CONTROLLING 'UNWANTED' IMMIGRATION: LESSONS FROM THE UNITED STATES, 1993-2004[1]

Wayne A. Cornelius

Center for Comparative Immigration Studies
University of California-San Diego

Nearly ten years into a large-scale experiment in immigration control launched by the Clinton Administration and continuing under George W. Bush, we can now say with some confidence what elements of this strategy have not worked, and why they have failed. Why a demonstrably failed strategy of immigration control *persists* is another key question, which I will address in the conclusion of this paper.

What this analysis reveals is that the most important lessons to be gleaned from the U.S. experience with controlling ostensibly "unwanted" immigration over the last decade are negative ones. There is no magic bullet, no quick fix, that has been devised by U.S. policymakers that is worthy of emulation by Britain or other labor-importing countries. What we in the United States have developed is essentially a finger-in-the-dike approach to immigration control, and we are quickly running out of fingers.

[SLIDE 2] During the 1990s, more than 11 million people were added to the U.S. population through immigration. As a percentage of total population, the foreign-born were still smaller at the end of the 20th Century than at the beginning of it, but in absolute terms, the growth of the immigrant population in the 1990s was unprecedented. That robust growth has continued into the current decade. According to the most recent estimate, by The Urban Institute's Jeffrey Passel, nearly 1.5 million immigrants are being added to the U.S. population

---

[1] An earlier version of this paper was presented as a public lecture in London, June 10, 2004, under the auspices of the Centre for Migration, Policy, and Society (COMPAS), University of Oxford. The referenced PowerPoint slides can be accessed at the COMPAS website, http://www.compas.ox.ac.uk.

each year, and at least one-third of that net growth in foreign-born population – about 500,000 per year -- is unauthorized. [SLIDE 3] Most of the stock of unauthorized migrants consists of clandestine entrants, but somewhere between 27-41 percent (depending on the government agency doing the estimating) are visa over-stayers. But how much of this immigration is truly "unwanted," and how much is the inevitable outcome of a set of policies and incentives that *generate* illegality?

[SLIDE 4] The polling data consistently show that the American public does not want an expansionary immigration policy. In poll after poll during the last 50 years, large majorities of Americans have favored either reducing the current level of immigration, or keeping it the same. [SLIDE 5] U.S. public's view of immigration today is predominantly negative, though opinion is clearly divided and not as negative as in the U.K., according to a cross-national survey of nine countries completed in May 2004.[2] [SLIDE 6] In the U.S., however, the salience of the immigration issue tends to be very low. In national surveys, no more than 1-2% of the respondents typically mention immigration as the most important problem facing the country – about the same percentage as those who believe that our principal problem is too much sex on television. Thus, anti-immigration sentiment in the United States is broad but not very deep.[3]

---

[2] National samples of about 1,000 residents of nine countries, interviewed by Ipsos/Associated Press, May 7-17, 2004. Admittedly, the intense negativity of British public opinion on immigration found in this survey may reflect short-term anxiety about a potential flood of economic migrants from the East European countries that joined the EU on May 1, 2004, which had been discussed extensively in the tabloid press. However, the percentage of respondents in public opinion surveys conducted in the U.K. who cite immigration as an important issue facing the nation has risen rapidly in recent years, and the latest datum is consistent with that trend (see "Immigration: The Natives Are Restless," *The Economist*, October 11, 2003). The immigration issue appears to be even more salient (and elicit greater negativity) among elites than the general public (see Gallya Lahav, *Immigration and Politics in the New Europe*, Cambridge: Cambridge University Press, 2004, pp. 84-86).

[3] The relatively low salience of immigration as a public policy issue in the United States is a consistent finding of survey-based research. See, for example, Thomas J. Espenshade and Maryanne Belanger, "Immigration and Public Opinion," in Marcelo Suárez-Orozco, ed., *Crossings: Mexican Immigration in Interdisciplinary Perspective* (Cambridge, Mass.: Harvard University Press/David Rockefeller Center for Latin American Studies, 1998).

Moreover, there are significant contradictions within the U.S. public's belief system on this issue. [SLIDE 7] For example, most Americans believe that immigration hurts the economy by driving wages down and causing unemployment among native-born workers. But as in the U.K., a two-thirds majority of Americans think that immigrants only take jobs that citizens won't do. Thus, they do not perceive any significant degree of direct competition between immigrants and native-born workers in the labor market.

