

Effects of an Amnesty for Undocumented Immigrants*

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ABSTRACT: The U.S. has not had a major amnesty program that would allow undocumented immigrants to legalize their status since 1986. As the number of undocumented immigrants surged throughout the 1990s and into the new millennium, momentum for a new amnesty program gained ground until the terrorist attacks on September 11, 2001, derailed President Bush's attempts to overhaul U.S. immigration policy. A renewed effort at immigrant reform is currently underway in the U.S. This article discusses the current situation of undocumented immigrants in the U.S. and the likely economic consequences of an amnesty program. The results of the 1986 amnesty indicate several lessons for designing an amnesty plan that would improve the lives of the currently undocumented, minimize adverse effects on other groups, and stem the continuing tide of undocumented immigrants.

* This is an updated version of "What are the Consequences of an Amnesty for Undocumented Immigrants?" published in *Georgetown Public Policy Review* (Spring 2004). The views expressed here are solely those of the authors and do not reflect those of the Federal Reserve Bank of Dallas or the Federal Reserve System.

Effects of an Amnesty for Undocumented Immigrants

At the time of its passage in 1986, the Immigration Reform and Control Act (IRCA) was the most substantial change in United States immigration policy in decades. The law's primary purpose was to end undocumented immigration by legalizing certain unauthorized immigrants and preventing future inflows. In addition to granting amnesty to nearly 2.7 million undocumented immigrants, IRCA attempted to accomplish its objective by requiring employers to verify workers' eligibility to work legally and by increasing funding for the Border Patrol.

Two decades later, it is clear that IRCA has failed in its primary goal: there are at least 10 or 11 million undocumented immigrants present in the U.S., most of them working (Fortuny, Capps, and Passel 2007; Pew Hispanic Center, 2006). This has led to repeated calls for a new amnesty program to give legal status to at least some of these undocumented immigrants.

The Bush administration has indicated that it intends to propose a guest worker program that would include a limited legalization of undocumented workers currently in the U.S., and several bills that would grant legal status to certain groups of undocumented immigrants have been proposed in recent years. Although details are not yet firm, the Bush plan would likely grant temporary job-based visas to undocumented workers who would eventually be eligible to apply for permanent legal status. Congressional proposals in recent years include, for example, bills that would grant legal status to farm workers who have worked in the U.S. for a specified period and commit to do so for a certain additional period ("Ag Jobs"); making it easier for undocumented immigrants brought here as children by their parents to normalize their status ("Dream Act"); allowing illegal aliens currently present in the U.S. to pay a fine and apply for temporary legal status, that would lead to permanent legal status under certain conditions; and

creating a guest worker program with Mexico (“Comprehensive Immigration Reform Act of 2006”).

Before creating a new amnesty program, it is important that policymakers evaluate what we know about the impact of an amnesty for undocumented immigrants. The results of IRCA suggest that an amnesty program benefits those individuals who legalize their status but may also have unintended adverse effects on other groups and could increase future flows of undocumented immigrants. Given that wages are substantially higher in the U.S. than in Latin American countries, particularly Mexico, how can the U.S. best prevent large flows of undocumented immigrants? Does undocumented immigration have negative effects that justify the costly attempts to discourage it? Are repeated amnesties a viable long-term immigration policy? To answer these questions, this study surveys the economic literature on undocumented immigration as well as the impact of the last major amnesty program in the United States, and proposes a framework for a new amnesty.

An amnesty is most likely to succeed if accompanied by a guest worker program that allows low-skilled workers to legally enter the U.S. and either gives such workers sufficient incentives to return to their home countries or provides them with a legal way to remain permanently in the U.S. A successful amnesty must also incorporate strict workplace enforcement to eliminate job opportunities for undocumented workers and stop the cycle of illegal immigration.

BACKGROUND ON THE UNDOCUMENTED

Undocumented immigration to the U.S. was not a substantial issue until the late 1960s. The undocumented immigrant population rose from a few hundred thousand, primarily

agricultural workers, in the late 1960s to several million, largely living in urban areas, in 1980. This increase in the undocumented population was partly due to the end of the *Bracero* program in 1964 in response to greater regulation of working conditions and waning political support. The *Bracero* program allowed seasonal migrants from Mexico to work as temporary farm laborers in the U.S. Undocumented inflows rose further after country-specific quotas on the number of legal immigrants admitted each year were extended to the Western Hemisphere, including Mexico, in 1977 (Donato and Carter 1999).

