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The Politics of Contradiction: Immigration Enforcement vs. Economic Integration

Since the mid-1980s, the federal government has tried repeatedly, without success, to stem the flow of undocumented immigrants to the United States with immigration-enforcement initiatives: deploying more agents, fences, flood lights, aircraft, cameras, and sensors along the southwest border with Mexico; increasing the number of worksite raids and arrests conducted throughout the country; expanding detention facilities to accommodate the hundreds of thousands of undocumented immigrants apprehended each year; and creating new bureaucratic procedures to expedite the return of detained immigrants to their home countries. At the same time, the economic integration of North America, the western hemisphere, and the world has accelerated, facilitating the rapid movement of goods, services, capital, information, and people across international borders. Moreover, the U.S. economy demands more workers at both the high-skilled and less-skilled ends of the occupational spectrum than the rapidly aging, native-born population provides. The U.S. government's enforcement-without-reform approach to undocumented immigration has created an unsustainable contradiction between U.S. immigration policy and the U.S. economy. So far, the economy is winning.¹

The U.S. Immigration System vs. the U.S. Economy

IRCA vs. GATT

The Immigration Reform and Control Act (IRCA)

- The federal government's devotion to enforcement as the solution to undocumented immigration began with passage of the Immigration Reform and Control Act (IRCA) of 1986. IRCA granted legal status to approximately 3 million undocumented immigrants already living in the United States, roughly 2.3 million of whom were from Mexico, while also seeking to cut off future undocumented immigration primarily through "employer sanctions" directed at businesses that "knowingly" hire undocumented workers.
- IRCA failed to expand legal avenues of immigration to match the growing labor demand that was driving undocumented immigration in the first place. Rather than reducing undocumented immigration, IRCA created enormous demand for fraudulent identity documents which undocumented immigrants could present to potential employers as "proof" of their legal status.²

Mexico and the General Agreement on Tariffs and Trade (GATT)

- The same year that IRCA was passed, Mexico entered into the General Agreement on Tariffs and Trade (GATT)—the predecessor of the World Trade Organization (WTO)—

A DIVISION OF THE AMERICAN IMMIGRATION LAW FOUNDATION

1331 G STREET, NW, SUITE 200 • WASHINGTON, DC 20005-3141 • TEL: (202) 507-7500 • FAX: (202) 742-5619

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with strong support from the U.S. government. This marked the culmination of efforts undertaken by the Mexican government beginning in 1982 to “liberalize” the Mexican economy by privatizing government-controlled enterprises, lowering barriers to foreign trade and investment, and reorienting industry and agriculture towards production for export. Mexico’s entry into GATT rapidly accelerated the ongoing integration of the U.S. and Mexican economies.³

Border Enforcement vs. NAFTA

“Prevention through Deterrence”

- Faced with the failure of IRCA’s employer-sanctions provisions to stop undocumented immigration, U.S. lawmakers turned to border enforcement to solve the problem in the early 1990s. The new approach, “prevention through deterrence,” called for the steady buildup of Border Patrol resources along those stretches of the southwest border where undocumented immigrants traditionally crossed into the country.⁴
- “Prevention through deterrence” was supposed to succeed where IRCA had failed by “elevating the risk of apprehension to a level so high that prospective illegal entrants consider it futile to attempt to enter the U.S. illegally.”⁵ The strategy was implemented gradually along stretches of the U.S. Mexico Border in Texas, California, and Arizona beginning in 1993.
- The Government Accountability Office (GAO) has found repeatedly that “prevention through deterrence” has *not* succeeded in reducing undocumented immigration. Rather, it has shifted undocumented immigration from place to place, motivated more prospective migrants to hire smugglers to guide them on the increasingly difficult journey into the United States, and resulted in more deaths among migrants trying to make their way into the country through inhospitable terrain.⁶

The North American Free Trade Agreement (NAFTA)

- Adoption of the “prevention through deterrence” strategy coincided with the deepening of U.S.-Mexican economic integration through the North American Free Trade Agreement (NAFTA), which was implemented in 1994 with the goal of promoting transnational trade and investment throughout the North American continent under a uniform set of rules.
- The impact of NAFTA (and the trade agreements that preceded it) on U.S.-Mexican economic integration has been dramatic. According to the Department of Commerce, the total value of U.S.-Mexico bilateral trade increased from \$52 billion in 1989 to \$332 billion in 2006—an increase of 537 percent.⁷
- Some proponents of NAFTA incorrectly predicted that the agreement would reduce undocumented immigration by creating more jobs in Mexico. But the technological,

economic, political, social, and cultural forces collectively referred to as “globalization” tend to facilitate *more* migration and travel across international borders, not less.⁸

Outdated Limits on Legal Immigration

- Despite the rapid pace of globalization and economic integration, the U.S. immigration system remains hobbled by arbitrary, inflexible, and outdated numerical caps.

Employment-Based Immigration

- There are only two kinds of temporary visas available to workers in less-skilled occupations (who comprise most of the undocumented population): H-2As, which are restricted to agricultural workers, and H-2Bs, which are capped at 66,000 per year and limited to “seasonal” or otherwise “temporary” work narrowly defined to exclude many industries.
- Only one of the five visa “preference categories” for permanent employment-based immigration is reserved for workers in less-skilled jobs and is capped at only 5,000 per year.⁹
- Arbitrary and inflexible numerical ceilings such as these are incapable of responding to changes in U.S. labor demand and serve only to divert much labor migration to the United States through undocumented channels.

