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Abstract

"An analysis of the history and contemporary condition of illegal immigration into the United States."

Keywords

U.S. , immigration, immigrant, policies, worker, United States, illegal, border, law, labor, market

Comments

Suggested Citation

Briggs, V. M., Jr. (1977). The problem of illegal immigration. *Texas Business Review*, 51(8), 171-175.

<http://digitalcommons.ilr.cornell.edu/hr/34/>

Required Publisher Statement

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The Problem of Illegal Immigration

Vernon M. Briggs, Jr.

No subject more fundamentally touches the essence of the American experience than immigration. A heterogeneous people in quest of a homogeneous national identity has been the history of the United States. In its evolving and often controversial role immigration policy has served as a foundation stone for numerous components of public policy. It has been instrumentally involved in such diverse areas of public concern as human resource policy, foreign policy, labor policy, agricultural policy, and race policy. Yet in recent years immigration policy itself has been among the least examined of all public policy measures.

As our formal immigration policy has developed, it has passed through three distinct periods: no restriction of any kind (prior to 1888); numerical restriction based upon ethnic discrimination (from 1888 to 1965); and numerical restriction with ethnic equality (since 1965). With the coming of the legal and numerical restrictions, of course, came the problem of illegal immigration.

The Immigration Act of 1965 ended the period of blatant discrimination that had been contained or condoned in all previous immigration statutes. Under the 1965 act the number of legal immigrants admitted to the United States has averaged about 400,000 persons a year (or twice the annual flow allowed prior to enactment). About 65 percent of the legal immigrants directly enter the labor force. Accordingly, legal immigration has accounted for about 12 to 15 percent of the annual increase in the civilian labor force in recent years. The United States is today one of less than a half dozen nations in the world still accepting substantial numbers of legal immigrants. If not the only, it is certainly among the few admitting persons impartially with respect to race and ethnic background.

Yet the formal immigration system of the United States has been rendered a mockery. Illegal immigration is by far

the major avenue of entry. In 1975, for instance, the number of illegal aliens apprehended by the Immigration and Naturalization Service (INS) totaled 766,600 persons, a 700 percent increase over the number apprehended a decade earlier. To be sure, these figures include an element of double-counting (resulting from repeat apprehensions of the same individuals). On the other hand, the vast majority of illegal aliens are not caught. It is believed that for every person apprehended, four or five are not. When the annual number of legal immigrants is combined with conservative estimates of the annual number of illegal immigrants, it is apparent that the United States is in the throes of the largest infusion of immigrants in its history.

Because of its burgeoning size and its *sub rosa* character, illegal immigration is rapidly emerging as one of the most serious labor market problems of this decade. Its solutions, moreover, will of necessity raise policy issues that will challenge the maintenance of our free society if policies are not very carefully applied.

Who are they?

Each year citizens from Mexico account for about 90 percent of the total apprehensions of illegal entrants. The high proportion of apprehended Mexicans can be attributed to the singular fact that the vast preponderance of INS enforcement activities is marshaled along the U.S.-Mexico border. Over 80 percent of all apprehensions occur in the border region. If anywhere near the same degree of enforcement activity occurred outside the Southwest, the proportion of apprehended Mexicans to total apprehensions would fall dramatically. In reality, the flow of illegal aliens is coming from almost every nation.

The emphasis on apprehension by the INS in the Southwest is the result of the marked difference between the two broad categories of illegal aliens. Those from Mexico tend overwhelmingly to be undocumented (i.e., "Entered Without Inspection" in the parlance of the INS). Those from other nations are typically visa abusers, and they are less likely to be found in the Southwest. They enter the country legally as students, tourists, visitors, crewmen, or businessmen. They become illegal when they take jobs in violation of their visa stipulations or simply do not leave when their visas expire. In recent years the INS has been unable to verify the departure of about 10 percent of the six million persons who annually enter the country with a visa.

Mexican aliens are far easier to capture as they cross the border or as they move inland. The visa abusers, however, can be almost anywhere in the country. Not only are they harder to locate, but they are also more difficult to ferret out once they have established themselves within a community. It is a fundamental error to think of the aliens as Mexican workers alone or to believe that the issue pertains only to the Southwest. It is truly a national issue that involves people from many ethnic groups.