Undocumented migration, often referred to as unauthorized immigration, occurs in two primary ways. An individual can illegally enter the U.S. (“entry without inspection”) or can enter legally with a visa but remain beyond the visa time limit (“visa overstayers”). Illegal border crossings (entry without inspection), primarily by Mexicans and Central Americans, make up the majority of undocumented immigration and occur predominantly along the U.S.-Mexico border. Overstayers, who are much more geographically diverse, composed about 33 percent of the undocumented population in 2000 (Immigration and Naturalization Service 2003).

The number and characteristics of undocumented immigrants are difficult to ascertain.¹ The Office of Immigration Statistics in the Department of Homeland Security estimates that there were 10.5 million unauthorized immigrants in the U.S. as of January 2005, up from 8.5 million in January 2000 (Office of Immigration Statistics 2006a). Annual inflows of undocumented immigrants were between 350,000 and 500,000 during the 1990s (Immigration and Naturalization Service 2003; Porter 2001) and over 400,000 per year during the early 2000s (Office of Immigration Statistics 2006a).

¹ See Bean et al. (2001) for a discussion of the difficulty of estimating the number of undocumented immigrants.

Mexico is the primary source country of undocumented immigrants, accounting for almost 60 percent of the unauthorized population in 2005 (Office of Immigration Statistics 2006a). However, the fraction of undocumented immigrants who are from Mexico has declined over time. Several other Latin American and Caribbean countries also contribute heavily to the undocumented population, especially El Salvador, Guatemala, Honduras, and Brazil. China, India, the Philippines, South Korea, and Vietnam round out the top 10 countries of origin for unauthorized immigrants in 2005 (Office of Immigration Statistics 2006a).

Much like the population of legal immigrants, undocumented immigrants are highly geographically clustered. The Office of Immigration Statistics (2006a) estimates that in 2005 almost 40 percent of unauthorized immigrants lived in California and Texas, and these states experienced the largest increases in the number of illegal aliens during the 1990s and early 2000s. However, recent years have also been marked by widespread geographic dispersion of the undocumented immigrant population. As a result, states such as Colorado, Georgia, and North Carolina have experienced unprecedented increases in the number of undocumented immigrants.

Undocumented immigrants tend to be near the bottom of the U.S. skill distribution and are disproportionately employed in low-wage jobs.² An Urban Institute study estimates that about 9 percent of low-wage workers—workers who earn less than 200 percent of the minimum wage—and 23 percent of workers without a high school diploma (or equivalent) are undocumented immigrants (Capps, Fortuny, and Fix 2007). Undocumented workers are

² Interestingly, although undocumented immigrants have less education and lower earnings, on average, than the native-born or legal immigrants, they are not from the bottom of the education or skill distribution in their home country. Because migrating is costly, undocumented migrants are from the middle of the education or skill distribution, not from the bottom (Orrenius and Zavodny 2005). However, undocumented migrants tend to have less education and lower skill levels than legal immigrants from the same country (Massey 1987). This occurs because the penalty to being an undocumented worker in the U.S. likely increases with skill level (Hanson et al. 2001).

disproportionately employed as farm workers and private household workers. Low levels of education and poor English skills are among the reasons why undocumented immigrants are clustered in low-wage jobs.

Undocumented immigrants face other challenges besides relatively low earnings. Lacking a Social Security number or other valid form of U.S. identification makes it nearly impossible for undocumented immigrants to apply for financial and educational services, including everything from bank accounts and English classes to student loans and mortgages to library cards.³ Undocumented immigrants are also currently barred from getting driver's licenses or state identification cards in almost all states. They are ineligible for virtually all government assistance except for emergency medical services, and few work in jobs that provide health insurance. According to the Census Bureau, fewer than one-third of foreign-born Hispanics who are not naturalized citizens have private health insurance (Mills and Bhandari 2003), and this number is likely to be even lower among those who are here illegally. Their children are U.S. citizens if born in the U.S., but these children face the challenge of having parents who could be deported at any time.⁴

These numbers and characteristics point to the importance of addressing the problems posed and faced by the undocumented immigrant population. First of all, it is large and rising at a record pace. Additionally, an increasing number of undocumented immigrants are settling in the U.S. for long periods of time or even permanently (Reyes 2002). As more people gain experience at illegally crossing the border and as immigrant communities grow in the U.S., this

³ The decision in 2003 by some U.S. banks to begin accepting the *matrícula consular* (an identity card issued by the Mexican government) as a valid form of identification has allowed unauthorized immigrants from Mexico access to formal banking services.