[SLIDE 8] However grudgingly, Americans recognize the essential role of immigrant labor in the functioning and growth of the economy. And they keep hiring migrants for their businesses and homes, even during periods of recession.[4] [SLIDE 9] Accordingly, any strategy of immigration control that addresses only the supply side – the flow of unauthorized migrants – without reducing demand for the labor is doomed to failure, and it produces numerous unintended consequences. That is what the United States should have learned from the last ten years of policy experimentation, aimed ostensibly at discouraging "unwanted" immigration from Mexico and other Third World countries.

[SLIDE 10] One of the paradoxes of recent U.S. history is that the explosive growth of unauthorized immigration has been occurring at a time when the United States was spending considerably more on immigration control than ever before, especially on border enforcement. Congress has more than tripled spending for border enforcement activities since 1993.

The border enforcement build-up originated in the earliest months of the Clinton Administration. The President's political handlers were desperate to inoculate him against the anti-immigration backlash that had emerged in California in the early 1990s. That movement

---

[4] For evidence from employer interviews on continued recruitment of Mexican migrant workers during recent recessions in the United States, see Wayne A. Cornelius, "The Structural Embeddedness of Demand for Mexican Immigrant Labor: New Evidence from California," in Marcelo Suárez-Orozco, ed., *Crossings: Mexican Immigration in Interdisciplinary Perspective* (Cambridge, Mass.: Harvard University Press/David Rockefeller Center for Latin American Studies, 1998).

had secured the reelection of Republican Gov. Pete Wilson and the resounding approval of Proposition 187, the voter initiative that would have excluded undocumented immigrant children from the public schools and blocked them and their parents from using virtually all other public services, had it not been struck down several years later by the federal courts on grounds of unconstitutionality.[5] Clinton's advisors believed that a highly visible show of force on the border would neutralize Republican criticism of lax immigration control in the run-up to 1996, when the president would stand for reelection. Accordingly, the administration began shoveling unprecedented amounts of money into border enforcement.

[SLIDE 11] Rather than spreading out the new resources all along the southwest border, a decision was made to concentrate them on four relatively short segments of the border. Thus was born the "concentrated border enforcement strategy." The segments of the border that were to be fortified were those traditionally used by 70-80 percent of "illegals" entering from Mexico. First to be implemented was Operation Hold-the-Line in El Paso, Texas, in 1993, followed by Operation Gatekeeper in the San Diego area, in 1994, Operation Safeguard in central Arizona, launched in 1995, and Operation Rio Grande in south Texas, begun in 1997. The Arizona enforcement operation was beefed up in 2004 with a special, $10 million allocation for more Border Patrol manpower and hardware, and renamed the "Arizona Border Control Initiative."

This method of deploying the Border Patrol's resources was intended to raise the probability of apprehension in these four corridors to so high a level that potential migrants would be deterred from leaving their home communities in Mexico and other key sending countries. The logic of immigration policymakers was that if they could effectively control these main gates, "geography would do the rest," as former Immigration and Naturalization Service

---

[5] See Kent A. Ono and John M. Sloop, *Shifting Borders: Rhetoric, Immigration, and California's Proposition 187* (Philadelphia, Penna.: Temple University Press, 2002).

Commissioner Doris Meissner has recalled.[6] Formidable mountains and scorching deserts would deter crossings in more hazardous areas, like the Arizona desert.

[SLIDE 12] Satellite photos of the California-Mexico border region vividly illustrate the hazards that migrants face today if they try to cross anywhere east of the urbanized San Diego area today. [SLIDE 13] The first major obstacle that they encounter is the Otay Mountain range, where there is at least a 50 percent probability of encountering sub-freezing temperatures -- if not snow -- if the crossing is made anytime between mid-October and mid-April. [SLIDE 14] If migrants cross anywhere to the east of the Otay Mountains, they must pass through the Imperial Valley desert, where temperatures well over 100 degrees Fahrenheit are the norm during the period from June through September. Again, the U.S. immigration agency's planners simply assumed that no one would risk their lives trying to navigate around and through these extreme natural hazards. They now admit that this premise was egregiously wrong.

