



## US IMMIGRATION POLICIES, US LABOR, AND THE ROLE OF IMMIGRANTS IN THE U.S. LABOR MARKET

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*This article analyzes transnational labor flows as a component of increasing regional and global economic integration in which labor finds its political and economic position increasingly compromised. An important response of organized labor to declining union density—encouraged by key affiliates’ success in organizing immigrant workers in the non-tradable service sector—is to reevaluate its long-standing support for employer sanctions and vigorous efforts to deport undocumented immigrants. The article offers a case study of the efforts of organized labor to reach out to immigrant workers in policy areas beyond traditional workplace concerns.*

*The article further argues that organized labor’s support for immigrant workers is consistent with labor market economics. Historically, U.S. immigration policy has sought to protect the domestic labor market against immigrant labor by way of physical border controls and employer sanctions. Experience has proved that these tools are of scant efficacy in preventing the entry or employment of undocumented laborers.*

*When border controls and employer sanctions fail, current policy tends to exacerbate the impact of unauthorized immigration on domestic wages and working conditions. It does so in two principal ways: First, U.S. law has no statute of limitations on deportation. Therefore, immigrant workers remain low wage laborers long after their wage expectations would normally approach market rates were it not for their persistently precarious legal foothold. Second, existing law permits employers to exploit undocumented employees with virtual impunity. There is no penalty for discriminating against an undocumented worker with respect to wages, benefits or health and safety standards.*

*Two alternatives to existing policy toward immigrant workers are suggested: First, the United States should enact a general amnesty and a statute of limitations on deportation. Second, the law should proscribe discrimination on the basis of immigration status in all respects other than hiring. Such measures, it is argued, would reduce the incentives for workers to undercut each other’s wage demands and thus confer substantial benefits upon domestic labor.*

*The article finally argues that immigration reform is one step toward a broader political and economic normative goal: stemming, or at least slowing the growth of, inequality in the distribution of wealth. Although wages are an allocative, not a distributive, mechanism, a declining median wage in the face of increasing per capita GDP exacerbates inequality in the distribution of wealth, which in the long term will prove inimical to the general political and social health of the United States.*

## I INTRODUCTION

On February 16, 2000, the AFL-CIO, the national labor federation representing about 13 million union members in the United States, called for a general amnesty for undocumented workers and for the repeal of the 1986 law that criminalizes hiring them. This position represents a dramatic shift for the AFL-CIO, which has historically supported strict enforcement of deportation laws and limits on immigration to the United States. The AFL-CIO’s position reflects a growing consensus that U.S. immigration policy is out of touch with current economic, social, and political conditions.

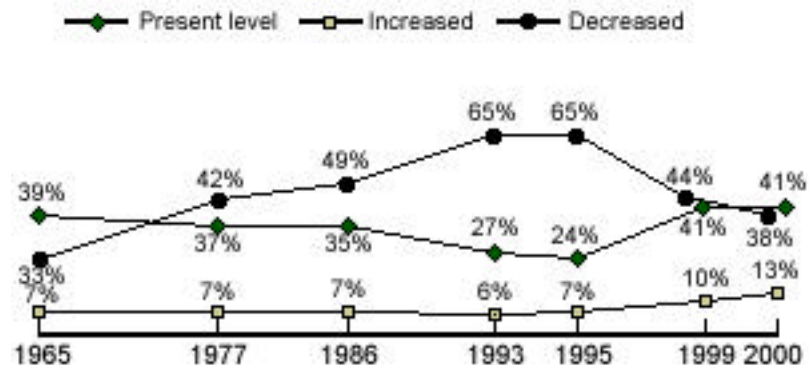
From the perspective of the United States, unauthorized immigration has historically been seen as harmful from diverse perspectives. Such immigration—indeed, immigration in general—will always draw opposition from fringe elements of nativists and xenophobes. But it also has proved controversial among persons who are reasonably concerned that

unskilled or semi-skilled foreign laborers displace or place downward pressure on the wages of comparably skilled working men and women in the United States.

No amount of reason will assuage the fears or overcome the bigotry of those who oppose immigration irrationally. However, experience has shown that the ebb and flow of anti-immigrant sentiment is closely linked to economic cycles in the United States; this linkage provides good reason to believe that the mainstream view of immigration is determined less by prejudice than by perceptions regarding the impact immigration has on the domestic wages and working conditions. As unemployment rises, immigrants are seen as undercutting the labor market and taking jobs that would otherwise go to citizens. When unemployment is low, anti-immigrant sentiment subsides, and policy makers call for increased levels of immigration to ease inflationary pressures associated with a tight job market (“Alan Greenspan” 2000).

Economic conditions are for the moment as conducive toward meaningful policy reform as at any time since the 1970s. As appears in Chart 1, polling indicates that fewer North Americans presently believe immigration levels should be decreased than at any time since the 1960s. Beyond a decline in anti-immigrant sentiment, polls reveal a small increase in support for even greater levels of immigration.

FIGURE 1: Public opinion trends toward immigration levels, 1965-2000.



Source: <http://www.gallup.com/poll/indicators/indimmigration.asp>.

But a sound policy toward transborder labor flows should make sense in both A and B cycles. Economic theory supports the view that immigrant labor does indeed impact upon domestic labor markets. Economists argue that the supply of labor plays a critical role in determining wages. The larger the labor supply, the more workers a firm will find who are willing to work at a lower wage (Mankiw 1998, 389). Therefore, as substantial numbers of immigrant workers enter the domestic labor market, downward pressure on prevailing wages and working conditions increases. The theoretical result should be a falling wage and standard of living for workers who compete with immigrant workers.<sup>1</sup>

U.S. immigration policy has long sought to protect the U.S. labor market against the adverse impact of low-wage, immigrant labor flows. In both boom and bust, however, the nation attempts to do so primarily by way of physical border controls, and, since 1986, through employer sanctions. The growing consensus, however, is that employer sanctions and border policing are of scant efficacy in preventing the entry or employment of undocumented laborers (Andreas 1998, 603-04).

