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Immigration Reform and the Urban Labor Force

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The decade of the 1980s witnessed the most extensive changes in the immigration policy of the United States since numerical restrictions were first placed on immigration in the 1920s. Responding to changes made in the mid-1960s, the immigration reform movement has contributed to the revival of mass immigration as a distinguishing feature of the U.S. economy. Indeed, a comprehensive study of U.S. society conducted by an international team of scholars has noted that "at a time when attention is directed to the general decline in American exceptionalism, American immigration continues to flow at a rate unknown elsewhere in the world."¹

The 1980 Census revealed that the foreign born population had grown by 46 percent during the preceding decade to 6.2 percent of the total population. The decade of the 1980s should show a similar quantum increase in the nation's foreign born population when the 1990 Census data are released. The policy "reforms" of the 1980s assure that this growth trend will continue throughout the 1990s. Immigration has accounted for about one-third of the labor force growth of the 1980s (it is hard to be precise because of differences of opinions over the size of the uncounted illegal immigrant flow) and this percentage should also rise during the 1990s.

The Disproportionate Urban Impact

As with the previous periods of mass immigration in the 19th and early 20th Centuries, the post-1965 wave of "immigration is overwhelmingly an urban phenomenon."² The 1980 Census disclosed that 92 percent of the foreign born population of the United States lived in metropolitan areas compared to 74 percent of the native born.

The actual urban impact of immigration is even more concentrated. Five metropolitan areas

¹ Oxford Analytica, America in Perspective. (Boston: Houghton Mifflin, 1986), p. 20.

² Elizabeth Bogen, Immigration in New York (New York: Praeger Publishers 1987), p. 60.

in 1980 (New York, Los Angeles, Chicago, San Francisco, and Miami) accounted for 40 percent of the nation's foreign born population but only 11 percent of the native born population. As regards central cities, eight (the five listed in the preceding sentence plus Houston, San Diego, and Philadelphia) had more than 100,000 foreign born persons residing within them. These eight central cities, however, accounted for over 26 percent of the foreign born population. The city with the highest number of foreign born persons was New York (1.7 million); the city with the highest percentage was Miami (53.7 percent). Given the scale of immigration developments in the 1980s and what is now legislatively in place for the 1990s, these numbers and percentages have certainly increased and will continue to do so. Likewise, the number of central cities with over 100,000 immigrants should have several additions when the 1990 census data are made public.

The Prelude to Reform

The reform movement of the 1980s was a direct response to the accidental revival of mass immigration that began in the mid-1960s. Prior to the passage of the Immigration Act of 1965, immigration -- which has been the nation's most important human resource development policy prior to the 1920s -- had slipped into a state of relative dormancy. The percentage of the nation's population that was foreign born had declined from 13.2 percent in 1920 to 4.7 percent in 1970. During that long period, those persons from Eastern Hemisphere nations who sought to immigrate to the United States were subject not only to a numerical limits of about 154,000 persons a year (plus immediate relatives)³ but were also screened on the basis of their ethnic origin. For those who were admitted, first priority was given and 50 percent of the available visas were reserved for people who possessed labor market skills that were in short supply in the economy. There was, however, no limitation or screening on immigration from Western Hemisphere nations except that they were subject to the 33 possible grounds for exclusions that applied to all would-be immigrants (these pertained to various political ideologies, moral principles, mental conditions, and economic status). There were no formal refugee admission provisions. The prevailing law also contained the

³ The phrase "immediate relatives" means spouses of citizens, children of citizens under the age of 21, and parents of citizens over the age of 21.

infamous "Texas Proviso" that exempted employers from prosecution for hiring illegal immigrants even though such aliens were not supposed to be in the country.⁴

Passed at the time when civil rights was at the top of the nation's domestic political agenda, the immediate rationale for the Immigration Act of 1965 was the elimination of the overt racism and ethnocentrism of the national origins system that had been in place since 1924. It was not the intention of the legislation in 1965 to significantly increase the level of legal immigration although it did raise annual admissions to 290,000 persons a year (plus immediate relatives).⁵ A major shift in entry preferences, however, was introduced in 1965. Family reunification was elevated to the primary rationale for admission with 74 percent (raised to 80 percent in 1980) of the available visas were to be granted on this basis. Family reunification, in this case, refers to the admission of adult children over the age of 21 of U.S. citizens; spouses and unmarried children of permanent resident aliens; and adult brothers and sisters of U.S. citizens. The Johnson Administration had strongly supported the termination of the national origins system but it favored the retention of labor market need as the primary factor to determine who should be admitted. Family reunification, however, was favored by a powerful political group in the U.S. House of Representatives who believed it was a sub rosa method to perpetuate national origins under a more subtle guise. After all, the ethnic and racial groups who had been most favorably treated over the preceding 40 years of national origins restrictions (i.e., Western and Northern Europeans) would be the most likely to have the most relatives who would qualify to reunify. The Johnson Administration ultimately had to concede to Congress on the admissions priority system as the price of ending the national origins system. The Act of 1965 added a small preference category for refugees (17,400 persons a year) but it did not alter the status of the "Texas Proviso." It also placed immigration from the Western Hemisphere under numerical restrictions for the first time.