Why do they come?

A complex set of factors is responsible for the growth of illegal immigration. Masses of people—such as those leaving Mexico and the Caribbean area—leave the familiarity of their homeland and go to an unknown land only if both push and pull pressures are operative. In most instances the "push" factors derive momentum from the related issues of overpopulation, massive poverty, and high unemployment. Of increasing significance are the pervasive structural changes that are occurring within the labor forces of many underdeveloped nations, changes that stem from technological developments and rural-to-urban migration. Likewise, there are the strong economic "pull" factors that emanate from the United States. The relatively higher wages and broader array of available job opportunities of the American economy function as a powerful human magnet.

Related to these forces are several other considerations. American employers are often willing to tap this pool of scared and dependent workers. Prevailing immigration law does not place any penalty upon the act of employing illegal aliens. Because of the "Texas proviso" in the Immigration and Nationality Act of 1952, employment does not constitute the illegal act of harboring.

As for the aliens who have entered the country illegally, 95 percent of those apprehended are given "a voluntary departure." They are simply returned to their homeland as quickly as possible and often at the expense of the government. Any law under which 95 percent of the violators are not punished can hardly be taken seriously.

Moreover, the INS, which has the responsibility for enforcement of the immigration statutes, has a force and budget that are minuscule relative to its assigned duties. As of 1976, there were only about two thousand border patrol

officers plus two thousand additional inspectors and investigators for inland duty. Only a fraction of these are actually on duty in any given eight-hour shift.

What do they do?

All available research on illegal immigrants in the United States agrees on one point: economic considerations are the motivation for the presence of illegal aliens. They are primarily a job-seeking population. All are seeking better income opportunities than are available in their native lands. In some instances this quest leads illegal aliens into lives of crime. Sometimes they are its defenseless victims.

A very high number of illegal aliens are unskilled workers. In the Southwest, Mexican aliens have historically gravitated to agricultural jobs in the rural economy. But in more recent times, as mechanization has reduced agricultural manpower requirements and as non-Mexican aliens have become more common, the dilemma of illegal aliens has rapidly become an urban phenomenon as well. In urban areas illegal aliens have tended to concentrate in service jobs and in unskilled construction occupations. They are also becoming a noticeable factor in low-skilled occupations in certain mass production industries.

The most notable effect of the illegal aliens, therefore, is found in the nation's labor market. In some significant sectors of the economy the massive inflow is beginning to cause serious dislocations of the normal labor market adjustment process. A "shadow labor force," whose presence can be felt but not definitively documented, is evolving. Such a development also opens wide the sinister door of exploitation since illegal aliens are totally dependent upon terms of employment set by anyone who might wish to take advantage of the situation.

What is their impact?

The consequences of alien migration can be viewed from three distinct perspectives: the effects upon the aliens themselves, upon those with whom they directly compete, and upon our nation as a whole.

Given their limited alternatives, the illegal aliens would seem only to benefit by their presence in American society. However, this is often not the case. Illegal entry is an institutionalized process for many. Organized smuggling is commonplace. In 1976, for example, the INS arrested over seven thousand smugglers. Countless more, of course, were not caught. Smugglers, who often use dangerous and frequently inhuman methods to transport their human cargo, also charge high fees both for transporting and for manufacturing fraudulent documents. The costs are often more than a poor alien can afford. As a result, loans are arranged at exorbitant rates of interest. The alien must quickly find a job in order to meet the payments. In Los Angeles in early 1977 a widely publicized exposé revealed that aliens were sometimes forced into organized burglary gangs in order to repay such borrowed funds.

Too often illegal aliens are victimized by employers who know of their vulnerability to detection. Numerous are the accounts of alien workers receiving less than the federal minimum wage, not having their social security deductions reported, being turned in to authorities by employers just prior to payday, not receiving overtime premiums, being overtly discriminated against, and being personally abused and sometimes even molested. One government official in the East, who decried the exploitation he found of alien workers, protested: "Nobody gives a damn since aliens are nobody's constituents."