Paradoxically, when border controls and employer sanctions fail, current law tends to exacerbate the impact of unauthorized immigration on domestic labor markets. It does so in two principal ways:

First, U.S. law has no statute of limitations on deportation. Therefore, immigrant workers remain low wage laborers long after their wage expectations would normally approach prevailing labor market rates were it not for their persistently precarious legal foothold in the United States.

Second, for however long this legal disadvantage persists, existing law permits employers to exploit undocumented employees with virtual impunity. For example, although an employer may be fined for *hiring* an unauthorized worker, there is no penalty for paying that worker less than a documented cohort performing the same or similar work, nor is there any penalty for discriminating against an undocumented worker with respect to wages, benefits or health and safety standards.<sup>2</sup>

In short, existing law maximizes whatever downward pressure immigrant labor may place on domestic wages by prolonging undocumented workers' legal limbo and by permitting employers to exploit workers' precarious legal standing with impunity.

There are two obvious ways to improve upon existing public policy: First, the United States should enact a general amnesty and fix a reasonable statute of limitations on deportation. Second, the Civil Rights Act of 1964 should be amended to include among its proscriptions discrimination on the basis of immigration status in all respects other than hiring. Analogous state labor laws should similarly bar discrimination against the undocumented in all respects other than hiring.

Such measures would reduce the artificial incentives the law creates for workers to undercut each other's wage demands, thus applying a partial brake on the "race to the bottom" in which wages equalize at the lowest possible level, while returns to capital spiral ever-higher. The rising tide of the market economy would then have a much better chance of lifting all boats— those of immigrants, as well as those of native workers. Importantly, analogous measures have proved workable in other advanced industrialized countries, and there is every reason to believe that such measures might work here as well.

The suggested amendments to U.S. immigration policy would likely also confer substantial direct benefits upon Mexico's economy as well. The flow of remittances from Mexican nationals working in the U.S. into Mexico is substantial. The Banco de México reports about \$4.7 billion in remittances for 1997, and remittances climbed to \$5 billion during 1998 (Zárate-Hoyos 1999). In 1999, remittances grew to an estimated \$6 billion, accounting for more than 1 percent of Mexico's gross domestic product ("A Survey of Mexico" 2000).

This suggests the advisability of policies to encourage greater repatriation of remittances into Mexico. One way this may be accomplished is by reducing the disadvantages undocumented Mexican workers experience in the U.S. labor market. Although Mexico has traditionally avoided public positions that suggest meddling in the internal affairs of the United States, the linkages between the economies of the two countries are becoming increasingly transparent. Under current conditions, then, it is certainly understandable that Mexico should support policies in the United States that would (i) further the legal and human rights of Mexican nationals resident there; and (ii) maximize Mexico's share of the wealth generated by the labor of its citizens abroad.

## II The role and impact of transnational labor flows in a globalizing economy.

The migration of low-wage laborers within the domestic labor market of the United States is nothing new. The suppliers of labor—working men and women—may move among the several states as a matter of constitutional right, yet despite the economic and legal norm of labor mobility within national markets, migrating workers have historically received a mixed welcome, if they were welcomed at all, by native regional populations (Boyer and Morais 1955, 242).<sup>3</sup>

Labor mobility across international borders is even more controversial. Interestingly, the entrenched opposition to international migration of labor is at least partially incongruous given the nearly universal embrace of free trade. Freeman (1993, 449) observes:

Support free trade, and you are mainstream. Express doubts, and your friends wonder which industry/union pays your rent. ... But declare yourself for open-door immigration, and you are dismissed as an idealist, maybe even as a card-carrying member of a human rights or amnesty group.

As we shall see, the economic impact of international migration on domestic labor markets bears many similarities to the impact of free trade in goods on domestic wage levels. In the absence of fair rules of competition, both phenomena encourage producers to externalize the true costs of production, whether by disregarding environmental standards or the unabashedly exploiting the precarious legal standing of undocumented immigrant labor.

In effect, current law encourages a two-tier wage scale in the U.S. labor market: one, a sub-market scale controlling wages paid the undocumented; the other, a market-determined scale applicable to all other workers. U.S. immigration policy is therefore plainly inconsistent with the nation's nominal support for international labor standards ("The Battle in Seattle" 1999). If, as all appear to agree, fair labor standards are a *sin qua non* of globalization, then such standards should clearly apply within the domestic U.S. labor market.

As noted, it is commonly assumed that undocumented immigrant labor places downward pressure on wages and working conditions prevailing in a domestic labor market. Although this assumption is not free of controversy, it is consistent with mainstream economic theory.

Economic theory holds that labor, land, and capital are the three "factors" or inputs into production. Of the three, labor "is the most important factor of production, for workers receive most of the total income" earned in the economy (Mankiw 1998, 384). Neo-classical theory of labor markets—also known as marginal analysis—proceeds as follows: On the demand side, it assumes (i) that a firm's aim is to maximize profit; and (ii) that the use of labor is subject to the law of diminishing marginal returns: that is, at some point the marginal product of additional units of labor begins to decline.

According to this view, a firm will hire workers so long as each additional worker's wages do not exceed the marginal value of the additional goods his or her labor produces. In essence, if a firm can sell what the worker produces for more than it pays him or her in wages, then it will employ the worker (Kaufman 1988, 175).

Thus, the upper limit of the price at which a firm purchases worker's labor—wages—is determined by his or her productivity: that is, the market value of the goods and services

a worker produces in a given amount of time. This theory predicts that, *ceteris paribus*, the amount of labor a firm demands—and accordingly its output of goods and services—will decline as wages increase and, conversely, increase as wages decline.

The floor of the wage scale, on the other hand, is largely determined by the supply of labor: that is, the number of workers in an economy who will exchange their labor over the wage curve. Generally speaking, the larger the labor supply, the more workers a firm will find who are willing to work at a lower wage.