⁴ The number of households headed by undocumented immigrants containing a child who is a U.S. citizen is unknown, but a study of New York by the Urban Institute estimates that over 34 percent of households headed by an undocumented alien in 1995 contained a child who is a U.S. citizen (Passel and Clark 1998).

creates a network of contacts that fosters future inflows of undocumented immigrants.⁵ The relatively low skill levels of undocumented immigrants put them at a disadvantage relative to other workers, and these immigrants face many other obstacles to socioeconomic advancement as well. Legalization may help address some of these concerns, but, as discussed below, it is unlikely to be a sufficient means of solving the problems created by undocumented immigration.

LEGISLATION SINCE IRCA

A number of laws enacted since IRCA have had major effects on immigrants. In 1996, the federal government overhauled the welfare system and also passed a law aimed at restricting illegal immigration. After the 9/11 terrorist attacks, the federal government passed laws aimed at increasing national security and further restricting legal and illegal immigration.

In 1996, President Clinton signed into law two acts that had a major impact on immigrants: the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). PRWORA restricted most immigrants (except refugees) who are not naturalized U.S. citizens from receiving cash welfare benefits, food stamps, and Medicaid. States have the option to extend benefits to these immigrants using their own funds. Singer (2004) provides an overview of the effect of PRWORA on immigrants. Note that PRWORA had little effect on undocumented immigrants, who were already ineligible for most welfare programs.

IIRIRA increased border enforcement, increased the penalties for smuggling illegal aliens, changed deportation policies for illegal aliens, and created a pilot program for employers

⁵ Studies indicate that networks or ties between sending communities and specific points of destination in receiving societies, mitigate risk and reduce information costs in international migration, and therefore, play a key role in undocumented immigration (Massey et al. 1987; Taylor 1986).

to verify employees' legal work status, among other changes. In theory, IIRIRA should have reduced the number of undocumented immigrants remaining in the U.S. by making it harder for illegal aliens to work and easier for them to be deported, while also slowing the inflow of undocumented immigrants.

Many policies aimed at enhancing national security by monitoring the immigrant community were enacted after the 9/11 terrorist attacks. The federal government extended immigration law enforcement powers to state and local police officers; increased identification requirements for new banking customers; resurrected the requirement that non-citizens notify the federal immigrant agency of address changes; and gave immigration authorities greater power to detain non-citizens without judicial review (Swarns 2003). The federal government also consolidated a number of operations, including the Immigration and Naturalization Service, into the Department of Homeland Security. Many states created restrictions on driver's licenses in an attempt to prevent issuance of licenses and state identification cards to undocumented immigrants, a change which later culminated in the passage of similar federal legislation in 2005 (the Real ID Act).

One of the most far-reaching government actions in recent years is the Social Security Administration's (SSA) "no-match" letter program. The SSA sends a letter to employers about workers who have provided invalid or mismatched Social Security numbers (which is typically an indicator that those individuals are working illegally). In 2002, the SSA sent no-match letters to approximately 950,000 employers, each listing up to 500 Social Security numbers that did not match SSA's records (National Immigration Law Center 2003). Employers fired thousands of Hispanic and other workers identified in no-match letters. In addition, many workers identified in the letters quit their jobs out of concern that immigration authorities would follow up on the

letters by raiding their workplace (Mehta, Nik, and Hincapie 2003). Up to 100,000 workers—both authorized and unauthorized—are believed to have lost jobs as a result of letters during the first seven months of 2002 (Sheridan 2002). The SSA also made nonwork SSNs much harder to get after March 2002 (National Immigration Law Center 2002).

Finally, the U.S. implemented a limited amnesty program in 1997, the Nicaraguan Adjustment and Central American Relief Act (NACARA). This program allowed undocumented immigrants from Nicaragua and Cuba who had been living continuously in the U.S. since December 1995 to apply for lawful permanent residency, and some undocumented immigrants from Guatemala, El Salvador, and former Soviet Bloc countries to adjust their status as well. About one-fourth of non-Mexican undocumented immigrants were eligible for this amnesty. Over 66,000 immigrants have received permanent residence under NACARA through the 2006 fiscal year. Kaushal (2006) discusses the program and its effects.

REASONS FOR UNDOCUMENTED MIGRATION

To design a program that succeeds at stanching the flow of undocumented immigration, policymakers must understand the forces that drive unauthorized migration. Economic factors play a key role, but the desire to live with relatives already present in the U.S. also underlies some migrant flows.

