 hijackers entered the country illegally or as immigrants. They all arrived in the United States with valid temporary nonimmigrant tourist or student visas. None of them arrived via Mexico. None of them were Mexican. Sealing the Mexican border with a three-tiered, 2,000-mile replica of the Berlin Wall patrolled by thousands of U.S. troops would not have kept a single September 11 terrorist out of the United States.

The U.S. government can take necessary steps to secure our borders without sacrificing the benefits of immigration. On May 14, 2002, President Bush signed the Enhanced Border Security and Visa Entry Reform Act of 2002, a bill aimed at keeping terrorists out of the United States. Passed unanimously by Congress, the legislation

- Requires federal intelligence and law-enforcement agencies to share data on suspected terrorists in a timely manner with the INS and the State Department.
- Establishes a uniform database that can be accessed by consulate officials and border agents.
- Requires that all travel and entry documents issued to aliens be machine-readable and tamper-resistant and include biometric identifiers.
- Requires the advance forwarding of passenger manifests for all incoming commercial vessels and aircraft.
- Bars issuance of nonimmigrant visas to aliens from countries that sponsor terrorism, unless approved by the secretary of state.
- Requires U.S. colleges and universities to report the arrival, enrollment, and departure of foreign students.<sup>73</sup>

Notably absent from the bill were any provisions rolling back levels of legal immigration or

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bolstering efforts to curb undocumented migration from Mexico.

Members of Congress rightly understood, when crafting the legislation, that Mexican migration is not a threat to national security. Indeed, legalizing and regularizing the movement of workers across the U.S.-Mexican border could enhance our national security by bringing much of the underground labor market into the open, encouraging newly documented workers to cooperate fully with law enforcement officials, and freeing resources for border security and the war on terrorism.

Legalization of Mexican migration would drain a large part of the underground swamp that facilitates illegal immigration. It would reduce the demand for fraudulent documents, which in turn would reduce the supply available for terrorists trying to operate surreptitiously inside the United States. It would encourage millions of currently undocumented workers to make themselves known to authorities by registering with the government, reducing cover for terrorists who manage to enter the country and overstay their visas.

Legalization would allow the government to devote more of its resources to keeping terrorists out of the country. Before September 11, the U.S. government had stationed more than four times as many border enforcement agents on the Mexican border as along the Canadian border, even though the Canadian border is more than twice as long and has been the preferred border of entry for Middle Easterners trying to enter the United States illegally.<sup>74</sup> A system that allows Mexican workers to enter the United States legally would free up thousands of government personnel and save an estimated \$3 billion a year<sup>75</sup>—resources that would then be available to fight terrorism.

The ongoing effort to stop Mexican migration only diverts attention and resources from the war on terrorism. Yet some anti-immigration groups continue to demand that even more effort be devoted to stopping Mexican migration. According to Steven Camarota of the Center for Immigration Studies, “A real effort to control the border with Mexico would require perhaps 20,000 agents and the development of a

system of formidable fences and other barriers along those parts of the border used for illegal crossings.”<sup>76</sup> Such a policy would be a waste of resources and personnel and would do nothing to make America more secure against terrorists.

### **Fairness and the Rule of Law**

A final major concern about legalization is that it would reward law breaking. Critics argue that widespread violation of our duly enacted immigration statutes undermines the rule of law. To legalize millions of people who have ignored those laws would encourage future law-breaking, they say, and would be unfair to others who have been waiting patiently, for years in some cases, to immigrate to the United States legally.

Laws should be obeyed, but laws should also be in fundamental harmony with how most people choose to live their daily lives. When large numbers of otherwise normal and law-abiding people routinely violate a law, it signals that the law itself may be flawed. To argue that illegal immigration is bad merely because it is illegal avoids the policy question of whether it should be illegal in the first place.

American history is replete with misguided laws that proved to be unenforceable and were finally abandoned. For example, American drivers routinely violated the nationwide, mandatory 55-mile-per-hour speed limit when it was in effect on U.S. highways. Tens of millions of Americans made a rational choice to disobey an irrational law. The government could have launched a massive and expensive effort to crack down on all those drivers who disobeyed the speed limit every day, but instead Congress eventually changed the law to conform with reality. Similarly, the prohibition of alcohol from 1920 to 1933 turned millions of otherwise law-abiding Americans into lawbreakers, and spawned an underworld of moon-shining, boot-legging, and related criminal activity. The right policy response was not to redouble efforts at enforcement but to change the law.