In a perfectly competitive market, the wage ceiling and floor adjust until the amount of labor supplied equals the amount of labor demanded. At equilibrium, wages equal the marginal product of labor. If more workers are added to a firm's payroll, the marginal output from each extra worker is presumptively lower, so they must accept a lower wage or the firm will not hire (Mankiw 1998, 389).

Marginal analysis of labor markets is complicated, however, by several additional variables: First, demand for labor is a derived demand: that is, a firm's demand for labor depends on the demand for its product in the marketplace. As market prices for a firm's product rise, the marginal value of labor increases, and so should employment.

Second, a worker's productivity is influenced by the deployment of capital, including "human" capital: that is, the skills and training he or she brings to the productive process. This suggests that the introduction of more unskilled workers into an economy does not directly increase the supply of skilled labor. For example, the additional of many thousands of farmworkers into the labor force does not increase the supply of doctors, nor directly affect the wages doctors command in a given economy.

Third, the marginal product of labor is linked to physical capital as well. Generally speaking, the more capital—the equipment and structures used to produce goods and services—a firm employs, the greater the marginal output of each of its workers.

Finally and most importantly, relative to other costs of production, wages tend to be "sticky": that is, workers' wage demands do not precisely follow market supply and demand, but are influenced by, *inter alia*, workers' expectations regarding a fair wage. This is important when considering the impact of immigrants on domestic wages and working conditions. "The ... wage 'penalty' for membership in [the immigrant] cohort [normally] disappears with time in the United States. This suggests that as immigrants assimilate they 'melt' into the U.S. market, and any crowding effects are diluted" (Abowd and Freeman 1991, 19).

Stickiness in sub-market wage expectations may, of course, be extended artificially by placing immigrant workers at a continuing legal disadvantage vis-a-vis comparably skilled domestic cohorts. As we shall see, that is precisely the impact of current law and policy in the United States.

A fundamental premise of mainstream economic theory is that specialization according to comparative advantage leaves both parties to an exchange better off. A comparative advantage exists when one country is able to produce a good at a lower relative or opportunity cost than can a competitor. Whenever comparative advantage exists, there is an opportunity for mutually beneficial voluntary exchange.

In theory, when economic actors specialize in the production of goods in which they enjoy a comparative advantage and exchange for goods they are at a comparative disadvantage to produce, they enrich themselves both collectively and individually. The larger the

difference in comparative advantage, the greater the individual and collective benefits realized from specialization and trade.

Generally speaking, a country with a large, unskilled labor supply enjoys a comparative advantage in labor-intensive, low-capital production, while advanced industrialized countries, with smaller, better-educated work forces and large capital accumulations, enjoy a comparative advantage in capital-intensive, high-technology manufacturing and services. Each country, the theory goes, should be encouraged to specialize in what it does best. This single 18th century theory supplies the principle justification for continued movement toward globalized commodity and capital markets.

Of course, such generalizations are not universally applicable to all individual workers. Not all workers the United States are highly educated or involved in the production of high-technology, capital-intensive, goods and services, nor are they ever likely to be. Neo-liberal economic theory recognizes that specialization according to comparative advantage—free trade—causes a reallocation of productive resources away from industries at a comparative disadvantage to those with a comparative advantage. The assumption is that this reallocation—particularly the displacement of workers from “old economy” jobs—is a temporary malady and an acceptable price for the overall gains consumers realize through trade.

In both Mexico and the United States, however, increasing specialization and trade have created a growing inequality in income and wealth. It is generally agreed that the earnings gap between highly skilled workers and workers with low skills has widened over the past 20 years (Mankiw 1998, 404). Three related phenomena contribute to growing inequality in the distribution of wealth: (i) stagnant or falling real wages; (ii) diminishing state resolve and ability to distribute income independently of labor market mechanisms; and (iii) the impaired ability of governments to manage unemployment through traditional Keynesian fiscal and monetary methods.

NAFTA and like market-integrating agreements, of course, are predicated on the assumption that trade will confer overall gains in productivity. Unfortunately, distributing those gains across populations is simply not automatic. For the majority of the population wages effectively determine one’s share of a nation’s total economic output. If regional trade pacts such as NAFTA generally place downward pressure on the market price of labor in advanced capitalist economies, then distributive equity, absent remedial labor market regulation, will necessarily suffer despite overall gains in gross national product.

In all events, “it is now widely understood that the median wages of Americans have been falling since 1973 and that this trend has accelerated since the early 1980s” (Mankiw 1998, 404). The general trend toward stagnating wages in the United States is illustrated in Table 1.

TABLE 1: Share of Aggregate Income Received by Each Fifth and Top 5 Percent of Households, (All Races): 1967 to 1999.

(Households as of March of the following year)

Year	Number (thous. )	Shares of aggregate income					
		Lowest fifth	Second fifth	Third fifth	Fourth fifth	Highest fifth	Top 5 percent
1999	104, 705	3. 6	8. 9	14. 9	23. 2	49. 4	21. 5

