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The Implications of Immigration Policy
to the Achievement of Full Employment

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Introduction

Immigration policy has long been one of the most important components of public policy of the United States. It has been instrumentally involved in such diverse areas as human resource policy, foreign policy, labor policy, agricultural policy, and race policy. In each instance, it is of consequence with respect to both its quantitative dimensions and its qualitative aspects. Yet despite its long run significance, it has in recent decades been among the most neglected areas of public policy.

The lack of attention to this vital topic is indeed unfortunate. For since the mid-1960's, immigration to the United States has sustained quantum changes in both its size and its character from its traditional patterns. Many cynics are quick to say that it is only because of the high unemployment of the mid-1970's in the United States that this issue is now surfacing. This singular charge, as this paper will attempt to demonstrate, is untrue. For regardless of the short term unemployment rate, the issue of the compatibility of immigration policy with the national goal of full employment is multifaceted and has been emerging for some time. A review is long overdue.

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Components of Immigration Policy

Immigration policy consists of an evolving and complex set of statutory laws, administrative rules, and court decisions. Although it embraces numerous considerations, immigration policy has a direct effect on the labor market in three ways. First, there is the annual flow of legal immigrants who are eligible to become naturalized citizens. More than half of these persons are already or quickly become members of the labor force. Secondly, there is among the immigrant group a component of resident aliens who have little, if any, intention of ever becoming citizens. These persons flout the residency requirements of the statutes by commuting to jobs in the United States while maintaining a permanent home abroad. And thirdly, there are the illegal aliens who either enter the country without documents or who violate the terms of their visas by overstaying or working.

Legal Immigrants

For 148 years of the nation's history, voluntary immigration was possible for almost all white persons. Sharp restrictions were imposed during this period on both Asians and blacks (both free persons and slaves). Beginning in 1921 and formalized in 1924 with the passage of the National Origins Act, ethnic background was added to race as an entry criterion. The Act of 1924 also imposed a numerical quota by separate nationality as well as a ceiling of 150,000 immigrants from all Eastern Hemisphere nations. From 1924 to 1965 the annual average number of legal immigrants from all nations was 190,447 persons per year.¹ In 1965, however, substantial amendments were made to existing

immigration laws. The Immigration Act of 1965 was designed primarily to end the ethnocentric policies of the earlier statutes.² Virtually no consideration was given at the time of the passage of the Act to any possible labor market ramifications.³ The new immigration system was designed to accentuate family reunification with only ancillary attention given to its other stated objectives to be a means to fill demonstrable skill shortages and to accommodate "certain refugees". A ceiling of 120,000 was imposed on immigration of people from the Western Hemisphere for the first time. For the Eastern Hemisphere, it was set at 170,000. A 40,000 person annual quota for any single nation was set.

By 1976, it was possible to assess some of the results of the Act of 1965. Between 1965 and 1975 the average annual number of legal immigrants has increased to 390,329 persons.⁴ This represents an increase of over 100 percent above the earlier annual average for the 1924-1965 period. The total hemisphere ceilings (290,000 persons) were greatly exceeded due to exemptions for parents, spouses, and children. The same applies to the national ceilings. For instance, Mexico has become the source of more immigrants than any other single nation. It has averaged about 54,000 immigrants a year since 1966, with the average being about 66,000 immigrants a year since 1972.⁵

With respect to the labor market, an average of 65 percent of the legal immigrants each year since 1965 have directly joined the labor force. Thus, about 260,000 of the average 1,700,000 persons who have entered the labor force each year since 1965 are legal immigrants (or about 15 percent of the

annual increase).⁶ Obviously, legal immigration has become a major contributing factor to the growth of the labor force.

In theory, the existing statutes state that immigration policy must be directly related to employment policy. That is to say, the Immigration and Nationality Act of 1952 states that legal immigrants shall not adversely affect the domestic labor market.⁷ The Secretary of Labor was empowered to block the entry of legal immigrants if their presence would in any way threaten prevailing wage standards and employment opportunities. The Act of 1965 bolstered the permissive language of the earlier legislation by making it a mandatory requirement that immigrants who are job seekers must receive a labor certification.

In practice, however, little effort is made to relate immigration policy to labor market policy. Due to numerous exemptions, only one of every thirteen legal immigrants is subject to the labor certification process.⁸ As a result, the immigration system has become a highly mechanistic, case-by-case, process in which family re-unification has become the overriding goal. Literally no concern is manifested in the system as it now functions as to the labor market impact of the number of immigrants or of their individual ability to adapt to its local requirements (i.e., language capability, job skills, or locational preference).⁹

The limited available research on immigration characteristics since 1965 shows that the legal immigrants tend to concentrate in a very few states (i.e., three states -- New York, California, and Texas receive over 51 percent of all legal immigrants). Moreover, immigrants settle overwhelmingly in cities

as opposed to suburbs or rural areas. Hence, the actual impact of legal immigration on labor market operations is more sectorial than general.