In the 19th century, America’s frontier was settled largely by illegal squatters. In his recent book, *The Mystery of Capital*, economist Hernando de Soto describes how these so-called “extralegals” of

their day began to farm, mine, and otherwise improve land to which they did not have strict legal title. After failed attempts by the authorities to destroy their cabins and evict them—in a misguided zeal to enforce unworkable property laws—federal and state officials finally relented, changed the laws, and issued legal titles based on improvements made to the property. As de Soto wisely concluded, “The law must be compatible with how people actually arrange their lives.”<sup>77</sup>

The long waiting periods for legal immigration are also an indictment of existing law. One reason illegal immigration has become an issue is that the United States has made it so difficult for immigrants to enter the country legally. Today hundreds of thousands of people who are legally qualified to immigrate to the United States cannot enter the country because of backlogs at the INS. President Bush has proposed a requirement that the INS process immigration and naturalization applications within 180 days. If that goal were realized, one of the incentives for illegal immigration would be removed. Legal permanent residents in the United States should not be forced to wait for years to be joined by their closest family members. The unfairness is not that some people are entering the country illegally but that so many people legally entitled to enter are being kept out.

In sum, the U.S. government should fix the problem of illegal Mexican immigration in the same way it fixed illegal speeding on American highways, illegal consumption of alcohol during Prohibition, and illegal settlement of the American frontier—by changing the law and making it legal.

## **Making Work Legal**

The realities of the North American labor market demand a system of legal, regulated migration to and from Mexico that conforms to how millions of people on both sides of the border “actually arrange their lives.” A reformed immigration system must create a legal channel through which Mexican nationals can enter and remain in the United States for a definite time to work.

A reformed system must accomplish three

broad goals: creating a legal channel for future workers to enter the United States, granting legal status for workers already here, and sharply reducing illegal immigration.

### **Temporary Worker Visas**

A temporary work visa (TWV) should be created that would allow Mexican nationals to remain in the United States to work for a limited period. The visa could authorize work for a definite period, perhaps three years, and would be renewable for an additional limited period; would allow unlimited multiple entries for as long as the visa was valid; would allow complete mobility between employers and sectors of the U.S. economy; and would entitle the holder to “national treatment.”

Mobility is essential so that workers can exercise full freedom to change jobs to realize maximum pay and working conditions, under the theory that a worker’s best protection against below-market pay and working conditions is the ability to leave for a better offer. On an economywide scale, full mobility would allow the supply of labor to shift between sectors to meet changing demand. The visa must also confer on the immigrant worker national treatment, that is, the same legal protections extended by law to native workers. That would ensure that temporary workers do not enjoy any unfair legal advantage or suffer any legal disadvantage compared to other workers.

Mobility and national treatment will protect immigrant workers from the real and perceived abuses of past “guest worker” programs that tied workers to specified employers. The fatal flaw of the *Braero* program and other proposed “guest worker” programs is that they tie workers to specific employers and industries, making visa holders overly dependent on the good will of their employers. The best model for the TWV is not the current H2-A or H2-B visas, which tie workers to certain employers, but the standard employment authorization document known as Form I-688B, which is already issued to foreign-born residents entitled to work in the United States. Unlike the H2 programs, Form I-688B allows full mobility among employers and sectors.

To encourage work and protect taxpayers, holders of a TWV should be ineligible for federal

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**To encourage work and protect taxpayers, holders of a Temporary Worker Visa should be ineligible for federal means-tested welfare programs.**

means-tested welfare programs. The immigrant provisions of the 1996 welfare reform act should be affirmed, both in the law establishing the temporary worker visa and in any reauthorization of federal welfare law. Decoupling the visa from welfare would benefit immigrant workers in two ways: It would help low-income families avoid the welfare trap, and it would insulate the temporary visa program from charges that it is a burden to taxpayers. Pro-immigration groups that lobby for restoration of welfare benefits for new and future immigrants are ultimately hurting the interests of the very people they claim to represent.

The number of visas issued should be sufficient to meet demand in the U.S. labor market. Using the current estimated net inflow of undocumented workers, 300,000 visas per year would be a reasonable starting point. Distribution of visas could be rationed through a one-time application fee. The fee should be set high enough to offset costs and regulate demand, but low enough to undercut smugglers, perhaps in the range of \$1,000. If a black market in smuggling reappeared or persisted, that would signal that the number of legal visas should be increased or the fee lowered. Proceeds from the fees would be used to cover the costs of administering the program, and any surplus funds would be redistributed to state and local governments to offset costs directly related to the presence of low-skilled workers. If 300,000 such visas were issued at \$1,000 each, the annual revenue generated would be \$300 million. Visas should be allocated through price rather than through quotas administered through a government agency, which would be vulnerable to corruption.

**“Earned Adjustment” for Honest Work**

A program should be created to allow undocumented workers already in the United States to earn legal status based on years of work and other productive behavior. Undocumented workers already in the United States should be issued TWVs immediately provided they register with the government and do not pose a threat to our internal or national security. Those who have lived and worked in the United States for more than a certain period should be eligible to apply

for permanent residence status and, ultimately, citizenship. Legal status would be conditional on not having committed serious crimes. House Minority Leader Gephardt promised a Democratic bill “that will provide earned legalization to undocumented immigrants who have resided here for five years, worked here for two years and have played by the rules.”<sup>78</sup>

Undocumented workers already in the country would be required to pay the same application fee as new entrants. If 4.5 million Mexican workers were given legal status, and each paid a \$1,000 fee, the federal government would realize a one-time payment of \$4.5 billion. Again, the proceeds would be used to offset administrative costs, with any surplus distributed to other units of government to defray any other related but less direct costs.