1998	103, 874	3. 6	9. 0	15. 0	23. 2	49. 2	21. 4
1997	102, 528	3. 6	8. 9	15. 0	23. 2	49. 4	21. 7
1996	101, 018	3. 7	9. 0	15. 1	23. 3	49. 0	21. 4
1995 25/	99, 627	3. 7	9. 1	15. 2	23. 3	48. 7	21. 0
1994 24/	98, 990	3. 6	8. 9	15. 0	23. 4	49. 1	21. 2
1993 23/	97, 107	3. 6	9. 0	15. 1	23. 5	48. 9	21. 0
1992 22/	96, 426	3. 8	9. 4	15. 8	24. 2	46. 9	18. 6
1991	95, 669	3. 8	9. 6	15. 9	24. 2	46. 5	18. 1
1990	94, 312	3. 9	9. 6	15. 9	24. 0	46. 6	18. 6
1989	93, 347	3. 8	9. 5	15. 8	24. 0	46. 8	18. 9
1988	92, 830	3. 8	9. 6	16. 0	24. 3	46. 3	18. 3
1987 21/	91, 124	3. 8	9. 6	16. 1	24. 3	46. 2	18. 2
1986	89, 479	3. 9	9. 7	16. 2	24. 5	45. 7	17. 5
1985 20/	88, 458	4. 0	9. 7	16. 3	24. 6	45. 3	17. 0
1984	86, 789	4. 1	9. 9	16. 4	24. 7	44. 9	16. 5
1983 19/	85, 290	4. 1	10. 0	16. 5	24. 7	44. 7	16. 4
1982	83, 918	4. 1	10. 1	16. 6	24. 7	44. 5	16. 2
1981	83, 527	4. 2	10. 2	16. 8	25. 0	43. 8	15. 6
1980	82, 368	4. 3	10. 3	16. 9	24. 9	43. 7	15. 8
1979 18/	80, 776	4. 2	10. 3	16. 9	24. 7	44. 0	16. 4
1978	77, 330	4. 3	10. 3	16. 9	24. 8	43. 7	16. 2
1977	76, 030	4. 4	10. 3	17. 0	24. 8	43. 6	16. 1
1976 17/	74, 142	4. 4	10. 4	17. 1	24. 8	43. 3	16. 0
1975 16/	72, 867	4. 4	10. 5	17. 1	24. 8	43. 2	15. 9
1974 16/15/	71, 163	4. 4	10. 6	17. 1	24. 7	43. 1	15. 9
1973	69, 859	4. 2	10. 5	17. 1	24. 6	43. 6	16. 6
1972 14/	68, 251	4. 1	10. 5	17. 1	24. 5	43. 9	17. 0
1971 13/	66, 676	4. 1	10. 6	17. 3	24. 5	43. 5	16. 7
1970	64, 374	4. 1	10. 8	17. 4	24. 5	43. 3	16. 6
1969	62, 874	4. 1	10. 9	17. 5	24. 5	43. 0	16. 6
1968	62, 214	4. 2	11. 1	17. 5	24. 4	42. 8	16. 6
1967 12/	60, 813	4. 0	10. 8	17. 3	24. 2	43. 8	17. 5

Source: U.S. Census Bureau, Historical Income Tables - Households, Table H-2.  
[<http://www.census.gov/ftp/pub/hhes/income/histinc/h02.html>]. September 20, 2000.

The trend, then, has been a modest increase in high-wage service jobs, but also large increase in low-wage workers who “service the lifestyles and consumption requirements of the growing high-income professional and managerial class” (Sassen 1989, 824-27).

Though this polarization of the U.S. workforce has many implications, for present purposes the important point is that U.S. labor is increasingly exposed to international competition in the production of many goods and services. Because labor may add value to commodities in far-flung parts of the world, and then, in effect, flow into the United States under increasingly liberalized free trade rules in the form of goods or tradable services, the position of unskilled or low-skilled U.S. workers is becoming ever-more precarious. When such workers’ wage demands become “uncompetitive” in the global labor market, firms simply move production off-shore.

The ability of global capital to force workers into a race to the bottom, however, is not unfettered. Workers involved in producing *non-tradable* goods and services—government, construction, building maintenance, food preparation, health care, and so forth—still comprise a relatively stable workforce and, accordingly, play an increasingly important role in establishing wage rates in the domestic labor market. It goes without saying that such workers are also key to the future of trade unions. Workers in many of these occupations are also heavily immigrant and often undocumented.

In California, for example, immigrant workers now make up about one third of the entire work force (Lopez and Feliciano 2000). The immigrant labor supply may itself be divided roughly in half: between relatively high-wage workers—physicians, engineers, and computer programmers—and low-skilled laborers (26). Over 70 percent of California’s low- and unskilled immigrant labor force is from Mexico and Central America. Latino immigrants account for 62 percent of all agricultural workers, 42 percent of factory workers, 49 percent of laborers, and 36 percent of service workers (33).

From the foregoing, it is apparent that trade, capital, and labor are closely related. Whether a worker involved in producing tradable goods is displaced by increased capital utilization, by low-wage labor adding value in other countries, or by an increase in the supply of low-wage laborers in the domestic labor market makes little difference: he or she is displaced just the same.

The significance of this interrelationship for present purposes lies in the observation that at least in the short term, free trade will add to market forces encouraging immigration. Sassen (1989, 814) describes the linkage between globalization and immigration:

In the 1960s and 1970s, the United States played a crucial role in the development of today’s global economic system. It was a key exporter of capital, promoted the development of export-manufacturing enclaves in many Third World countries, and passed legislation aimed at opening its own and other countries’ economies to the flow of capital, goods, services, and information. The emergence of a global economy—and the central military, political, and economic role played by the United States in this process—contributed both to the creation abroad of pools of potential emigrants and to the formation of linkages between industrialized and developing countries that subsequently were to serve as bridges for international migration. Paradoxically, the very measures commonly thought to deter immigration—foreign investment and the promotion of export-oriented growth in developing countries—seem to have had precisely the opposite effect. The clearest proof of this is the fact that several of the newly industrializing countries with the highest growth rate in the world are simultaneously becoming the most important suppliers of immigrants to the United States.

Export-led industrialization, then, expands the pool of low-wage labor and migration-promoting bridges between emerging and advanced capitalist states. “In export manufacturing, the catalyst for the disruption of traditional work structures is the massive recruitment of young women into jobs in the new industrial zones. ... This mobilization of large numbers of women into waged labor has a highly disruptive effect on traditional, often unwaged, work patterns. ... Village economies and rural households depend on a variety of economic activities traditionally performed by women... All these activities are undermined by the departure of young women for the new industrial zones. ... One the most serious—and ironic—consequences of the feminization of the new proletariat has been to increase the pool of wage laborers and thus contribute to male unemployment” (821).