The substantial wage difference between the U.S. and source countries underlies much of the continued flow of undocumented immigrants. Average wages in Mexico—the primary source of undocumented immigrants—are about one-ninth those in the U.S.⁶ This sizable wage gap,

⁶ The comparison is based on average hourly compensation costs for production workers (\$21.33 per hour in U.S. versus \$2.38 in Mexico, according to the Bureau of Labor Statistics International Comparison of Hourly Compensation Costs for Production Workers in Manufacturing, 2002). The Mexican minimum wage is also about one-tenth of the U.S. minimum wage.

combined with proximity to the U.S., has led many Mexicans to choose to work in the U.S. Indeed, when the Mexican economy falters, undocumented immigrant inflows, as proxied by migrant apprehensions along the Southwest border, surge (Hanson and Spilimbergo 1999). All other major source countries also have much lower average wages than the U.S.

Money earned in the U.S. allows undocumented immigrants to support families back home, to cushion adverse income shocks, and to save and invest. Many migrants remit a substantial fraction of their wages, allowing both for a higher and more stable standard of living among relatives remaining in the source country.⁷ Total remittances to Latin America and the Caribbean likely reached \$30 billion in 2003, rising to \$54 billion by 2005; about 18 percent of all adults in Mexico and 28 percent in El Salvador received funds remitted from the U.S. (Inter-American Development Bank 2006; Suro 2003). A portion of remittances are used for investment purposes. Savings from a job abroad can be used to buy a house or start a business, helping undocumented immigrants and their families to overcome the incomplete capital markets that prevail in developing countries. One study estimates that while only about six and a half percent of migrant remittances and savings go directly to productive ends, such as investment, instead of to consumption, the indirect effect of remittances on investment in the local production of goods and services is much larger (Massey and Parrado 1994).

The fact that undocumented immigrants have high labor force participation rates and are ineligible for most public assistance programs reinforces the fact that the majority migrate in order to work. Research indicates that the expected value of welfare and medical services does not help explain undocumented immigration from Mexico (Massey and Espinosa 1997).

Moreover, male undocumented immigrants have higher labor force participation rates than men

⁷ Migration as a mechanism to smooth consumption over time is particularly important for farming communities where crop failure or other disasters cause disruptions to household income (Stark and Levhari 1982).

who are either native-born or legal immigrants despite having lower average earnings (Capps et al. 2003). The responsiveness of migrant flows to changes in economic conditions also reinforces the importance of economic factors in driving unauthorized migration. Apprehensions along the Southwest border tend to decline when the U.S. economy weakens, albeit less so than when the Mexican economy booms (Hanson and Spilimbergo 1999).

Family reunification also drives a substantial fraction of undocumented immigration. Some undocumented immigrants come to the U.S. to live with relatives already present here, legally or otherwise. Surveys indicate that women and children have comprised an increasing proportion of the undocumented immigrant inflow in recent years (Massey, Durand, and Malone 2002). Many of these are migrating to join a head of household who migrated earlier for economic reasons.

Any amnesty program needs to consider the fundamentally economic motivation behind undocumented immigration. Somewhat paradoxically, migration from Mexico to the U.S. raises wages in Mexico relative to what they would be otherwise, reducing further migrant flows. Mishra (2007) finds that a 10 percent decrease in the number of Mexican workers due to emigration in a given skill group increases that group's average wage by four percent. Migrants have also been found to impact wages in border communities. When increases in U.S. border enforcement trap migrant workers on the Mexican side, they flood the local labor market and push wages down (Hanson, Robertson, and Spilimbergo 2002). Combining amnesty with increased border enforcement could shut off the escape valve, causing lower wages in Mexico and possibly prompting even more people to desire to migrate illegally for economic reasons.

If an amnesty program includes tighter border control, there needs to be an alternate way for at least some of these workers to enter the U.S.—such as through a guest worker program, as

discussed further below. The economic motivation underlying much of undocumented migration also points out the importance of U.S. support of economic development in Mexico to create jobs and deepen financial markets there. Further, policymakers need to recognize that an amnesty program will likely create a snowballing effect as relatives in source countries desire to join emigrants who have gained legal status.

LABOR MARKET EFFECTS OF UNDOCUMENTED IMMIGRATION

Undocumented immigration has consequences not only for the migrants themselves, but for all workers in the destination country. Economic theory indicates that, under standard assumptions, undocumented immigration results in lower wages for comparable native-born workers and legal immigrants. If capital is fixed and there are constant returns to scale, an increase in the supply of labor will lower wages as long as labor supply is not perfectly elastic with respect to wages (Smith and Edmonston 1997). Undocumented immigration acts as such an increase in the labor supply. The magnitude of the decline in wages depends on the degree of substitution between undocumented immigrants and other workers. Because most undocumented immigrants are relatively unskilled, they are most substitutable for other low-skilled workers and hence have the largest impact on low-skilled natives and other immigrants.