⁴ For details of policy development, see Vernon M. Briggs Jr. Immigration Policy and the American Labor Force (Baltimore: Johns Hopkins University Press, 1984), Chapters 2 and 3.

⁵ This number was reduced to 270,000 (plus immediate relatives) in 1980 when refugee admissions were removed from the legal immigration law and given a separate admission system.

As is often the case, the Immigration Act of 1965 had unexpected consequences. For present purposes, it is suffice to say that enormous backlogs quickly developed (especially from applicants from the Western Hemisphere) for the available visas for legal immigration; the refugee slots proved to be far to few (given the fact that refugee policy was often perverted into being an instrument of foreign policy during the Cold War era), and illegal immigration exploded to unprecedented levels. Indeed, as many or more people were after entering the United States each year for permanent settlement as refugees and illegal immigrants as were legal immigrants.

In response to mounting public concern that immigration policy was in total disarray, the Carter Administration in 1977 sought to address the most serious abuse: illegal immigration. It offered a legislative package that would, among other things, have made it illegal for employers to hire illegal immigrants. Congress, however, was reluctant to act. It preferred to study all aspects of the nation's immigration system. Hence, it responded a year later by creating the Select Commission on Immigration and Refugee Policy (SCIRP) to perform this task.

SCIRP issued its final report in March 1981. It stated that immigration was "out of control"; that the nation must accept "the reality of limitations"; and that "a cautious approach" should be taken in the design of any reform measures.⁶ Among its principle recommendations were that legal immigration be slightly increased to 350,000 persons a year (plus immediate relatives); no shift should be made in the preference given to family reunification; some provision should be made for allowing the entry of "new seed" immigrants who are not family related and who lack needed work skills; a system of sanctions against employers who hire illegal immigrants should be adopted; and an amnesty should be given to all illegal immigrants who were already in the United States as of January 1, 1980.

The Manifestations of Reform

In the midst of its deliberations, most of the Select Commission's pending recommendations pertaining to refugees were enacted into law by in the Refugee Act of 1980. The substance of this

⁶ Select Commission on Immigration and Refugee Policy, U.S. Immigration Policy and the National Interest (Washington, D.C.: U.S. Government Printing Office, 1981).

legislation was to remove refugees from the legal immigration system where they had been since 1965 and create an entirely separate system for their admission. The number permitted to enter each year is set by the President after a largely pro forma consultation with Congress. The President is under enormous political pressure by various religious, ethnic, and human rights organizations to admit large numbers of persons -- especially those with whom these groups have special interests. Since its enactment, the number of refugees has fluctuated from a low of 67,000 in 1986 to a high of 217,000 in 1981. The figure for 1991 is 121,000 persons.

By the time SCIRP actually issued its report, the Reagan Administration had taken office. Immigration reform had not been part of its campaign platform. Eventually it did offer a timid package of reforms which Congress quickly found to be inadequate. Congress then began the tortuous process of writing its own legislation. The initial version in 1982 followed the broad outlines of the SCIRP report. The initial goal was comprehensive reform. But after failing in two consecutive Congressional sessions to develop the necessary broad consensus to pass such an ambitious program, a new strategy was adopted: piecemeal reform.