Andreas (1998, 609) similarly notes that “studies suggest that the combination of NAFTA and side-effects of Mexico’s own domestic market reforms will add as much as several hundred thousand to the number of Mexicans who migrate to the United States annually. This will, or course, further enhance the cross-border social networks that provide a critical base and bridge for later immigration flows. ... Market-based reforms in Mexico’s agricultural sector have become a particularly important stimulus of illegal immigration.” The U.S. Immigration and Naturalization Service, anticipating the increase in undocumented immigration the North American Free Trade Agreement would likely

spawn argued in November 1993 that the agreement would require strengthening enforcement efforts along the U.S.-Mexico border (Nevins 2000).

### III CRITIQUE OF U.S. POLICIES TOWARD THE LABOR MARKET IMPACTS OF MIGRATION.

The contemporary U.S. economy displays marked preferences for the import of (i) workers bringing high levels of human capital, and (ii) low-wage workers for services and labor-intensive production, notably agriculture and trade-sensitive light manufacturing. Formal U.S. immigration policy partially reflects these preferences.

U.S. law establishes two categories of labor-based permanent immigration, and several more of labor-based temporary immigration. Respecting permanent immigration, the United States allocates 57.2 percent of its annual labor-based immigration quota of 140,000 visas to aliens of “extraordinary ability in the sciences, arts, education, business or athletics” who will “substantially benefit prospectively the United States” (U.S. Code 2000a). Another 28.6 percent of the yearly quota is allocated to “immigrants who are capable ... of performing skilled labor (requiring at least 2 years training or experience), not of a temporary nature, for which qualified workers are not available in the United States”(U.S. Code 2000b). The remainder of the quota is divided among various smaller economic categories (investors, multinational executives and managers).

At bottom, the United States’ labor-based immigration policy encourages not so much the migration of labor, as the import of human capital: a mere 10,000 visas are allocated annually to unskilled workers who are able to demonstrate that they will not displace native workers in the domestic job market (U.S. Code 2000c).

The United States attempts to enforce restrictions on labor-based immigration primarily by way of physical border controls. A growing number of studies have shown that border policing exalts form over substance:

Judged purely on its actual deterrent effect, the enormous political popularity of the border control campaign seems rather puzzling. After all, while casual unauthorized crossings by local border residents have certainly been reduced as a result of enhanced controls, there is little evidence that determined long-distance border crossers in search of work in the United States are being seriously discouraged by the U.S. show of force along the border. A failing deterrence strategy, however, can still succeed politically. In this case, the border appears more orderly because much greater control has in fact been imposed at the major urban crossing points that are most publicly visible. Unauthorized crossings are much less visible because they are more dispersed, more remote, and more hidden. (Andreas 1998, 604)

Andreas (1998, 606) argues that “[b]order management is ... a game of image management. How the game shapes the perceptions of the spectators (the media, local residents in border areas, the broader public) has enormous political importance—regardless of whether or not the opposing players (the clandestine border crossers) are actually deterred.”

As noted, in 1986 the United States adopted a scheme to fine those who employ undocumented laborers (Immigration Reform and Control Act 1986). The 1986 law includes two components: one, a “paperwork” provision that obliges all employers to complete a form attesting to their having verified the immigration status of all employees; two, a prohibition on the hiring of undocumented labor. On average, hiring violation fines about three times as large as paperwork or verification fines (Fry, *et al.* 1995, 478).

A growing body of evidence indicates that employer sanctions have done little if anything to control immigration into the U.S. labor market. Although studies during the first few years of employer sanctions, detected significant reductions in unauthorized border crossings (Espenshade 1990), “the effect of IRCA apparently was temporary” (Perotti 1994). “Within the United States, there was little evidence to indicate that employer sanctions had diminished the numbers of undocumented job applicants. With the exception of nannies and housekeepers hired by formal agencies, “new (undocumented) arrivals were showing up in about the same numbers as before the law was implemented,” the Department of Labor found from field studies (Perotti 1994).

The explanations for this dearth of success are several. The emergence of a black market in counterfeit immigration documents has already been mentioned. Perhaps more importantly,

[i]nternational migration is a self-sustaining process ... Networks of immigrants establish economic and political relationships cemented by patterns of immigration that are difficult to reverse, even when the United States is in recession. As border apprehension figures increased in the early 1990s, undocumented immigrants searching for employment in the United States simply reckoned with higher but still-bearable costs: more money to purchase fraudulent documents, more supportive informal social networks to sustain them during their employment search, and more time to find employment. The result has been that IRCA has not yet worked “to protect the jobs of U.S. citizens” as many had hoped. (Perotti 1994)

Though they are of limited efficacy as a means of border control, employer sanctions, like legal penalties targeting undocumented workers themselves, appear to exacerbate the wage-penalty such workers experience in the U.S. labor market:

Congress also did not require employers to verify the authenticity of documents offered by laborers to prove their identity and right to work in the United States. ... Even if these documents later turned out to be false and the worker was deported, the employer was not liable to prosecution if he or she could produce an I-9 form and a photocopy of the document they had seen. The predictable result was a boom in the market for fraudulent documents.

Despite the low odds of prosecution under the law, employers did face some new risks, particularly if they relied heavily on unauthorized labor. To compensate themselves for these new risks, *employers embarked on a pattern of systematic wage discrimination against Latinos in general and undocumented Mexicans in particular*. Rather than taking the time and trouble to identify which migrants were undocumented, they simply discriminated against foreign-looking workers; and *rather than denying them jobs, they simply lowered their wages*. (Durand, Massey and Parrado 1999)

There is little consensus in the literature regarding the size of the wage penalty employer sanctions impose on undocumented workers. Fry, *et al.* (1995, 482-3), for example, detect only a small downward effect of the employer sanctions’ paperwork provisions on metropolitan wage rates, and a small increase in employment of authorized workers as a result of hiring penalties. Part of the difficulty here seems to be in controlling for other variables: the varying vigor of enforcement from place to place and industry to industry; the availability and cost of fraudulent documents; the impact of the threat of deportation on wage demands; the elasticity of undocumented workers’ wage demands; and so forth.

