

ILLEGAL ALIENS: THE NEED FOR A MORE RESTRICTIVE BORDER POLICY

VERNON M. BRIGGS, JR.

University of Texas at Austin

IN LATE 1974, THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION Service (INS) of the U.S. Department of Justice publicly stated that "the United States is being overrun by illegal aliens" and, he warned, "we are seeing just the "beginning of the problem."¹ During the 1974 fiscal year, 788,000 illegal aliens were actually apprehended by INS. Of greater significance, however, is the fact that INS estimated that the number of *undetected* illegal aliens who entered the United States during that year ranged upwards to 4 million people.² Moreover, the INS estimated the accumulated number of illegal aliens currently residing in the United States in 1974 to be between 7 and 12 million people.³ Although the precision of the numerical estimates by INS is open to serious question, there is no debate that the magnitude of illegal entry is substantial and that the direction of change is toward increasing numbers.⁴ Likewise, the available research on illegal entrants has shown that the vast proportion of illegal aliens come to the United States to work.⁵ The impact on the labor force of the nation, therefore, must be substantial. In fact, one noted authority on the economics of labor markets in the United States recently observed: "Virtually unnoticed, illegal aliens have become a factor of tremendous—and still explosively growing—importance."⁶

The overwhelming proportion (usually between 85 and 90 percent) of the illegal aliens who are apprehended each year are from Mexico. But while it is likely that citizens of Mexico are the primary source of the alien migration flow, it would be a serious mistake to consider the issue solely in those terms. It is likely that if as much manpower and funds were expended in labor markets outside of the Southwest as is the case within the Southwest, the proportion of apprehended Mexican aliens would fall as a percentage of the total annual apprehensions.⁷ For too long, alien

¹ "Can't Stop Alien Flood, Officials Says," *San Antonio Express* (Oct. 23, 1974), p. 1.

² Lawrence Meyer, "Aliens Hard to Count," *Washington Post* (Feb. 2, 1975), pp. A-1 and A-12.

³ "Address by the Honorable William B. Saxbe, Attorney General of the United States before the Cameron County and Hidalgo County Bar Associations," Brownsville, Texas (Oct. 30, 1974), p. 2, (mimeographed material).

⁴ Meyer, "Aliens Hard to Count,"

⁵ E.g., see Julian Samora, *Los Mojados: The Wetback Story* (Notre Dame, Indiana: Notre Dame Press, 1971), Ch. 2.

⁶ Michael J. Piore, "Comments and Discussion," of paper entitled "Primary and Secondary Labor Markets: A Critique of the Dual Approach," *Brookings Papers on Economic Activity*, No. 3 (1974), p. 687.

⁷ E.g., see M. A. Farber, "Million Aliens in Metropolitan Area," *New York Times* (Dec. 29, 1974), p. 1.

immigration has been considered only a regional problem of the Southwest. It is because of the growing national dimension—not merely because of the high national unemployment rate of the mid-1970's—that the topic is at last receiving the widespread attention it deserves. It is because illegal entry has not been recognized earlier as an important economic factor that the problem has been allowed to accumulate to the massive magnitude it now represents.

OVERVIEW OF PREVAILING PUBLIC POLICY

Immigration policy has been ruled by the courts to be the exclusive responsibility of the federal government. To understand the status of public policy with respect to illegal aliens, however, it is necessary to review briefly the prevailing federal policy with respect to the relationship of immigration and the American labor force. The Immigration and Nationality Act of 1952 sets forth the clear declaration of responsibility that legal immigrants shall not adversely affect the domestic labor market.⁸ The Secretary of Labor was given the authority to block the entry of legal immigrants if their presence would in any way threaten prevailing labor standards. Thirteen years later, the Immigration Act of 1965 was enacted (to become effective July 1, 1968). This Act bolstered the responsibility of the Secretary of Labor by changing the permissive language of the earlier legislation to a mandatory requirement that immigrants who are job seekers must receive a labor certification.

As immigration policy now stands, it is designed to accomplish three primary goals: to unify families, to admit workers with skills that are in short supply; and to permit entry of political refugees under special circumstances. Since 1968, the legal immigrants to the United States have come to resemble closely the characteristics of the norms of the overall U.S. population.⁹ Under the provisions of the current immigration laws, about 400,000 legal immigrants are admitted annually. Of these approximately 200,000 enter the labor force directly each year. Thus, in the early 1970's, legal immigration has accounted for about 12 percent of the annual increase in the U.S. labor force.¹⁰ The primary source of legal immigrants is also Mexico which, for example, provided over 70,000 legal immigrants to the United States in 1973. Legal immigrants have not distributed themselves in any nearly equal manner throughout the nation. Accordingly, research has found that legal immigrants are having "substantial impact" in certain labor markets—affecting cities more than suburbs or rural areas; some states more than others. Thus, legal immigration is itself emerging as an important factor to be included in studies of selective labor markets.