Illegal aliens are becoming a significant factor in the perpetuation of a secondary labor market.

The living standards for many illegal aliens are often deplorable. They compete with many of the most needy of our society for the already scarce low-income housing and other limited community services supposedly available for those who live on the lower rungs of the American economic ladder.

The second affected group that deserves mention are those citizens who, because of circumstances beyond their control, must compete with the illegal aliens for jobs and income. Although there are numerous exceptions, the vast majority of illegal aliens seek employment in what economists refer to as the "secondary labor market." It is that portion of the domestic labor market that is characterized by low wages, little job security, high employee turnover rates, and few job rights. It is usually not unionized. In this sector the alien competes with the large numbers of citizens who also are dependent upon the secondary labor market for their survival. The plight of these citizen workers, who are disproportionately—but by no means exclusively—from racial and ethnic minorities, is made even worse by the presence of the aliens. For the aliens will frequently work harder, be more grateful for the job, and be more willing to accept arbitrary treatment than the citizen worker. Illegal aliens have also made it extremely difficult for citizen workers to form unions in these low-wage labor markets. Thus the citizen worker must choose either to live and work at the level of the illegal alien, to become unemployed, to go on welfare, to turn to criminal activity, or to find another occupation if possible. Under current conditions the only hope for improving the economic situation of the citizen workers in this secondary sector is to reduce the supply of workers available to these markets. Although illegal aliens are not the only source of workers for secondary jobs, their importance seems to be increasing rapidly and they are becoming a significant factor in perpetuating the secondary labor market.

Some people believe that illegal immigration is a phony issue because the aliens do jobs that citizen workers will no longer do. This contention is a self-fulfilling prophecy. For if illegal aliens are permitted to enter selective labor markets, they will create a situation in which conditions preclude citizen workers from remaining. No American worker is capable of competing with an illegal alien when the end result of the competition depends upon who will work for the lowest pay and longest hours and accept the most arbitrary set of working conditions.

Lastly, with respect to the overall impact of illegal aliens, harm is inflicted upon the nation as a whole. Some short-run private sector gains may be realized by the hiring and often by the exploiting of alien workers. But in the long run the presence of a growing number of workers (and their dependents) who are denied minimum political, legal, and job protections, who are under the constant fear of being detected, who work in the most competitive and least unionized sectors of the economy, and who are easily victimized by criminal elements cannot possibly be in the public interest. Over the two centuries of its existence, the United States has slowly developed numerous laws, programs, and institutions in order to reduce the magnitude of human cruelty and the incidence of economic uncertainty for most of its citizens. For the illegal alien workers, however, these benefits are virtually nonexistent. It would be self-deception to believe that this situation can continue to develop without eventual dire consequence to all parties concerned.

What must be done?

In groping for the proper course for public policy to pursue, one must begin with the stark realization that in a free society illegal immigration cannot be totally stopped. No consensus will support the erection of a "Berlin Wall in reverse" that is designed to keep people out rather than in—or any equivalent drastic step. The best that possibly can be hoped is that the problem can be brought within manageable proportions. The situation is currently out of control, but not hopelessly so.

The mandatory first step is the passage of a federal statute that will forbid the employment of illegal aliens. Such a bill has cleared the U.S. House of Representatives in each of the past two sessions of Congress only to die in a committee of the U.S. Senate. Passage of a federal statute of this nature is a must. The message must be clear that the employment of illegal aliens is an illegal act. Strong civil and, perhaps, criminal penalties should be set for repeat offenders.

Candidly speaking, one must hasten to say that the enactment of a law against employment of illegal aliens will not accomplish much. Such a law will depend upon proof that the employer "knowingly" broke the law. Proving this will be immensely difficult, if not impossible. Moreover, it is very doubtful that many district attorneys would press for enforcement or that many juries would convict an employer for the offense of providing jobs to anyone. With court dockets already backlogged with serious crimes, it is

hard to imagine that many employers would ever be brought to trial. Yet the possibility of prosecution would exist. Moreover, there would be some voluntary compliance and, at least, the weight of the law would be against the employment of illegal aliens. As meaningless as such a ban may prove to be, nothing else makes sense until such a law is on the books.