A second effect of employer sanctions has been to force more workers deeper into the informal economy. In a 1989 survey, for example, growers reported that they had increased their reliance on farm labor contractors, at the expense of direct hiring, in response to employer sanctions (Martin and Taylor 1990). California unemployment insurance claims involving farmworkers laid off by farm labor contractors, as opposed to growers, increased by more than 25 percent with the onset of employer sanctions (Taylor and Thilmany 1993). Workers employed by farm labor contractors “have lower mean earnings than non-FLC workers. FLC workers also have lower mean experience with the same employer, consecutive employment with the same employer, and regional experience, which illustrate the relatively unstable nature of FLC employment” (Taylor and Thilmany 1993).

A third effect of employer sanctions, owing to the obligation the law imposes on all employers to complete paperwork attesting to their having verified the immigration status of all employees, is an overall reduction in employment. “[A]n increase in the expected paperwork fine lowers the demand for both authorized labor and unauthorized labor [because it] increases the quasi-fixed nonwage costs of these labor inputs, and hence induces substitution of capital services for these labor inputs” (Fry, *et al.* 1995, 471).

U.S. immigration control methods also have profound effects for Mexico and Mexican nationals. Most tragically, border policing has resulted in hundreds of deaths as unauthorized border crossers have been diverted to remote entry points along the vast U.S.-Mexico border. The death toll along the California-Mexico border since October 1994—when “Operation Gatekeeper,” an enhanced border policing operation began—now amounts to some 603 individuals (Nevins 2000). As has been seen, this loss of life has done little to stem the flow of unauthorized entrants, but is apparently indispensable to creating the public perception that the border is under control.

Employer sanctions and the perpetual threat of arrest and deportation force those who survive the hazardous crossing deeper into informal employment relationships, where substandard wages and working conditions increase exploitation and impair workers’ ability to provide for their families and communities through remittances.

As noted, the flow of remittances from Mexican nationals working in the U.S. into Mexico is substantial— about \$5-6 billion annually (Zárate-Hoyos 1999). Remittances significantly exceed foreign aid and foreign exchange earned through agricultural exports, and until recently were Mexico’s third largest earner of foreign exchange behind oil exports and tourism. In years past remittances have exceeded foreign direct investment in Mexico, thus helping the country to cover trade balance deficits (Zárate-Hoyos 1999). In 1996 1.1 million households in Mexico were the direct beneficiaries of remittances.<sup>4</sup>

One way encourage greater repatriation of remittances into Mexico is to reduce the disadvantages undocumented Mexican workers experience in the U.S. labor market. By protecting such workers’ rights under minimum wage laws and to organize freely for purposes of collective bargaining, at least part of the market rents U.S. employers now exact at the expense of Mexican workers would instead be repatriated to Mexico in the form of remittances. The amount of such increases, while perhaps not amenable to precise calculation,<sup>5</sup> would undoubtedly be substantial.

Key data on the likely effect of a improved protections for Mexican workers is provided by the *Encuesta Nacional de Migración a la Frontera Norte y a los Estados Unidos* (“EMIF survey”). During the EMIF survey period (March 1993-March 1994), 518,000

migrant workers with a residence in Mexico returned from the United States. The survey also identified 478,000 Mexicans, about 48 percent of the total data sample, whose residence was in the United States, but who had returned to Mexico for a visit during the survey year. This subgroup can be regarded as “permanent” migrants, since their residence is in the United States, and thus they were effectively visiting Mexico at the time of the interview. This group represents a considerable number of permanent U.S. residents who nevertheless retain close links with Mexico.<sup>6</sup> This is also the group that would most likely benefit from a statute of limitations on deportation or a general amnesty.

The EMIF survey data show that the permanent migrant subgroup sends remittances to Mexico amounting to \$3,745 per migrant: 28 percent of the total flow (Zárate-Hoyos 1999). It is estimated that approximately 34 percent of these permanent migrants lack legal documents to work in the United States. A general amnesty, coupled with a statute of limitations or “floating” registry date<sup>7</sup> would go far toward increasing the gross remittances to Mexico from the 34 percent of permanent migrants who lack legal documents to work in the United States.

The U.S. Department of Labor’s Bureau of International Labor Affairs found that workers who legalized in 1987-88 earned approximately 15 percent more in constant dollars than they had as undocumented workers (DOL Bureau of International Labor Affairs 1996). Thus, on average an undocumented worker can expect a 15 percent wage increase as a result of gaining the legal right to work in the United States. Other analysts have calculated an average wage advantage of documented immigrant men over undocumented immigrant males of 41.8 percent (Rivera-Batiz 1999).

Extrapolating from these figures, one could project a direct increase in remittances to Mexico from a general amnesty of between \$210 million and \$585 million per annum.

#### IV CASE STUDY: THE LABOR-LED IMMIGRATION-REFORM COALITION OF LOS ANGELES

Throughout the last half of the twentieth century organized labor generally supported border controls and employer sanctions as a way to protect the market position of domestic labor. By the 1980s, however, union membership in the United States was in a freefall. Although there are various causes for the decline in union membership, the AFL-CIO’s general antipathy toward immigrants did not help matters (Milkman 2000, 10).

The election in 1995 of John Sweeny to the presidency of the AFL-CIO acknowledged the need for institutional reform to address organized labor’s increasingly precarious position. Milkman, et al., (2000) document several organizing drives involving primarily immigrant workers, which demonstrated to the new leadership of organized labor the possibilities of expanding union membership. These successes generally opened up the national AFL-CIO leadership to new policy options that supported the position of immigrants in the U.S. labor market.

On the national level, labor’s support for immigrant workers is as yet tentative. Beyond supporting organizing drives among immigrants, organized labor has moved slowly in operationalizing its nominal pro-immigrant stance. Most of the impetus for pro-immigrant policy reform has come from a handful of affiliates in heavily immigrant areas, particularly the Service Employees International Union and the Hotel Employees and Restaurant Employees Union in Los Angeles. These unions have taken an active stance toward creating a public impression of organized labor as a friend to immigrants generally, and toward this end, have entered into coalition with community-based

immigrant organizations. The following describes the genesis and development of the labor-led coalition for immigration reform (CIR). The nominal goal of the CIR is legislation conferring legalization or a general “amnesty” on undocumented workers with deep ties to the U.S. labor market.