The strategy was successful. The first topic selected for attention was illegal immigration. The result was the passage of the Immigration Reform and Control Act (IRCA) of 1986. Among its multiple provisions was the adoption of employer sanctions and four separate amnesty programs for various categories of illegal immigrants already in the United States. Two of the amnesty programs were of significant size. One was a general amnesty for illegal immigrants who had lived continuously in the United States since January 1, 1982. Under its terms, 1.8 million applications were filed of which 1.6 million had been approved as of December 1990. The other large amnesty was for illegal immigrants who had worked seasonally in agriculture for at least 90 days prior to May 1, 1986 and who would not otherwise qualify for the general amnesty. It is the special agricultural worker program (SAW). As of December 1, 1990, 1.3 million SAW applications were filed of which 885 thousand were approved. The SAW program was added in the final stages of negotiations on IRCA as a concession to Southwestern agri-business interests who feared the loss of

their illegal alien dominated work force. Without it, there would have been no IRCA.⁷

Congress subsequently turned its attention to the legal immigration system. The result was the adoption of the Immigration Act of 1990. Although it manifests more awareness of potential labor market effects than does the extant immigration law, its primary focus is upon increasing the quantity of immigrants. Legal immigration will increase by 35 percent over prevailing levels to 700,000 persons a year after the law takes effect on October 1, 1991. While the new law does increase the number of immigrants admitted without regard to family ties to 140,000 visas a year, the actual percentage of work-related visas to the total number of visas remains the same, 20 percent, as it is under the present law. The nepotistic principle of family reunification remains the primary criteria used for determining who is eligible to enter. Thus, like the law it replaces, short shrift is given to the specific human capital endowments of most of the people to be admitted. In addition, the law introduces questionable new entry routes (i.e., for "investor immigrants" who can now "buy their way in") and it resurrects one of the most reprehensible features of past U.S. immigration history -- the use of national origin criteria for admission of a specific number of would be immigrants (i.e., "diversity immigrants").

The Missed Opportunity for Meaningful Reform

Unfortunately, as the old political adage goes, "after all is said and done, more is said than done." A decade of policy reform has left the nation's immigration system with essentially the same problem characteristics it had before the process began. It is a system that is primarily designed to accommodate political interests. Hence, family reunification and humanitarian interests largely determine the annual level of immigration flows. The legal system is still dominated by largely by nepotistic, legalistic, and mechanistic principles.

The central characteristic of the Immigration Act of 1990 is its quantitative focus. The emphasis is on the admission of greater numbers of people with little concern for their

⁷ For details, see Vernon M. Briggs Jr. "The Albatross of Immigration Reform: Temporary Worker Policy in the United States", International Migration Review (Winter, 1986), pp. 1009-1015.

employability or the actual economic needs of the urban communities in which they decide to settle. The reform legislation has essentially perpetuated the existing policy focus but at a higher scale. There is no implicit recognition given to what could have been done in lieu of mass immigration to enhance the employment opportunities of native born persons in those same urban labor markets.

As for its qualitative effects, the vast preponderance of those who enter do so without any regard to whether they possess skills, education, English fluency, or work experience needed to meet the rapidly changing employment requirements of urban labor markets that are in a state of radical transformation.⁸ Too many of the immigrants are from less economically developed nations who themselves need human services and human resource enhancement. Immigration is a major explanation for the nation's mounting adult illiteracy problem. Thus, urban communities that should be concerned with upgrading the education, skills, health, and housing needs of their native born population are now confronted with enormous needs to provide even more remedial and income maintenance programs for many of their new foreign born residents. One consequence of the reform movement, therefore, has been to add to the social burdens of these urban communities. A more cautious and selective immigration policy, tailored to meet actual urban work force needs, could have prevented this outcome.

As for illegal immigration, enforceability remains a paramount concern as it was before IRCA. The new employer sanctions program contains an enormous loophole. IRCA did not require that a counterfeit proof identification system be established to verify eligibility to work. Employers are not responsible for the authenticity of the documents that are offered by job applicants. They are only required to make a "reasonable" effort to attest to their validity. As a consequence, counterfeit documents -- which was always a problem -- have become a thriving

⁸ See, Richard Cyert and David Mowery (editors) Technology and Employment, Washington: National Academy Press, 1987 Chapters 3,4, and 5; Valerie Personick, "Industry Output and Employment Through the End of the Century," Monthly Labor Review, (September 1987), pp. 30-45, and G.T. Silverstri and J.M. Lukasiewicz, "A Look at Occupational Employment Trends to the Year 2000," Monthly Labor Review, (September 1987). pp. 46-63.

urban enterprise. Moreover, the Immigration and Naturalization Service (I.N.S.), which has responsibility for enforcement of the law, has had to devote an inordinate amount of its work toward document validation which has never been the agency's strong suit. Furthermore, the proposed increases in federal funds to support enforcement activities never materialized and, in fact, they were reduced. Consequently, the problem of illegal immigration has not abated and, indeed, there is every reason to believe that it is again flourishing.⁹