The obvious question that follows is how does an employer know if a person is a citizen or not? A query is hardly sufficient. With fraudulent documents easily accessible to anyone desiring them, mere possession of any of

that the current statutes can be enforced. Aside from apprehension of illegal aliens, the agency has numerous other duties to perform with respect to control of drugs, smuggling of goods, gunrunning, and other criminal activity. A substantial increase in the number of INS enforcement officers would be by far the most effective short-run deterrent that could be initiated. In addition, the INS should have exclusive responsibility for checking all persons who pass through inspection ports of entry. Too often persons from the Bureau of Customs perform the clearance checks. Customs officials are less likely to speak other

A noncounterfeitable and unalterable social security card would facilitate verification of the citizenship status of any would-be employee.

the standard means of identification would likewise be no deterrent. The only answer is the issuance of noncounterfeitable and unalterable social security cards to the entire population. Through the use of special codes already developed by cryptographers and computer experts, such a social security card would allow easy verification of the citizenship status of any would-be employee. It has already been announced by INS that a similar noncounterfeitable card will be issued, beginning in mid-1977, to the 4.2 million resident aliens who already live in this country. It will in essence become their identity card.

There are, of course, legitimate fears about the establishment of what is tantamount to a work permit system in this country. Despite the fact that work permits are used in all other free nations of the world, it is true that authoritarian governments also use them as a means of citizen control, thus depriving citizens of civil liberties. The social security card, however, is already required as a condition of employment in the private sector for virtually everyone. The same is true for most public employees. Like it or not, the social security number has already become a national identification system. The social security number is used as a student number on many campuses; it is used as the driver's license number in many states; it is used by the Internal Revenue Service to identify taxpayers; and it is the serial number of all people in the military. Other illustrations could be cited. But the point is: it is absurd to worry about whether something will happen if it has already happened! The only questions that remain are should social security cards be made noncounterfeitable and should checks be made of these cards to assure that those who are using them to seek employment are legally entitled to have them? Certainly no one can seriously disagree with such objectives.

The necessity of significantly enlarging the number of INS enforcement officials is too obvious to be belabored. As long as this staff is less than one fifth the size of the police force of New York City, there is absolutely no way

languages and are much less familiar with all the documents that a potential visa abuser may use to enter the country. INS officials are specifically trained in these matters and are better able than customs agents to detect fraudulent documents.

It is essential that the INS rely less on the voluntary departure system. The policy objective that illegal aliens are unwanted guests can never be taken seriously as long as there is virtually no chance of any penalty being imposed on offenders. Until all illegal aliens can be identified, records kept, and repeat offenders subjected to formal deportation (which would permanently preclude those individuals from ever becoming legal immigrants), there is no reason for an illegal alien to even ponder the risks—the alien has nothing to lose. More reliance on legal procedures, however, will be costly and time consuming and will also necessitate an increase in the INS budget. But these costs, as well as expenses related to the acquisition of more detection hardware, must be weighed against the aforementioned costs of allowing this mushrooming problem to continue. It will be far less costly to assume a strong posture of prevention than it will be to respond to the social problems inherent in this issue after they accumulate.

In the same vein, international policies must be part of the policy mix to reduce the flow of illegal immigrants. These must address the "push" factors; they should be directed primarily at efforts to assist in the economic development of the hemispheric neighbors of Mexico and the Caribbean area. These measures should include extensive offers of technical and financial assistance. It may be that efforts of this kind must be made through established multinational agencies—such as the World Bank, the International Monetary Fund, or the United Nations—instead of unilaterally. Mexico, in particular, is a very proud nation; Mexico abhors the concept of foreign aid, especially from the powerful neighbor to the north.