The CIR brings together several labor unions—the SEIU and the HERE, the Association of Federal, State, County and Municipal Employees (AFSCME), the United Farmworkers Union (UFW), United Teachers of Los Angeles (UTLA), and umbrella labor groups such as the Los Angeles County Federation of Labor and the California Labor Federation—and numerous immigrant advocacy and religious organizations: the Coalition for Humane Immigration Reform-Los Angeles (CHIRLA), the Central American Resource Center (CARECEN), the Justice and Peace Commission of the Archdiocese of Los Angeles (JOPC), Proyecto Pastoral, the Guatemalan Unity Information Agency (GUIA), One Stop Immigration and Education Center, Hermandad Mexicana, El Rescate, Korean Immigrant Workers Association (KIWA), the Coalición Mexicana, the William C. Velásquez Center, the Thai-American Citizens’ Alliance, the Coalición de Organizaciones Zacatecanos, the Association for Residency and Citizenship of America (ARCA), and the Center for Human Rights and Constitutional Law (CHRCL).

From the perspective of labor, public support for immigrants and immigrants’ advocacy groups is an essential step toward creating a more favorable image of labor unions within the immigrant community. Labor organizers interviewed by the author uniformly expressed the hope that labor’s support for immigrant workers would translate into workers’ support for labor during organizing drives. By forging alliances with immigrants’ rights CBOs, labor sees an opportunity to take advantage of the support and legitimacy such groups enjoy within various immigrant communities.

From the standpoint of the CBOs, organized labor offers a powerful infrastructure and stable resource base typically beyond the means of CBOs: a presence in Washington, D.C.; expertise in legislative advocacy; support amongst and access to political officeholders; resources such as meeting halls and telephones; access to the mass media; and expertise in organizing a national legislative campaign. In effect, the steady resources afforded by labor’s bounded constituency offers CBOs the stability and access to power they lack for effective advocacy at the national level.

As in most large-scale organizations, the commitment of a very few persons in leadership positions proved crucial to the development of a larger campaign. In this respect, the roles of SEIU Vice-President Eliseo Medina, HERE Local 11 President María Elena Durazo, and Los Angeles Country Federation of Labor President Miguel Contreras were essential. During interviews with the author, union staffers indicated that these leaders are interested in several objectives related to that mentioned earlier regarding organizing immigrant workers. First, staffers mentioned the desire of these leaders to improve the image of Los Angeles nationally as “a union town.” The perception among national AFL-CIO leaders is that Los Angeles is a city of low union density at least in part because of its large immigrant labor force. The relative weakness of Los Angeles’s union movement naturally translates into impaired influence at the national level, a sort of “glass ceiling” that the leaders of Los Angeles’s unions would like to transcend.

Second, staffers reported a growing sense of history among these union leaders: that is, that their legacy should include credit for developing and demonstrating the efficacy of a forward-looking, inclusionary unionism. In essence, these leaders want to be recognized as the architects of a new approach to labor organizing, one that accounts for the demographic and economic realities of global cities such as Los Angeles as an alternative to “old” unionism, which they blame in part for the declines in union membership

nationally.

Third, these union leaders clearly identify on a personal with immigrant workers. Eliseo Medina is himself a Mexican immigrant, and Maria Elena Durazo had a long history of working with pro-immigrant organizations, such as the Centro de Acción Autonomo, founded during the early 1970s by the late Chicano activist Humberto Corona, prior to joining the labor movement.

To date, the development of the CIR may be divided into three phases. In phase one, activist unions—primarily the SEIU and HERE locals in Los Angeles—mobilized support within their national and international organizations to mount a legislative effort. I am not privy to details regarding the actual funding for the CIR effort, but staffers informed me that the Los Angeles SEIU had received a commitment from an “anonymous donor” for over \$1 million to fund the general amnesty campaign. The donor had apparently visited Los Angeles to observe the SEIU’s Justice for Janitors campaign and come away suitably impressed with the union’s success in organizing immigrant workers to fund the CIR’s more general political work. Beyond funding, the national offices of both the SEIU and AFL-CIO have provided intelligence and planning to facilitate CIR input into pending immigration legislation.

In phase two, the Los Angeles activist unions began building alliances with local immigrants’ rights organizations. Although not extremely difficult, neither was this process automatic. Organized labor had a mixed reputation among immigrants’ rights advocates: on the one hand, it had become clear for several years that certain Los Angeles unions were active in organizing immigrant workers; on the other, labor’s pivotal role in the enactment of the employer sanctions provisions of the Immigration Reform and Control Act of 1986 had not been forgotten. In building alliances with CBOs, the aforementioned ties between the activist unions’ leadership and immigrants’ rights organizations helped.

The third phase required demonstrating significant mass support for the CIR’s principal objective: a new general amnesty. In this effort, coalition members were called upon to produce numbers at an event organized for June 10, 2000, at the Los Angeles Sports Arena. Speaking with organizers before the event, many expressed concern that insufficient attendance could doom national union support for the CIR’s effort. As it turned out, hundreds of supporters were turned away from the event after fire department officials declared that the facility had been filled beyond capacity. In attendance were AFL-CIO President John Sweeny, Cardinal Roger Mahoney of the Los Angeles Archdiocese, as well as numerous elected officials and their staffers. After the event, organizers expressed no small amount of satisfaction with the impression the event had left on the national AFL-CIO leadership.

The fourth phase of the CIR campaign appears to have two purposes: first, to continue building credibility with national labor leaders; and second, to show newly naturalized immigrants as a significant electoral force. This phase involved two campaigns: First, the CIR sought to take advantage of its proximity to the site of the Democratic National Convention to press its demands for a more forward-looking immigration policy. CIR members organized teams, which were assigned to make presentations to all 50 state delegations. The CIR also organized meetings with national political figures attending the convention, including House Minority Leader Richard Gephardt, and presidential candidate Al Gore.