[SLIDE 15] The first step in fortifying the main gates was to erect a 10-foot-high steel fence to inhibit illegal entry through the San Diego and El Paso urban areas. [SLIDE 16] This "primary" fence was built by welding together corrugated steel landing mats left over from the Vietnam War and stored in government warehouses. [SLIDE 17] The primary fence in the San Diego sector ends in the Pacific Ocean. [SLIDE 18] Zodiac rafts patrol the ocean, to deter migrants from swimming or wading around the fence. [SLIDE 19] It is possible to dig under the primary fence. [SLIDE 20] Migrants and professional smugglers are constantly probing for the weak points in this barrier. [SLIDE 21] It can be cut through with acetylene torches and even simple saws. [SLIDE 22] Patching up holes in the fence is a non-stop job for the Border Patrol.

[SLIDE 23] It is also possible to climb over the fence, sometimes using ladders provided by people-smugglers. Even women and old people can do this. [SLIDE 24] But vaulting over

[6] Personal communication with the author, March 2003.

the fence in heavily patrolled, well-lighted urban areas usually results in quick apprehension by the Border Patrol, so most migrants now pass through outlying, undeveloped areas. [SLIDE 25] In some areas the Border Patrol has made it more difficult to climb over the fence by erecting vertical extensions made of fine mesh wire, angled back into Mexico. [SLIDE 26] The latest generation of border fencing technology consists of closely-spaced concrete poles. [SLIDE 27] This is essentially a "demonstration" project, because migrants can simply walk around the edges of it. [SLIDE 28] A few segments of the border have double or even triple fencing, to make the obstacle course more formidable.

[SLIDE 29] Other hardware innovations of the post-1993 border enforcement strategy include high-intensity, stadium-type lighting, [SLIDE 30] and remote-controlled, 24-hour-a-day video surveillance systems. [SLIDE 31] Each video surveillance unit is connected to hundreds of in-ground, seismic and magnetic sensors. As soon as a sensor is tripped the video camera pivots automatically to that area. [SLIDE 32] Unmanned video observation towers provide surveillance in more remote areas. [SLIDE 33] Helicopters are used routinely for apprehending large groups of migrants – the same model being used by the United States in Iraq and Afghanistan.

[SLIDE 34] Much of the Border Patrol's manpower is tied up doing "line-watch duty," just sitting in SUV's near the primary fence, watching for activity. In some areas agents are stationed every 100 yards or so. But there are still long stretches of the U.S.-Mexico border that have not yet been heavily fortified.[7] [SLIDE 35] Along most of the 350 miles of border in the state of Arizona, the only man-made barrier is a few strands of wire, strung on 3-foot-high metal poles. Over 400,000 apprehensions were made by the Border Patrol along the Arizona border in

[7] The U.S. border with Canada is even less fortified. Since the September 11, 2001 attacks, Border Patrol reinforcements have been rushed to the northern border, but by early 2004 fewer than 1,000 agents were patrolling the 4,100-mile border with Canada. This is ironic, since the single terrorist known to have attempted clandestine entry into the U.S., either before or after 9/11, came via Canada. Not a single suspected terrorist has been apprehended along the U.S.-Mexican border since the attacks.

the eight months beginning October 1, 2003. [SLIDE 36] There is now regular shuttle-van service connecting small "staging" towns, like Altár in northern Sonora, to popular crossing points on the Arizona border, like Sasábe. [SLIDE 37] The most heavily-used trails through the desert are patrolled, and many migrants are apprehended before they get to their pick-up point, which can be 20-40 miles inside the United States.

[SLIDE 38] Another technological enhancement of the post-1993 strategy of border enforcement is the IDENT system, a computerized data base that in which the photo, fingerprints, and other personal identifying information on each apprehended illegal migrant are entered. [SLIDE 39] This is exactly the same technology now being used at U.S. airports to document the arrival of all foreign visitors except those from "visa-waiver" countries. [SLIDE 40] The Border Patrol says that it uses this technology to spot migrants who are egregious recidivists – those have been caught perhaps 15 or more times. They are presumed to be professional people-smugglers rather than ordinary migrants.