Against this backdrop, it is obvious that the magnitude of illegal entry

⁸ Section 212 (a)(14) of Public Law 414 of the 82nd Congress; 66 Stat. 163.

⁹ David S. North and William G. Weissert, *Immigrants and the American Labor Market*, Report of the U.S. Department of Labor under Contract #20-11-73-01, (Washington, D.C.: Trans Century Corporation, 1973), pp. 24-25.

¹⁰ *Ibid.*, p. 2.

greatly exceeds the number of legal immigrants by perhaps as much as 10 to 1 (using the INS estimates for illegal and legal entry for 1974 cited earlier). If the INS approximations are anywhere near being accurate, the United States is in the midst of the largest inflow of immigrants that the nation has ever sustained.

Obviously, illegal entry is making a mockery of the existing immigration policy of the nation. Even more amazing is the virtual absence of any meaningful measures to deter or to discourage illegal entry. Presently, it is unlawful for an illegal alien to seek employment in the United States but it is *not* illegal for an employer to hire an illegal alien. Actually, it is only a minor irritant for the illegal alien that it is a punishable offence to seek employment in the United States. In reality, over 95 percent of those aliens who are apprehended by the INS are given "voluntary departures." This means that they are simply returned to their native land by the most expedient form of transportation. On top of all of this, the Immigration and Naturalization Service has a budget that is so small relative to its legislative mandate that it frequently cannot afford to roundup illegal aliens even when it knows where they are.¹¹ In 1974, for example, the entire Border Patrol of the nation consisted of slightly over 1,600 persons.¹²

Thus, a fair appraisal of the existing situation is that if an illegal alien is caught, he is simply returned to his native land—usually at the cost of the United States government; if he is not apprehended, he works at a job that affords him an income generally higher than he would receive back in his homeland. For the businessman, there is absolutely no risk. There are only gains to be reaped from tapping a cheap source of labor that is totally beholden to arbitrary terms of employment.

THE CONSEQUENCES OF ILLEGAL IMMIGRATION

There are many dimensions to a discussion of the problem of illegal entry but the most important pertain to the effect on the nation's labor market. The massive inflow of illegal immigrants is causing serious disruptions of the normal labor market adjustment processes. This is especially true throughout the Southwest and it is rapidly becoming the case in a number of urban labor markets outside this region. A "shadow labor force" has evolved whose presence is often felt but seldom seen. It is composed of a body of workers who are totally dependent upon the terms of employment set by employers. Such a situation is ripe for exploitation.

The Illegal Immigrants Themselves. Given their alternatives, it might seem that the illegal aliens themselves would only benefit by their participation in the American work force. This is often *not* the case. Illegal entry is rapidly becoming institutionalized. Organized smuggling is commonplace. Without mentioning the often dangerous and frequently inhuman

¹¹ E.g., see Margaret Gentry, "U.S. Curbs Pursuit of Aliens," *Washington Post* (Oct. 24, 1972), p. A-7.

¹² "Address by William B. Saxbe," p. 8.

methods used to physically transport their human cargo, it should be noted that the smuggler's fees are high. So are their charges for forged documents (e.g., social security cards, driver's licenses, alien registration cards, etc.). The costs are often so high that the alien must borrow the needed money at exorbitantly high interest rates.¹³ Frequently their lives are endangered if they cannot quickly locate a job or, if employed, keep up with their payments.

The alien workers are also frequently victimized by employers who know of their vulnerability to detection. Accounts are legion of alien workers receiving less than the federal minimum wage; of not having their social security deductions reported; of being turned in to authorities by employers just prior to pay day; of not receiving overtime premiums; and of being personally abused and sometimes even molested. For as one government official who decried the exploitation of alien workers exclaimed: "nobody gives a damn since aliens are nobody's constituents."¹⁴

Likewise, the living standards for many illegal aliens are often deplorable. They have to compete for the already scarce low income housing and other community services available for all people who live on the bottom rung of the American economy. Perhaps the best summary statement has been provided by Samora in his seminal sociological study of illegal Mexican aliens when he wrote:

. . . the illegal, whatever his motivations and aspirations, probably moves from poverty to greater poverty and, whatever his experiences, the economic and financial benefits for Mexico, for his family, and for himself is small. Those who profit are those who employ him or smuggle him.¹⁵

Those Who Compete With Alien Workers. Although there are some notable exceptions, the vast number of alien workers find employment in what is increasingly being referred to as "the secondary labor market" of the American economy.¹⁶ The secondary labor market is characterized by low wages, little job security, high employee turnover rates, few if any job rights, and usually the workers are not unionized. The alien competes with large numbers of citizens for the menial jobs that characterize this market. The citizen workers, who are disproportionately—but by no means exclusively—from racial and ethnic minorities, are at an even greater disadvantage because of the presence of the aliens. For the aliens will frequently work harder, will be more grateful for a job opportunity, and will be more docile with respect to the acceptance of arbitrary treatment than the citizen

¹³ E.g., see "Police Giving Aid to Illegal Aliens: Action Stirred in Effort to Curb Exploitation," *New York Times* (March 23, 1975), p. L-23.

¹⁴ Laura A. Kiernan, "5 Deported Aliens Sue for Md. Wages," *Washington Post*, (Sept. 23, 1974), p. C-2.

¹⁵ Samora, *Los Mojados*, p. 105.

¹⁶ Michael J. Piore, "The 'New Immigration' and the Presumptions of Social Policy," *Proceedings of the Twenty-Seventh Annual Winter Meetings of the Industrial Relations Research Association* (Madison: Industrial Relations Research Association, 1975), pp. 350-358.

worker. The citizen worker must either choose to live and work at the level of the illegal alien, or become unemployed, or live on welfare, or turn to criminal activity, or move on if he can.¹⁷ As the economy is currently organized, the only hope for improving the economic situation of the citizen workers in this secondary sector is to reduce the supply of workers entering these markets. Although illegal aliens are not the only source of workers for secondary jobs, it does appear that their importance increases rapidly.

Furthermore, it is no accident that almost half of the seasonal migrant farm workers in the United States come from the South Texas border area. Many of these individuals have no choice but to become migrant workers because their local labor market is so saturated with illegal aliens and other border communters from Mexico.¹⁸ Similarly, it is likely that the rapid urbanization of the Chicano population since the end of World War II is at least in part attributable to the influx of illegal aliens into the rural labor market of the Southwest.¹⁹ In addition, the vast numbers of aliens from Mexico has greatly retarded the efforts of the Chicanos of the Southwest to attain a more rapid economic assimilation into American society.²⁰

Illegal aliens have also made it extremely difficult for citizen workers to form unions in these low wage labor markets. The most notable instance has been the epic struggle of the United Farm Workers (UFW) to establish a union for agricultural workers. César Chavez has stated unequivocally that the use of illegal aliens as strikebreakers by employers has been the primary factor in his union's inability to establish itself. He has said, "The illegal workers from Mexico are a severe problem. It is a problem that is out of control."²¹

The Nation as a Whole. Indirectly, the United States itself suffers from the presence of an increasing number of illegal Mexican aliens. Some short-run private sector gains may be realized by the exploitation of the alien workers. But in the long-run, the presence of a growing number of workers who are denied political rights as well as minimum legal and job protections; who often live at a survival level and under the constant fear of being detected; who work in the most competitive and least unionized sectors of the economy; and who are often victimized by criminal elements is a prescription for eventual trouble. Over the nearly two centuries of its existence, the United States has developed numerous laws, programs, and institutions that have sought to reduce the magnitude of human cruelty and

¹⁷ Samora, *Los Mojados*, p. 56.

¹⁸ Vernon M. Briggs, Jr., *Chicanos and Rural Poverty* (Baltimore: Johns Hopkins Press, 1973), pp. 42-44.

¹⁹ Vernon M. Briggs, Jr., *Mexican Migration and the U. S. Labor Market* (Austin: Center for the Study of Human Resources, 1975), p. 27.

²⁰ George I. Sánchez, "History, Culture, and Education," in *La Raza: The Forgotten Americans* (South Bend: University of Notre Dame Press, 1966), p. 9.

²¹ Quoted in Richard Severo, "The Flight of the Wetbacks," *New York Times Magazine*, (March 10, 1974), p. 81.

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 mount at the current growth rate without eventual dire consequence to all parties concerned.