Following the convention, the CIR turned its attention to the November 2000 elections. In this effort, however, the labor unions tended to downplay the role of the CBOs. Instead, a

labor-only, pro-immigrant coalition, the Organization of Los Angeles Workers (OLAW), emerged as the organizational vehicle for a vigorous campaign to get out the vote (GOTV).

The GOTV campaign targeted three congressional districts, which labor had identified as having large numbers of naturalized citizens and a vulnerable incumbent. These were the 27th, in which Republican James Rogan was challenged by Democrat Adam Schiff, the 38th, in which incumbent Republican Steve Horn faced Democratic challenger Gerrie Schipske, and the 36th, in which Democrat Jane Harman sought to unseat Republican Steven Kuykendall. The GOTV campaign was nominally non-partisan, but in effect sought the ouster of the three Republicans in the hope that Democrats would thereby regain control of the U.S. House of Representatives. The immigrants' rights CBOs agreed to support the electoral work largely because a Democratic majority in the house would translate into Democratic control over the House Subcommittee on Immigration and Claims, the key committee on immigration and one then chaired by Rep. Lamar Smith (R-Tx), who made no attempt to hide his rabid anti-immigrant stance.

The GOTV campaign involved precinct-walking, phone-banking, and like methods of increasing voter turnout. Ethnic voters, however, were the exclusive targets of the GOTV campaign.

The results of the GOTV campaign were announced at a CIR meeting November 29, 2000. Organizers produced figures comparing voter turnout in the targeted districts in 1996 and 2000. Of the three districts, the GOTV campaign had achieved its objective in two: Jane Harman had defeated Steven Kuykendall in the 36th, and Adam Schiff had unseated James Rogan in the 27th. In the 38th, although incumbent Steve Horn had retained his seat, organizers pointed out that his margin of victory was about half the 12 percent by which he had been expected to carry the district.

The trajectory of the CIR's work from here is somewhat unclear. The coalition has programmed a full day during which member-organizations will discuss future priorities.

The CIR arguably represents a new paradigm in labor organizing. In addition to traditional organizing and collective bargaining, activist unions are seeking to champion the interests of broad ethnic constituencies from which they hope to recruit members at the workplace. It is, of course, uncertain whether the CIR campaign will achieve its goal of a new amnesty program.

Of course, there are broader issues at stake in this effort regardless of the outcome of the CIR's legislative initiative: the future of labor unions in a globalizing economy, whether inequality in the distribution of income and wealth will continue to grow at its present rate or be slowed by the collective efforts of workers, whether native or immigrant; whether government is still committed to steering fiscal and monetary policy not only to combat inflation, but unemployment as well.

## V CONCLUSION

The foregoing has argued (i) that immigration to the United States may increase with economic restructuring in labor-exporting countries, particularly Mexico; (ii) that existing immigration controls are of limited value in reducing labor market impacts of immigration; and (iii) that legal disabilities on immigrant workers exacerbate their labor market impacts. By minimizing legal disabilities in the short term (proscribing wage discrimination on the basis of immigration status) and eliminating them in the long term (enacting a general amnesty and placing a statute of limitations on deportation), public

policy could begin to ameliorate these labor market impacts.

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<sup>1</sup> Although this view likely oversimplifies the actual functioning of labor markets (failing, for example, to account for the symbiotic role immigrant labor often plays), it is a view that informs much of the opposition to immigration from the public in general and organized labor in particular. But rather than disputing it, this article will instead consider policy options that are consistent with this widespread view regarding the labor market effects of immigration.

<sup>2</sup> Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352), *as amended*, 42 U.S.C. §§ 2000e *et seq.* Title VII prohibits employment discrimination based on race, color, religion, sex and national origin.

<sup>3</sup> Between 1910 and 1930 more than 1,000,000 Negroes moved north, where most of them entered industry and where a development of great historical importance took place when they made contact with the progressive trade union movement. ...

The differential in wages between white workers and Negroes, a difference which meant literally billions of dollars to the employers... [T]o perpetuate the division between white and black and thus keep all wages lower, industrialists consistently pursued policies that pitted white workers against Negro workers and frequently resulted in race riots. (Boyer and Morais 1955, 242).

<sup>4</sup> The economic benefits of remittances from the U.S. to Mexico are rather unevenly distributed for the present, but in many areas are clearly substantial. For Guanajuato, remittance flows alone are greater than the combined federal expenditure in education, health and social spending. At a minimum, remittances represent more than half of the expenditures for education in Guerrero and more than 15 times the federal expenditure on social projects in Guanajuato (Zárate-Hoyos 1999).

<sup>5</sup> As explained *ante*, standard labor market theory would predict that as the wage demands of undocumented laborers rise, their overall levels of employment would shrink. A decrease in the number of workers sending remittances could partially offset increases in remittances from those who remain employed. Of course, from the standpoint of the United States, such a result would achieve what employer sanctions have apparently not:

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a reduction in undocumented employment.

<sup>6</sup> Importantly, the proportion of migrants planning to stay in the United States for periods longer than six months increased in the second phase of the EMIF survey (December 1994 to December 1995). This suggests that the then-recent changes in immigration laws and increased border patrol vigilance might have the reverse results that were intended: Migrants are increasingly choosing to stay in the United States for longer periods rather than expose themselves to the increased difficulties in crossing the fortified border with the United States.

<sup>7</sup> Section 249 of the Immigration and Nationality Act, 8 U.S.C. § 1259, provides: “A record of lawful admission for permanent residence may, in the discretion of the Attorney General and under such regulations as he may prescribe, be made in the case of any alien ... if such alien ... establishes that he— (a) entered the United States prior to January 1, 1972.” Rather than requiring residence from a fixed date, a “floating” registry provision would require an alien to demonstrate residence for a specified number of years. It would in effect confer lawful status on persons who for all practical purposes have become attached permanently to the U.S. labor force.

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