Legalizing undocumented workers already in the United States would not be a mere repeat of the 1980s IRCA “amnesty.” Undocumented workers would not be granted automatic permanent residence status. All eligible immigrants could be issued temporary worker visas, valid for a limited period only. To gain permanent residence status, they would then need to apply for permanent residency through existing channels. They would not receive preferential treatment but would be processed along with other legally qualified applicants for permanent residency. All applicants for permanent status should be processed in a more timely and efficient manner, consistent with President Bush’s stated goal of a 180-day maximum period for the INS to process applications. That would largely address the issue of fairness.

**Work and (Nuclear) Family**

As a compromise for those concerned about future migration, the ability of temporary workers to sponsor relatives could be curtailed. Workers with TWVs should be able to sponsor their spouses and minor children to enter the country temporarily while the TWV is still valid. Keeping families together is not only just and humane; it also encourages more responsible social behavior. But those objectives would not require that temporary workers be allowed to sponsor relatives outside their nuclear family, such as siblings, par-

ents, and adult children. With modern communications and transportation available, it is easier for immigrants to keep in touch and visit their extended families in the home country. The multiple-entry nature of the TWV would allow immigrants to easily visit their extended families back in their home country.

### **Start with Mexico**

For practical reasons, any legalization program should start with Mexican migrants. By virtue of its location and the number of its workers already in the United States, Mexico is far and away the most important source country for immigration. The Mexican government is eager to work with the United States to implement a successful program, and its cooperation will be necessary to make the program work while safeguarding American security. Our long land border with Mexico and the increasing cross-border commercial traffic stimulated by the NAFTA argue for a comprehensive agreement to legalize what is already a largely integrated North American labor market.

## **Conclusion**

U.S. immigration law has been overwhelmed by economic reality. It has made law-breakers out of millions of hard-working, otherwise law-abiding people, immigrant workers and native employers alike, whose only “crime” is a desire to work together in our market economy for mutual advantage. Demand for low-skilled labor continues to grow in the United States while the domestic supply of suitable workers inexorably declines—yet U.S. immigration law contains virtually no legal channel through which immigrant workers can enter the country to fill the gap. The result, predictably, is illegal immigration and all the black-market pathologies that come with it.

The federal government’s 15-year campaign against Mexican migration has failed by any objective measure. Employer sanctions and border blockades have not stopped the inflow of Mexican workers drawn by persistent demand for their labor. Coercive efforts to keep

willing workers out have spawned an underground culture of fraud and smuggling, caused hundreds of unnecessary deaths in the desert, and diverted attention and resources away from real matters of border security. Those efforts have disrupted the traditional circular flow of Mexican migration, perversely increasing the stock of illegal Mexican workers and family members in the United States.

American policymakers confront three basic options in response to illegal immigration. One would be to crack down, once again, on illegal immigration. The federal government could build a 2,000-mile, three-tiered fence from San Diego to Brownsville and reassign or hire tens of thousands of agents to patrol it. It could deploy thousands of additional government agents internally to resume raiding workplaces, fining employers, and hunting down and deporting the millions of undocumented workers living and working in the United States—no matter how long or deep their ties to work, family, and community. It could force every American citizen and noncitizen alike to carry a national ID card or register in a national database as a precondition to earning a living. But that option would impose a high cost in tax dollars, economic output, and freedom. It would divert resources from the national effort to combat terrorism, and, like similar efforts before, would likely fail.

Another option would be to accept the status quo. The United States could continue indefinitely with millions of people residing here without legal documents and hundreds of thousands more entering the country each year. Millions of workers and their families would continue to live in the legal shadows, afraid to make themselves known to authorities, unable to realize the full benefits of their labor in the marketplace, and hesitant to return to their home country. The status quo would perpetuate a dual economy in which a growing demand for workers could only be met through an underground supply, depressing wages and conditions for all workers on the lower rungs of the labor ladder. The status quo mocks the rule of law by maintaining an immigration system in fundamental conflict with the laws of eco-

**The federal government’s 15-year campaign against Mexican migration has failed by any objective measure.**

**The status quo mocks the rule of law by maintaining an immigration system in fundamental conflict with the laws of economics and the legitimate aspirations of millions of people.**

nomics and the legitimate aspirations of millions of people.

A third option would be to fix America's flawed immigration system so that it conforms to the realities of a free society and a free and efficient economy. A legalized system of Mexican migration would, in one stroke, bring a huge underground market into the open. It would allow American producers in important sectors of our economy to hire the workers they need to grow. It would raise wages and working conditions for millions of low-skilled workers and spur investment in human capital. It would free resources and personnel for the war on terrorism. It would promote economic development in Mexico and better relations with an important neighbor.

President Bush and leaders of both parties in Congress should return to the task of transforming America's dysfunctional immigration system into one that is economic, humane, and compatible with how Americans actually arrange their lives.

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