Border Commuters

In 1975, there were 4.2 million resident aliens who registered with the U.S. Immigration and Naturalization Service (INS).⁹ Over 75 percent of them reside in 8 states with California, New York, and Texas accounting for 49 percent of the total. Persons from Mexico are by far the most numerous of this group -- numbering 868,198 (or 21 percent) of the total in 1975. Over 75 percent of the resident aliens from Mexico reside in California and Texas.

Aside from the regional impact, there is no particular policy issue involved with resident aliens per se. There is, however, a serious problem that occurs with resident aliens who commute (mostly from Mexico) to work in the United States on a daily or seasonal basis. This group is more popularly referred to as "green carders" due to the original colors of the resident alien card that they must carry at all times. Due to the extreme differences in economic development, "green carders" are more of an issue along the Mexican border than the Canadian border. The Mexican commuters are often willing to work for wages and under employment conditions that are impossible for a person who must confront the daily cost of living in the United States on a full-time basis. Moreover, they are often involved in labor disputes as strikebreakers along the border. Hence, "green carders" exert influence on sectorial labor markets and often adversely influence unionization efforts.

The legal authority for the existence of commuters stems not from any statute but, rather, has evolved through a long series of administrative decisions by the INS. In 1927, the status of commuters was changed from "non-immigrant visitors" to "immigrant." In 1929, the U.S. Supreme Court upheld the INS decision, with the famous ruling that "employment equals residence" (thereby cleverly avoiding the permanent residency requirement of the immigration statutes).¹⁰ It is estimated that 70,000 workers crossed the Mexico-U.S. border daily. How many additional seasonal green carders there are is unknown.

It has been charged that the prevailing INS regulations actually forbid the practice of commuting since the re-entry rights of a "green carder" is limited to a person who is "returning to an unrelinquished lawful permanent address."¹¹ Before 1965, the INS reasoned that any commuter who had been accorded the "privilege of residing permanently" was always entitled to enter the country. The Immigration Act of 1965, however, altered the statutory language. The amended language restricted informal entry to "an immigrant lawfully admitted for permanent residence who is returning from a temporary visit abroad." Accordingly, one legal scholar has concluded: "No distortion of the English language could result in a finding that the commuter was entering the United States after a temporary visit abroad to return to his principal, actual dwelling place. Rather, the commuter was simply leaving his foreign home and entering the United States to work."¹² He argued that since 1965 the status border of commuters is "not merely lacking in statutory authority" but that the practice is "actually prohibited."

In November 1974, however, the U.S. Supreme Court rejected the aforementioned logic by upholding the INS position that daily and seasonal commuters are lawful permanent residents returning from temporary absences abroad.¹³ Essentially, the Court said that it was not going to overthrow 50 years of administrative practices by judicial decree. If the U.S. Congress wishes to outlaw the practice of border commuting, it will have to act in a specific legislative manner.

Illegal Immigrants

Of all the immigrant flows into the population and labor force of the United States, none is of more quantitative significance in the 1970's than the illegal entrants. In 1975, there were 766,600 aliens apprehended in the United States. This represented a 700 percent increase over the figure of only a short decade earlier. Each year, citizens from Mexico account for about 90 percent of the total apprehensions. The high proportion of apprehended Mexicans is due to the fact that the preponderance of enforcement activities is marshalled along the U.S.-Mexico border. Over 80 percent of all apprehensions occur at or near the border.¹⁴ In fact, however, the flow of illegal aliens is coming from almost every nation.¹⁵ The vast majority, however, are not apprehended. Thus, the Commissioner of INS stated in 1974 that "it is estimated that the number illegally in the United States totals 6 to 8 million persons and is possibly as great as 10 or 12 million."¹⁶ Although it is possible to quibble about the exactness of the statistics, there is no doubt that the numbers involved are very large and that they are increasing rapidly.

Because of its illegal character, it is impossible to discuss with precision the impact that illegal aliens who are not apprehended exert on the labor market of the nation. All available research pertains to those apprehended. These studies, however, do indicate that the primary motivation of the illegal aliens is job-seeking.¹⁷ They are a working population. A very conservative estimate that three million illegal aliens are actually employed would mean that they hold about 4 percent of all the jobs in the nation at the present time. It is logical, therefore, to believe that illegal aliens fill jobs that citizen workers could have; or depress wages and working conditions in certain sectors to such a degree that citizen workers cannot compete and must either become unemployed or withdraw from the labor force; or both. In any case, they are a factor of annually increasing proportions that must be confronted in any effort to achieve full employment in our society.