Despite theoretical predictions, research suggests that undocumented immigration has at most a small adverse effect on wages.⁸ Increases in border enforcement in California and Texas, which may reduce the number of undocumented immigrants or change where migrants cross the border, have no impact on U.S. wages in those states, including the wages of the least educated workers (Hanson, Robertson, and Spilimbergo 2002). In addition, studies that do not distinguish

between legal and illegal immigrants have generally found little evidence that wages fall in areas with large inflows of immigrants (for a survey, see Borjas 1999). However, adjustment in U.S. labor markets may occur via unemployment instead of wages, with undocumented immigrants displacing natives and legal immigrants. Few economists have studied this possibility, but existing research suggests that employment rates among natives (and previous immigrants) decline by about one to two percent for each 10 percent increase in the immigrant inflow into a low-skilled occupation groups (Card 2001; Orrenius and Zavodny 2007).

Undocumented immigration can actually cause an increase in the earnings of skilled workers. This occurs if unskilled undocumented immigrants act as complements to other workers. For example, skilled workers who hire undocumented immigrants as housekeepers, nannies, or gardeners may devote more time and energy to their own jobs, becoming more productive and raising their own incomes. Therefore, undocumented immigration in effect allows high-skilled workers to specialize in market production and devote less time to home production.

These differential effects on unskilled and skilled workers suggest that undocumented immigration—or, more generally, illegal or legal immigration by less-skilled workers—can lead to an increase in inequality. “Between-group” inequality, or differences in average earnings between age, experience or education groups (such as between high school graduates and college graduates), began increasing in 1979 before leveling off during the mid-1990s. Some research suggests that immigration contributed to this increase by lowering the wages of less-educated workers, but the effect appears to be small. The consensus among economists is that

⁸ Downward pressure on wages may be less than predicted by standard economic theory because of offsetting migration by natives or other immigrants or changes in output mix or production technology in response to immigrant inflows (Hanson et al. 2001).

immigration accounts for about 10 percent of the increase in earnings inequality in the U.S. (Council of Economic Advisers 1997).

Undocumented immigration also imposes fiscal burdens on state and local governments. A major study sponsored by the National Research Council on the impacts of immigration, while it did not consider illegal immigrants exclusively, concluded that the net fiscal cost of immigrants in California in 1994-95 was about \$1,178 per native-born household (Smith and Edmonston 1997). This was largely due to an increase in public education costs (mainly resulting from children born to immigrants) and because immigrants are more likely to be poorer than native-born households and therefore pay less in taxes but receive more in transfer payments, such as welfare. Although undocumented immigrants are not eligible for most welfare programs, any children born in the U.S. are U.S. citizens and eligible for public assistance regardless of their parents' legal status.⁹ Nevertheless, while this study likely overstates the fiscal impact of undocumented immigrants, it makes two important points: one, negative impacts tend to increase as skill levels decline; and two, immigrants from Latin America pose a larger fiscal burden than other groups, in part because of higher fertility rates.

When considering whether to implement an amnesty program, it is important to recognize its potential effects on labor markets. Undocumented immigrants have become an integral part of U.S. economic growth. Immigrant inflows—about one-third to one-half of which are comprised of illegal immigrants—accounted for almost one-half of total labor force growth in the U.S. in recent years, and even more in certain areas and industries (Mosisa 2002). An amnesty program might make formerly undocumented workers more substitutable for low-skilled natives, increasing any adverse impact. However, having legal status might enable

⁹ PRWORA reduced the negative fiscal impact of legal immigrants by making most non-citizen immigrants ineligible for many welfare programs, as discussed above

migrants to move more freely within the U.S. to areas with low unemployment rates and pent-up demand for low-skill workers. Legal status might also lead to skill-upgrading and economic advancement among some formerly undocumented workers. An analysis of undocumented immigrants who legalized their status as part of the IRCA amnesty shows they experienced significant wage growth in the first four years following legalization, with about 44 percent of the increase in men's wages due to changes in measured characteristics such as educational attainment, English proficiency and experience (Rivera-Batiz 1999).¹⁰

Combining an amnesty with stricter border enforcement would reduce any adverse effects of undocumented immigration on low-skilled natives and legal immigrants by stemming illegal inflows, if effective. However, smaller flows of low-skilled workers would put pressure on low-wage industries that depend on such workers, particularly agriculture and construction. Undocumented immigration contributed to the U.S. economic boom during the 1990s by supplying large numbers of workers. Creating a way for such workers to come to the U.S. legally would therefore be an important part of any amnesty program.