CONCLUSION AND POLICY RECOMMENDATIONS

In standard economic theory of free trade, the unimpeded movement of the world's economic resources ensures that economic resources will find their most rewarding and productive use and, thereby, world output will be maximized. But standard economic theory is essentially a form of social engineering in which individual differences of people and nations are minimized in the pursuit of aggregate social goals. In the real world, political boundaries shape the conditions of life within the various nation states of the world community. These borders not only have social, cultural, and political importance, but they are of considerable economic consequence. For it is largely within the confines of these boundaries that most of the crucial governmental policies that affect the quality of life for the citizens of each nation are made. Nominally there may be a world community, but the welfare of most people is dependent upon the decisions of their own government. They expect their government to safeguard and to further their interests as well as it can. Consequently, the study of political economy—as has always been the case—begins with the existence of political borders.

Likewise, in conventional welfare economies, the gains of those who benefit (i.e., producers who can obtain a labor supply at lower wages than possible in the absence of illegal alien workers and consumers who are able to purchase goods and services at lower prices due to the lower wages, paid illegal aliens) would be compared to the losses of those who are adversely affected (i.e., the citizen workers who must compete with the alien workers for jobs, low income housing, public health service, welfare funds and private charitable funds). Theoretically, those who benefit could be taxed to compensate those who lose and society would have no problem to worry about. But this methodological approach is based upon the premise that the transfers between the gainers and losers *are actually made*. If the compensating payments are not forthcoming (and I know of no public policy proposal to promote such transfers), then illegal aliens are clearly harmful in their influence upon the American labor market.

Illegal Mexican aliens constitute the major labor migration flow into the United States in the 1970's. But the issue embraces illegal aliens from a number of other countries as well. The problem is already of such a magnitude that it may not even be politically possible to reduce it to manageable proportions. But the efforts *must* be made. The presence of a "shadow labor force" of rightless individuals who are easy prey for the most exploitative elements of American society is bad for both the aliens and the

nation. But of even greater consequence than the victimization of these illegal aliens is that, collectively, they constitute a clear and present danger to the standard of living of all with whom they compete for jobs, housing, and community services.

For these reasons a number of policy changes are required. Legislation making it a criminal act to employ illegal aliens should be adopted at once. In addition, the budget and manpower of the INS should be increased to a level commensurate with the scale of its responsibilities. The increase should not only be for patrolling and apprehending duties but also for prosecutors and officers who conduct hearings. The use of the "voluntary departure system" should be actively discouraged. Records and identification of all arrestees should be made. Jail terms should be imposed on repeat offenders. In these ways a posture of deterrence rather than acquiescence could be assumed. At the same time a concerted apprehension drive should be initiated by the Immigration and Naturalization Service in the cities in which illegal aliens are known to reside, to apprehend them and return them to their native land. All appropriate civil liberty protections should be applied to ensure that no false arrest or mistaken deportation occurs. But the message should be made clear: illegal alien workers from any country are unwanted guests.

With respect to the special problems associated with illegal entry from neighboring Mexico, the United States should make overtures to Mexico concerning how efforts could be made to develop the economy of Mexico's northern states. Financial and technical aid should be made available. Mexico, however, should design the regional plan and set its own priorities. If the government of Mexico decides that it wants no part of such aid, then so be it. But it should be made clear that a continuation of the existing unregulated exodus of its citizens into the United States is out of the question.

Related to efforts to encourage economic development in Mexico's border states, the United States should carefully reassess its trade and tariff policies as they pertain to Mexico. Efforts should be initiated at once to lessen the restrictive barriers to agricultural and manufacturing imports from Mexico. Not only would such action enhance the opportunities for Mexican export industries to expand and, hopefully, reduce some of the pressures causing illegal entry, but it would acknowledge the fact that Mexico is already a major importer of American made goods. At first thought, it might seem inconsistent to argue for a restrictive border policy toward Mexican aliens while, simultaneously, favoring increasing 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. Should there be any adverse domestic employment effects, it is far easier to see who is hurt than is the present case with illegal immigration. Moreover, there already exists legislation in the form of the Trade Expansion Act of 1962 and the Trade Act of 1974 which provide substantial

benefits to assist those particular industries and workers who may be harmed by such liberal trade policy adjustments. There is nothing for those individuals affected by unfair competition from illegal aliens.

Nonetheless, when all things are considered, it is apparent that this issue does not lend itself to any nice solution. Illegal immigration is more of a policy dilemma that it is a problem that has a "correct" answer. It is impossible to make everyone better off regardless of what is done *or not done*.