The complex factors responsible for the growth of this shadow labor force are derived from a combination of strong outward "push factors" of poverty and unemployment in their native lands; of strong "pull factors" in the form of higher wages and incomes available in the United States; of employers who are willing to tap this source of scared and dependent workers; and of an extraordinarily tolerant immigration policy by the United States that places no penalties on employers of illegal aliens, that grants "voluntary departures" with no punishment to 95 percent of all apprehended persons; and which has an enforcement agency (i.e., the INS) whose size and budget

is minuscule relative to its assigned duties. Within the past year, the substantial devaluation of the Mexican peso and an amendment to the immigration statutes (which became effective January 1, 1977) that reduces the ceiling of legal immigrants from any one nation from 40,000 to 20,000 are all additional prods to increased illegal entry this year.

Illegal aliens have become an endemic factor to both the rural and urban labor markets of the Southwest. Outside this region, they are also becoming an influential factor in a number of urban labor markets (e.g., Chicago, New York, and New Orleans). In the aggregate they are unquestionably a substantial factor in the growth of the labor force. As for their effect on employment opportunities, the available research clearly indicates that the majority of illegal aliens -- especially those from Mexico -- hold unskilled jobs. Hence, they are most likely to be found in the secondary labor market of the economy. In this sector, it is the citizen workers who are confined to this sector who must bear the burden of competition with the illegal immigrants for jobs and income..

Concluding Observations

Despite legislative stipulations that require immigration policy to complement employment policy, it is clear that such is not the case. In fact, in selective but significantly large sectors of the economy, immigration policy confounds efforts to achieve full employment and to secure adequate income for the citizen labor force of the nation.

The relationship of the two policy goals needs to be completely reassessed. If humanitarian considerations that give priority to family reunification are to remain the mainstay of the legal immigration process, a categorical assistance program should be created to cushion the economic hardships imposed on the receiving communities. The program should extend beyond simply job training and language instruction. It should include funds to local public agencies to defer the financial burdens of education, housing, and health services that they are required to make as a result of national policy. If the seemingly futile system of labor certification is to be continued, consideration should be given to making it meaningful. To accomplish this, a probationary period should be a part of admission procedure to assure that the legal immigrants go to the geographical areas and are actually employed in the occupations that are the conditions of their admission.

As for border commuters, it is only fair that citizens of this country who work in this country should be required to reside permanently in this country. The administrative loopholes that allows this process to continue should be plugged by legislative action.

With respect to the illegal aliens, it is a problem that a free society can never completely resolve. There are no nice answers to this issue. If you do nothing, citizens are hurt; if you do something, aliens are hurt. There are no other alternatives. Believing that the only purpose of the nation state is to protect its own people if a choice must be made, there are

steps that can be taken to bring the issue into manageable proportions. The most obvious first step would be to make the act of employing an illegal alien an illegal act; to reduce sharply the use of the voluntary departure system; and to increase greatly the manpower and budget of the INS commensurate with its responsibilities. For repeat offenders, the wages paid by employers to illegal aliens should be disallowed as business expenses and the opportunity for illegal aliens to ever become legal citizen should be denied. At the same time a major commitment of funds and talent must be made to assist the neighbouring nations of Mexico and of the Caribbean areas to overcome some of the economic hardships which force so many of their citizens to abandon their homelands.

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3. Elliot Abrams and Franklin S. Abrams, "Immigration Policy-- Who Gets in and Why?", Public Interest (Winter 1975), pp. 3-29
4. Office of the President, op. cit., p. 17-18.
5. Annual Report: Immigration and Naturalization Service: 1975 (Washington: U.S. Government Printing Office, 1976, Table 14), p. 65.
6. Office of the President, op. cit..
7. Section 212 (a)(14) of P.L. 414 of the 82nd Congress; 66 Stat. 163.
8. David North, "Alien Workers: A Study of the Labor Certification Program," (Washington, D.C.: Trans Century Corporation, August 1971), pp. 95-6.
9. Office of the President, op. cit., p. 27-8 and 32.
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11. Karnuth v. Albro, 279 U.S. 231 (1929)
12. Sheldon L. Greene, "Public Agency Distortion of Congressional Will: Federal Policy toward Non-Resident Alien Labor," George Washington Law Review, March 1972, p. 442, citing 8 C.F.R. 211.1(b)(1) (1971).
13. Ibid., p. 443, citing 8 U.S.C. 1101(a) 27 (B) (1970).
14. Saxbe v. Bustos, 419 U.S. 65.
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16. David S. North and Marion F. Houston, The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Exploratory Study (Washington: Linton & Company Inc., 1976).
17. U.S. Department of Justice 1974 Annual Report: Immigration and Naturalization Service (Washington, D.C.: U.S. Government Printing Office, 1974), p. iii.
18. North and Houston, op. cit., pp. 96-136, also see Office of the President, op. cit., p. ..