It must be realized that to some degree the illegal alien problem from Mexico is a by-product of past actions by the

United States. For too many years, Mexico was seen as a pool of cheap labor that could be tapped at will throughout the Southwest. Hence, U.S. policymakers cannot be oblivious of the involvement of policy in the creation of the problem. For this past role the United States is obligated to assist the Mexican government in the reduction of the economic forces that continue to push many of its citizens into the illegal immigration stream. To be sure, the population explosion, the rural-to-urban migration, and the structural labor market changes resulting from technological change in Mexico would have caused the illegal alien flow to occur regardless of any past actions by the United States. But that contention is really moot. The fact is that the United States did contribute to some of the forces that have institutionalized the illegal alien process. The United States cannot place the full responsibility to stop the flow upon Mexico.

The United States should carefully reassess its trade and tariff policies pertaining to Mexico. Efforts to lessen the

source of all nations in the world of legal immigrants to the United States. Between 1968 and 1976 the number of legal immigrants from Mexico has averaged about 54,000 a year. The imposition of the 20,000 person quota to Mexico was arbitrary. The low quota serves only as an additional prod to illegal entry. Mexico deserves a continuation of the special treatment that it has always been accorded in the past. Although some ceiling should be imposed, it should at least be in rough approximation to past immigration levels.

The final step that must be taken to end the problem of illegal immigration is granting general amnesty to all illegal aliens who have been in this country for at least three years, providing that they register with the INS within an established grace period and that they have no record of criminal activity. There should be absolutely no intention to issue another amnesty at some subsequent date. Because the tolerant policy of the past has unofficially condoned the influx of aliens, it is unrealistic to believe that any roundup of aliens who have established themselves in jobs

The United States cannot place upon Mexico the full responsibility for stopping the flow of illegal aliens.

restrictive barriers to agricultural and manufacturing imports from Mexico should be initiated at once. Such action would enhance the opportunities for Mexican export industries to expand and reduce some of the pressures causing illegal entry. It would also acknowledge the fact that Mexico is already a major importer of American-made goods. It might seem inconsistent to argue for a restrictive border policy toward Mexican aliens while favoring increased free trade with respect to the import of Mexican products. This is not so. The impact of increased imports can be more widely spread throughout the American economy. If there were any adverse domestic employment effects from increased imports, those effects could be determined more easily than in the case of illegal immigration. Moreover, there already exists legislation (the Trade Act of 1974) that provides substantial benefits to assist those particular industries and workers who may be harmed by such liberal trade policy adjustments. Nothing is available for those citizen workers who are adversely affected by unfair competition from illegal aliens.

To a slightly lesser degree the same arguments could apply to many of the nations of the Caribbean area. The United States has long manifested political, economic, and military interest in the affairs of this region. The establishment of a regional economic common market is long overdue. With economic assistance and relaxed tariffs some of the outward pressures on illegal immigration from these countries may be stemmed.

With respect to Mexico one change in the legal immigration system must be made. As of January 1, 1977, all nations of the Western Hemisphere were placed under a single ceiling of 20,000 legal immigrants a year with the hemispheric total not to exceed 120,000 persons. Since the early 1960s Mexico has almost always been the number one

and have families could be accomplished without serious hardship and much ill will. The accomplishment of the goal of ridding the labor market of illegal aliens should not be contrary to basic humanitarian concepts. Hence, amnesty is a must but only as the last step of a comprehensive program.

Concluding Observations

It has been observed by Governor Jerry Brown of California that the United States is entering a new period in its historical evolution. He refers to it as an "era of limits." The ways of the past cannot be extended into the future. Immigration is one of the areas in which change must be made. The United States is no longer a nation of boundless resources, of endless frontiers, and of relatively scarce labor.

Nevertheless, it is to be hoped that this nation can continue to receive a controlled number of legal immigrants each year. The laudable goals of the present immigration statutes—to reunite families, to meet certain skill shortages, and to accommodate some number of political refugees—must be retained. The integrity and the public acceptance of a substantial number of legal immigrants, however, should never be endangered by the massive invasion of illegal immigrants, which is currently the case. Moreover, the creation of an underground population of rightless individuals is completely out of character with the American experience. To meet the challenge posed by illegal immigration, all of the aforementioned steps must be taken immediately. This issue is rapidly reaching proportions that will soon make it politically impossible to address the problem in any rational way.