As for the amnesty programs, they were a necessary component of the IRCA reform package. The recipients were already in the United States. They had entered at a time when the "Texas Proviso" had given mixed signals as to whether they were wanted as workers or not. Hence, it was preferable to allow them to legalize their status than to force them to leave or to continue to work in the shadows of the labor market. But many of the amnesty recipients were unskilled, poorly educated, and seldom fluent in English. Many of their family members who are now in the process of reunifying, have the same paucity of human capital endowments. As for the SAW amnesty, it has far exceeded in numbers any estimates of what was anticipated. Indeed, the program has been correctly labeled as "one of the most extensive immigration frauds ever perpetrated against the United States Government."¹⁰ Overwhelmingly, the SAW recipients have been from Mexico (82 percent). There is an extensive urban impact of these SAW recipients. Over two-thirds of the SAW participants were in the Southwest where, due to the aridity of the rural region, most agricultural workers live in urban areas. In no other region of the country is this the case. The SAW program and the related family reunification that flows from this program have

⁹ E.g., see Roberto Suro, "Traffic in Fake Documents is Blamed on Illegal Immigration Rises," New York Times (November 26, 1990), p. A-14 and Richard Stevenson "Growing Problems: Aliens with Fake Documents" New York Times (August 4, 1990), p. A-8.; For a discussion of how the employment data is indicating a rise in illegal entry, see, Paul Flaim, "How Many New Jobs Since 1982? Data from Two Surveys Differ," Monthly Labor Review, (August, 1989) p. 14.

¹⁰ Robert Suro "False Migrant Claims: Fraud on a Huge Scale" New York Times (November 12, 1989),p. A-1.

added to the region's pool of unskilled and poorly educated job seekers. Moreover, with their legalization of status, they are no longer required to seek employment in agriculture so that the region's urban labor markets will undoubtedly have to accommodate many of them.

Given the lack of focus on economic considerations in the design of the immigration reform movement, it is likely that labor force characteristics of these immigrant flows will not alter the adverse economic trends that have already been discerned. As George Borjas concluded in his comprehensive assessment in 1990 of the economic impact of immigration, "the more recent immigrant waves have less schooling, lower earnings, lower labor force participation and higher poverty rates than earlier waves had at similar stages of their assimilation into the country."¹¹ Because of the preponderance of unskilled workers, the use of welfare assistance by immigrants has also been found to be higher than that of earlier waves of immigrants.¹² Barry Chiswick has also found a noticeable decline in the human capital endowments of the recent immigrant flow.¹³ Given that the thrust of the reform policies has focused on quantitative increases rather than on qualitative human capital characteristics, there is no reason to expect that these negative features will diminish.

Clearly, these labor force characteristics are not patterns that are beneficial to the urban labor markets that are receiving the vast majority of the mass immigration inflow. Indeed, most of the urban areas impacted by the revival of mass immigration have also been suffering disproportionately from these same deficiencies for too many of their native born residents and workers.

The Addition of a New Dimension of Discrimination

Employment discrimination has long been recognized as a major issue in urban labor

¹¹ George Borjas, Friends or Strangers: The Impact of Immigrants on the U.S. Economy, New York: Basic Books Inc., 1990, p. 20.

¹² Ibid., Chapter 9; see also George Borjas and Stephen J. Trejo, "Immigrant Participation in the Welfare System," Industrial and Labor Relations Review (January, 1991), pp. 195-211.

¹³ Barry Chiswick, "Is the New Immigration Less Skilled Than the Old?" Journal of Labor Economics (April 1986) pp. 196-192.

markets. Indeed, the new immigrants themselves have been found to be at risk of such practices.¹⁴ But, the rapid growth of foreign born population has also added a new dimension to the employment discrimination issue. It is the systematic discrimination by employers in favor of immigrants to the detriment of native born workers. This discrimination usually involves decisions by employers who are themselves of a particular ethnic background to hire only immigrants and refugees who are of the same ethnic background. The effect is to deny work opportunities for citizens, resident aliens, and other persons eligible to work who are not of similar ethnic heritage. As the number of immigrants continues to rise, the collective consequences of such discriminatory actions mount. This topic, however, has yet to be carefully researched. Elizabeth Bogen noted the phenomenon when she wrote: "there are tens of thousands of jobs in New York City for which the native born are not candidates."¹⁵ The reasons she cites are that "ethnic hiring networks and the proliferation of immigrant-owned small businesses in the city have cut off open-market competition for jobs." Quite perceptively, she strongly urges that the blatant "discrimination against native workers is a matter for future monitoring."