FAILURES OF CURRENT IMMIGRATION POLICY

Current immigration policies have become increasingly irrelevant, with unauthorized immigration making up as much as one-half of annual immigrant inflows for much of the last two decades. Undocumented immigration occurs because of a divergence between whom the U.S. will admit as a legal immigrant and the foreigners who want to live in the U.S. regardless of official permission to do so (Chiswick 1988). The current policy helps create large flows of undocumented immigrants by cutting off other legal avenues.

¹⁰ The remaining 56 percent of the wage gain is unexplained by differences in characteristics, suggesting there is a sizeable wage penalty (perhaps due to discrimination) for undocumented workers that legalization removes.

Current immigration law favors relatives of U.S. citizens and legal permanent residents, with immediate relatives of U.S. citizens admitted without limit and other relatives subject to quotas. Immigration policy also favors skilled, college-educated workers. About 14 percent of recipients of legal permanent resident status in recent years were admitted because of their occupation or skills. This leaves few slots available to persons without a relative who is a legal resident of the U.S. and who can sponsor them. Even for those with a relative, queues can be long. The backlog for Mexican adult siblings of U.S. citizens is currently 13 years, and over 20 years for those from the Philippines. Current immigration policy thus leaves many foreigners with a choice of not entering the U.S. at all or doing so illegally. Obviously, millions have chosen to do so illegally.

The U.S. spent over \$1 billion on border enforcement in fiscal year 2006, most focused on the border with Mexico. However, research suggests that border control does little to stem the tide of unauthorized migration in the short run, although it may change the composition of undocumented immigrants in the longer run.¹¹ As border enforcement increases, the costs of attempting to cross the border increase in terms of money, time, and lives lost, but little is gained. However, surveys indicate that most people who are apprehended while attempting to cross the border illegally simply try again until successful (Kossoudji 1992).

Current policies, while they have not notably slowed the pace of illegal immigration, they have had many adverse effects. Stricter border enforcement has contributed to record number of migrant deaths along the U.S.-Mexico border (Cornelius 2001; Eschbach et al. 1999). Many of these deaths are due to exposure to extreme temperatures as migrants take circuitous routes

¹¹ A potential benefit of border enforcement is positive self-selection among migrants. Migrants who are willing to cross the border under tougher conditions might be more risk tolerant, younger, and healthier—more likely to work hard and less likely to use public services (Karlson and Katz 2003). In addition, because evading border controls is expensive, enforcement tends to discourage the least skilled potential migrants, who are less able to pay for a

through dangerous deserts and over mountains in order to get into the U.S. A rising number of deaths are also due to abuse and carelessness at the hands of human smugglers who transport their migrant cargo in sealed rail cars and trucks. Smuggling has flourished as the border patrol has increased both the personnel and the technology it uses to patrol the border.

Recent policies have also adversely affected the rate of immigrants' socio-economic progress while in the U.S. For example, the Social Security no-match letter program discussed above caused many unauthorized immigrants, leery of being apprehended, to quit and move to other employers. Such job-hopping is costly for employers who lose workers familiar with that company's procedures but also costly for the workers themselves as their firm-specific skills become worthless, they lose any benefits they had, they experience a spell of unemployment, and some are pushed into jobs in the informal sector.

Of course, if the policy objective is to permanently remove unauthorized immigrants, then their economic success while in the U.S. should be of secondary importance. However, there is little evidence that permanent removal of unauthorized immigrants is a goal of current policy. Little effort—less than three percent of funds spent on border control—was devoted to interior enforcement in fiscal year 2003, and interior apprehensions accounted for only three to 10 percent of total apprehensions during the period 1986-2002 (Office of Immigration Statistics 2003). In addition, individuals apprehended by the INS solely for being in the U.S. illegally are treated relatively leniently, with most simply sent back to their home country at U.S. expense. Those who agree to be voluntarily deported are typically not prosecuted and face no restrictions on their ability to enter the U.S. legally in the future (Hanson et al. 2001).

“coyote” (a human smuggler) to help them cross. Tougher border control has been found to increase the average skill level among undocumented immigrants in the U.S. (Orrenius and Zavodny 2005).

At the same time, research suggests that heightened border enforcement is increasing the duration of time spent in the U.S. by undocumented migrants (Reyes 2002; Massey, Durand, and Malone 2002). Whereas many unauthorized migrants previously engaged in repeat circular migration, leaving the U.S. at the end of the agricultural season or when job prospects worsened and later returning, many are now staying in the U.S. Increased border surveillance has, in effect, “trapped” them inside the border by making circular migration more difficult. Given that unauthorized migration was occurring, this circular pattern had several benefits for the U.S.: some migrants left when they did not have jobs instead of contributing to the unemployment pool, and relatives were more likely to remain at home. Researchers estimate that, until the 1990s, circular migration composed more than 50 percent of the flow of undocumented Mexican immigrants, and about 85 percent of undocumented entries were offset by return trips (Massey, Durand, and Malone 2002; Massey and Singer 1995).