Family-Based Immigration

- The family-based immigration system is hobbled by complicated rules and numerical caps that impose long delays on family reunification. U.S. citizens can obtain “visa numbers” immediately when they petition for their spouses and children under the age of 21 to immigrate to the United States. But the allotment of visa numbers for all other relatives of U.S. citizens, and for all the relatives of lawful permanent residents (LPRs), is subject to a “family preference” system characterized by lengthy waiting times.
- In the case of Mexican nationals, wait times as of March 2008 were about six years for the spouse of an LPR and sixteen years for the unmarried adult child of a U.S. citizen.¹⁰ Delays such as these are powerful motivators for undocumented immigration.

Despite Heightened Enforcement, the Undocumented Population Continues to Grow

- Given the power of the economic forces which have continued to drive undocumented immigration in the face of increased border enforcement, the undocumented population has *tripled* in size over the past decade and a half, from roughly 3.5 million in 1990 to 12 million in 2006.¹¹
- The Pew Hispanic Center estimates that approximately one-third of undocumented immigrants have lived in the United States for 10 years or more, 1.8 million

undocumented immigrants are children, and another 3.1 million U.S.-citizen children have at least one undocumented parent.

- Undocumented immigrants account for 5 percent of all workers in the United States, and a far higher share in particular occupations. According to Pew, more than one in four insulation workers, agricultural workers, roofers, drywall installers, meat-processing workers, textile and garment workers, construction laborers, and brick and stone masons are undocumented.
- Pew estimates that between 25 percent and 40 percent of all undocumented immigrants did *not* cross the border without documents, but came to the United States on valid visas and then stayed after their visas expired.¹²

As the Enforcement-Only Strategy Backfires, Practical Solutions Are Needed

- As the U.S. government struggles to stem the immigration that is facilitated by globalization, promoted by U.S. economic policies, and attracted by U.S. labor demand, a large share of immigration to the United States is being driven underground and contributing to the steady growth of the undocumented population. Deportation-only measures such as increases in personnel and technology along the U.S.-Mexico border are not working.
- The creation of a workable and effective system of immigration enforcement depends not only on the amount of federal resources devoted to enforcement efforts, but also on the revamping of current immigration policies, which are completely out of step with reality.
- The United States needs a legal immigration system for the 21st century that meets the needs of the U.S. economy and is consistent with U.S. values. The most practical and realistic way to dramatically reduce undocumented immigration is to bring U.S. immigration policy in line with economic and social realities:
 - Lawmakers should require undocumented immigrants already living in the United States to apply for legal status and devise immigration policies that are as responsive to market forces as the economic policies they have chosen to support, while implementing and enforcing labor laws that guarantee fair wages and good working conditions for *all* workers, both native and foreign-born.
 - Lawmakers should also address the bureaucratic delays and re-evaluate the numerical restrictions that impose unreasonably long waiting times on family reunification.
- This sort of comprehensive immigration reform would enable the U.S. government to better control, regulate, and monitor immigration to the benefit of the U.S. economy and immigrants themselves, rather than merely consigning a large portion of it to a shadowy and insecure black market.

- In the process, fewer immigrants would try to enter the United States without authorization, the market for human smugglers and false identity documents would be severely undercut, and federal law-enforcement resources would not be wasted apprehending jobseekers.

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For more information contact:
Walter Ewing
wewing@ailf.org
202-507-7507

Endnotes

¹ Portions of this report are adapted from Walter A. Ewing, *Enforcement Without Reform: How Current U.S. Immigration Policies Undermine National Security and the Economy* (East Lansing, MI: Julian Samora Research Institute, Michigan State University, March 2008).

² Jimmy Gomez and Walter A. Ewing, *Learning from IRCA: Lessons for Comprehensive Immigration Reform* (Washington, DC: Immigration Policy Center, American Immigration Law Foundation, May 2006).

³ Douglas S. Massey, et al., *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration* (New York: Russell Sage Foundation, 2002), chap. 5.

⁴ Ibid.

⁵ Senate Committee on the Judiciary, Subcommittee on Immigration, *Hearing on: Enhancing Border Security*, 106th Cong., 2nd Sess., February 10, 2000 (statement of Michael A. Pearson, Executive Associate Commissioner for Field Operations, Immigration and Naturalization Service).

⁶ U.S. Government Accountability Office, *Illegal Immigration: Border-Crossing Deaths Have Doubled Since 1995; Border Patrol's Efforts to Prevent Deaths Have Not Been Fully Evaluated* (GAO-06-770), August 2006; U.S. Government Accountability Office, *Combating Alien Smuggling: Opportunities Exist to Improve the Federal Response* (GAO-05-305), May 2005; U.S. General Accounting Office, *INS' Southwest Border Strategy: Resource and Impact Issues Remain After Seven Years* (GAO-01-842), August 2001.

⁷ U.S. Department of Commerce, International Trade Administration, TradeStats Express (<http://tse.export.gov>), February 18, 2008.

⁸ Douglas S. Massey, *Five Myths About Immigration: Common Misconceptions Underlying U.S. Border-Enforcement Policy* (Washington, DC: Immigration Policy Center, American Immigration Law Foundation, August 2005).

⁹ The cap is set at 10,000 visas per year, but 5,000 are reserved for beneficiaries of the Nicaraguan Adjustment and Central American Relief Act of 1997 (NACARA).

¹⁰ U.S. Department of State, "Visa Bulletin for March 2008" (no. 116, vol. VIII).

¹¹ Michael Hofer, et al., *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2006* (Washington, DC: Office of Immigration Statistics, U.S. Department of Homeland Security, August 2007), p. 2; Jeffrey S. Passel, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey* (Washington, DC: Pew Hispanic Center, March 7, 2006), p. 2; U.S. Immigration and Naturalization Service, *Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000*, January 31, 2003, p. 10.

¹² Jeffrey S. Passel, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.*, March 7, 2006), pp. 2, 8, 16.