Concluding Observations

Presently there is little synchronization of the immigrant flows with the demonstrated needs of urban labor markets. With uncertainty as to the number of foreign born persons who will enter in any given year, it is impossible to know in advance of their actual entry how many will annually join local labor forces. Moreover, whatever skills, education, linguistic abilities, talents or locational settlement preferences they have is largely incidental to the reason that most were admitted. For illegal immigrants, of course, they do not care whether they have needed human capital endowments or not. They seek only to enter the competitive lottery with economically disadvantaged citizens for available entry level jobs.

The labor market effects of the current politically-driven immigration system are twofold.

¹⁴ See Vernon M. Briggs, Jr., "Employer Sanctions and the Question of Discrimination: The GAO Study in Perspective" International Migration Review (Winter, 1990), pp. 803-815.

¹⁵ Bogen, op. cit., p. 91.

Some immigrant workers, do have human resource endowments that are quite congruent with urban labor market needs. They were usually admitted under the work-related preferences or they happen to have needed human capital characteristics even though they were admitted as family related immigrants or refugees. But most are not so qualified. For the majority, they must seek urban employment in the declining sectors of the goods producing industries (e.g., light manufacturing) or the low wage sectors of the expanding service sector (e.g., restaurants, lodging, or retail enterprises). Such workers -- especially those who have entered illegally -- are now a major explanation for the revival of "sweat shop" enterprises and for the sharp upsurge in child labor violations reported in the urban centers where immigrant populations have congregated.¹⁶ With as many immigrants coming from Third World nation's as there are, it is not surprising that many are bringing Third World working conditions and work attitudes with them. But these are not features that the United States should tolerate -- regardless of whether such immigrants actually displace native born workers.

Unfortunately, many native born workers are among the urban working poor who are also employed or seeking work in these same declining occupations and industries. A disproportionately high number are minorities, women, and youth. As these urban groups are growing, the last thing they need is more competition from unskilled immigrants for the declining number of low skilled jobs that provide a liveable income or for the limited opportunities for training and education that are available.

Immigration policy must become accountable for its economic consequences. Under existing circumstances, it should be a targeted and flexible policy that is designed to admit only persons who can fill job vacancies that require significant skill preparation and educational investment. The number annually admitted should be far fewer than the actual number needed.

¹⁶ See Lisa Belkin, "Abuses Rise Among Hispanic Garment Workers" New York Times (November 29, 1990), p. A-16; Constance Hays, "Immigrants Strain Chinatown's Resources: Many Aliens face 'a kind of Indentured Servitude,'" New York Times (May 30, 1990), p. B-1; "Report: Kids Fill City Sweatshops" Ithaca Journal (May 28, 1990), p. 9A; and Peter Kilborn "Tougher Enforcing of Child Labor Laws is Vowed," New York Times (February 8, 1990), p. A-22.

Immigration should never be allowed to dampen the market pressures needed to encourage native born workers to invest in preparing for vocations that are expanding and or to reduce the pressure on governmental bodies to provide them with needed human resource development programs.

As it takes time for would-be workers to acquire skills and education, immigration policy can be used on a short run basis to target experienced and qualified workers for permanent settlement who possess such abilities. But it is the "preparedness", or lack thereof, of significant segments of the existing urban labor force that is the fundamental economic issue confronting many of these communities. It is not a shortage of workers per se.

Obviously, the admission of refugees will continue to be done without regard to labor market criteria. The Federal government, however, should provide all of the financial assistance needed to prepare refugees to meet the employment requirements of the communities in which refugees are settled.

It is also imperative that IRCA's provisions to reduce illegal immigration be strengthened. To do this, it will be necessary to adopt a counterfeit-proof identification system; to tighten restrictions on the use of fraudulent documents; to devote more funds and manpower to the enforcement of employer sanctions; and to place fines on those apprehended illegal immigrants found to be employed.

The national goal must be to build a high wage, high productivity labor force.¹⁷ In the process, the existence of shortages of qualified labor offers to this country a rare chance to reduce its persistently high levels of unemployment; to improve the economic lot of its working poor, and to reduce its large urban underclass. Such shortages can force public human resource development policy and private sector employment practices to focus on the necessity to incorporate into the mainstream economy many citizens who have been "left out". Immigration policy must cease contributing to urban problems and, instead, be redirected to become a source of solutions.

¹⁷ National Center on Educational and the Economy, America's Choice: High Skills or Low Wages! Rochester, N.Y.: National Center on Educational and the Economy, 1990.