Because undocumented migrants are now less likely to leave than in past years, their socio-economic progress should be of concern for natives. Granting them legal status would help these immigrants achieve both higher rates and greater levels of economic assimilation. In the long run, immigrant assimilation benefits the nation as a whole as immigrants accumulate more human capital and contribute to the tax base. Studies suggest that low-skilled immigrants represent a net drain on public funds in areas in which they are concentrated (Smith and Edmonston 1997). In addition, because human capital is transmitted across generations, ensuring the economic success of the first generation is important to the progress of the second and third generations. Concerns that allowing undocumented immigrants to legalize their status would result in significant costs to welfare programs could be addressed by restricting amnesty applicants’ eligibility for welfare programs, as IRCA did.

Another problem of the current immigration policy is that it also creates national security problems. This large population not only lacks legal U.S. documents but is also largely untrackable within the country. An amnesty could help alleviate national security risks by incorporating background checks as part of legalization. As undocumented immigrants come forward to apply for amnesty, those meeting the criteria could be legalized while those who pose security risks could be deported. Of course, undocumented immigrants who are security risks are the least likely to apply for amnesty (or worker program) if doing so will result in deportation. Nevertheless, an amnesty or guest worker program that enables the U.S. to track currently undocumented workers would be an improvement over the status quo, in which law enforcement officials have little information about these migrants.

What are the reasons not to have an amnesty? Critics argue that an amnesty rewards those who broke the law and creates an incentive for more unauthorized immigration in the hopes of yet another amnesty in the future. But absent large-scale workplace enforcement and deportations, there does not seem to be other obvious solution to addressing the problems of having millions of unauthorized persons present in the U.S. The status quo allows employers to hire workers more cheaply while hindering the economic progress of the undocumented.¹² Although creating a more even playing field by granting these individuals legal status would remove some advantages natives have relative to undocumented workers, native-born workers are protected in other ways—they speak the language, have a higher quality of education, and are more familiar with U.S. labor market institutions.

¹² There is even evidence that border enforcement weakens when demand for undocumented workers increases. Increases in product prices and capacity utilization rates in industries that employ large numbers of undocumented immigrants are associated with a subsequent decline in border enforcement (Hanson and Spilimbergo 1999).

DESIGNING AN IDEAL AMNESTY

The fact that the undocumented population has been growing over the last thirty years, suggests that policy makers have found it more costly to implement effective policy changes than to allow the status quo to continue. Yet a consensus is building that the U.S. needs to once again implement a legalization program and the experience with the 1986 IRCA suggests several lessons for designing an amnesty.

IRCA involved two separate legalization programs: the Legally Authorized Workers (LAW) program and the Special Agricultural Workers (SAW) program. The LAW program allowed undocumented immigrants who had lived in the United States since January 1, 1982, and met certain other criteria to apply for temporary legal residency. Successful applicants could then become legal permanent residents after 18 months by meeting several criteria, such as demonstrating basic knowledge of the English language and American civics. The SAW program required that illegal immigrants have worked in U.S. agriculture for at least 90 days during each of the previous three years or for at least 90 days during the last year to receive temporary permanent resident status. SAWs could then receive legal permanent resident status in one or two years.

One major problem with IRCA's implementation was rampant fraud. Surveys by sociologists suggest that 73 percent of LAW applications were fraudulent, as were 28 to 40 percent of SAW applications (Donato and Carter 1999; Cornelius 1989). Given that over 90 percent of applications were approved, many unqualified persons were granted at least temporary legal residency. The high level of fraud was due to lax verification of documents, which were easily falsified, and the complex residency requirements in the LAW program. This experience

suggests that any legalization program needs strict document verification as well as simpler requirements.

IRCA is also believed to have led to increased discrimination against Hispanic workers. Some employers concerned about possible sanctions for hiring illegal workers paid lower wages to workers they suspected of being illegal or refused to hire such applicants. Wages among Hispanics suspected of being undocumented fell by about eight percent (Bansak and Raphael 2001), and employment by almost two percent (Lowell, Teachman, and Jing 1995). Legal workers, including some born in the U.S. with Hispanic ancestry, were unintended victims of IRCA because of employer difficulty in distinguishing between legal and illegal workers. In addition, unequal enforcement across industries created more of a burden for some employers than others (Davila and Pagan 1997). A legalization program accompanied by a low-cost, reliable way for employers to verify legal work status, such as quick verification of Social Security numbers, could not only reduce employer discrimination against Hispanics but would also help stem the demand for unauthorized workers.

Another failure of IRCA was not in the implementation of the amnesty, but in not implementing the other measures that were intended to stem future illegal immigration. Although border enforcement was increased, few additional funds were devoted to interior enforcement, particularly at workplaces. Continued availability of jobs resulted in a continued flow of unauthorized migrants after people realized that they could still earn higher wages in the U.S. than in their home country. Research indicates that apprehensions at the border declined right after the policy was enacted as potential migrants were deterred by stricter enforcement and concerned about job availability, but then quickly reverted to pre-IRCA levels (Donato, Durand, and Massey 1992; Orrenius and Zavodny 2003; Woodrow and Passel 1990). Any legalization

program intended to reduce future undocumented inflows therefore needs to provide a legal means for such migration or must reduce employment prospects, which would discourage potential migrants.

Amnesty should be viewed as part of a comprehensive reform of immigration policy, not as sufficient in and of itself. A fundamental problem with an amnesty is that it creates an expectation of future amnesties. Hopes of gaining legal status conditional on living or working in the U.S. for a certain period of time would likely encourage more undocumented immigration. In addition, an amnesty is likely to lead to larger undocumented flows as families reunify in the U.S. with members who qualified for legal status. If the U.S. goal is to discourage undocumented immigration, then policymakers need to consider other policies as well, including a guest worker program and tougher workplace enforcement.

A guest worker program that enables migrants to come to the U.S. for a specified period of time to work would reduce undocumented migration motivated by economic considerations. The U.S. already has temporary visa programs for low-skill, seasonal workers in agriculture and other industries. The visa requirements are onerous, with employers having to demonstrate that they searched unsuccessfully for available U.S. workers and that the wages and working conditions of other workers will not be adversely affected by admitting these temporary workers.¹³ Few of these visas have been issued in recent years, with less than 16,000 agricultural worker visas and about 87,000 nonagricultural worker visas issued in fiscal year 2002 (Office of Immigration Statistics 2003).

A guest worker program should include incentives to encourage workers to return to their home countries after a certain period of time. The program could require that a fraction of guest

¹³ The H2A visa program (for agricultural workers) also requires that employers provide housing and transportation as well as pay the market wage.

workers' earnings be set aside, with workers able to obtain those funds after returning to their source country. Credit toward the home country's analog of Social Security for time worked in the U.S. could also be given to guest workers who return home.

The role of the U.S. business cycle should be recognized if a guest worker program is implemented. Periods of high (low) demand for workers should coincide with higher (lower) annual quotas on work permits or temporary visas. Given that Mexico accounts for the majority of undocumented workers, the quota might also be increased when the Mexican economy experiences a downturn. More generally, a guest worker program might incorporate country-specific quotas that respond to changes in economic conditions in those countries as well.

A guest worker program would need to be combined with enforcement of laws barring employers from hiring undocumented workers. Despite the high degree of media attention received by raids on several Wal-Mart stores in November 2003, immigration officials have not emphasized workplace enforcement in recent years. The number of workplace arrests by the INS, for example, fell from 17,552 in fiscal year 1997 to 451 in fiscal year 2002 and further to 251 in fiscal year 2005 (Office of Immigration Statistics 2003, 2006b). Although hiring workers who do not have permission to work in the U.S. is illegal, employers who do so are not subject to civil or criminal penalties as long as they make a good faith effort to verify workers' legal status. The number of firms fined for hiring undocumented workers has been low, with the INS collecting only about \$2 million in total fines for immigration and naturalization violations in fiscal year 2002 (Office of Immigration Statistics 2003). Credible workplace enforcement would need to include easy document verification as well as stiff penalties for firms that violate the law.

A legalization or guest worker program also needs to be combined with a mechanism enabling immediate relatives of those receiving legal or guest worker status to come to the U.S.

The experience with IRCA suggests that otherwise many of these relatives will cross the border illegally, putting themselves at great risk. If current undocumented workers are allowed to convert to legal guest worker status, some provision needs to be made for their non-working spouses and children to also have legal status. Otherwise, an undocumented population will continue to exist, perpetuating current problems.

An amnesty can solve a one-time problem by allowing undocumented immigrants to legalize their status, but experience indicates that it will not stanch the continued flow of undocumented immigrants to the U.S. The best way to discourage undocumented immigration in the long run is to implement a guest worker program combined with enforcement of legal status at workplaces. Emphasis on border enforcement has done little to reduce illegal crossings but has cost millions of dollars and hundreds of lives. Devoting funds to workplace enforcement and creating a way for employers to legally meet their need for low-skill workers are more viable long-term solutions.

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