But fewer than 4 percent of apprehended migrants are actually detained and prosecuted for illegal entry -- partly because it costs $90 a day to keep them in detention facilities, and bed space is very limited. [SLIDE 41] For the rest, if they are willing to sign a form attesting that they are "voluntarily" repatriating themselves, they are bused to a gate on the border, where they reenter Mexico. Such "voluntarily repatriated" migrants usually are in custody for only a few hours. [SLIDE 42] The vast majority try to enter again the next evening or within a couple of days. Smugglers typically give them three "free tries," and most do not need more than one or two.

[SLIDE 43] Long-distance repatriation is an option that the U.S. has used from time to time to discourage immediate reentry. During the month of September 2003 the Border Patrol

flew all migrants apprehended along the Arizona segment of the border to four border cities in the state of Texas. Mexican officials had denied permission for the apprehended migrants to be repatriated to destinations in the interior of Mexico. The official justification for this "lateral repatriation program" was to reduce fatalities among migrants who would otherwise have tried to reenter via the Arizona desert. [SLIDE 44] In 2004, the Bush administration pressured the government of Vicente Fox into accepting "deep repatriation" of an unspecified number of apprehended migrants to six cities in central and southern Mexico. It remains to be seen what percentage of the thousands caught at the border each week will opt for a free ride home. But bus tickets are cheap in Mexico, and even from the southern part of the country it should cost only about $100 and take two or three days for the average migrant to get back to the border.

What impact has the unprecedented border enforcement effort of the last ten years had on the flow of unauthorized migrants from Mexico? [SLIDE 45] Apprehensions rose sharply along the southwest border from Fiscal Year 1994 through 2001, as the border was being fortified, but beginning in 2001, apprehensions fell by about 25 percent each year for two fiscal years. [SLIDE 46] Since October 2003 the trend has been sharply upward: a 25 percent increase in apprehensions, borderwide, and much more in some sectors.

What do these fluctuations in apprehension statistics tell us about the actual flow of unauthorized migrants? The most plausible interpretation, in my judgment, is that apprehensions rose in the late 1990s because migrants were still learning how to evade the new obstacles. By 2001, that learning process was complete. [SLIDE 47] Furthermore, after eight years the concentrated border enforcement strategy had raised the financial costs and physical risks of illegal entry to the point that undocumented migrants were staying longer on each trip they made to the United States or settling permanently there. The data from surveys of Mexican migrants in

transit or returning from the U.S. suggest exactly that. Both legal and illegal migrants were staying longer in the United States in the late 1990s, but the sojourns of unauthorized migrants were especially extended.[8] If unauthorized migrants are not coming and going across the border, at least as frequently as in previous years, they are not at risk of being apprehended. The upturn in apprehensions beginning in late 2003 can be attributed to the U.S. economic recovery, which is creating large numbers of jobs and attracting new, first-time migrants to the United States. This analysis of trends necessarily is speculative, because we lack recent data gathered in migrant-sending communities about how the border enforcement build-up is affecting migration decisions. However, the weight of the evidence from various kinds of sources is that tougher border enforcement has been much more effective in bottling up unauthorized migrants inside the U.S. than in deterring them from coming in the first place.

[SLIDE 48] Such a conclusion is also consistent with the robust growth in the stock of illegal immigrants living in the United States that has occurred throughout the period of tighter border enforcement. An estimated 9.3 million undocumented immigrants were living in the United States by March 2002, of whom 5.3 million (57 percent) were from Mexico -- a huge increase over 1990.[9] Moreover, the percentage of undocumented immigrants working in specific sectors of the U.S. economy has continued to rise. [SLIDE 49] For example, undocumented immigrants now account for more than 60 percent of the total labor force in agriculture.

The most obvious consequence of the post-1993 enforcement strategy has been to redistribute illegal entries along the southwestern border. [SLIDE 50] Apprehensions have

---

[8] For further evidence of the shift toward longer stays and permanence in the United States as border enforcement tightened in the 1990s, see Douglas S. Massey, Jorge Durand, and Nolan J. Malone, *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration* (New York: Russell Sage Foundation, 2002), pp. 128-133.

[9] Jeffrey Passel, "Mexican Immigration to the US: Latest Estimates," *Migration Information Source* (Migration Policy Institute, Washington, D.C.), March 1, 2004.

dropped sharply along the California segment of the border, where most of the new Border Patrol resources were deployed, while the have risen sharply along the Arizona segment. [SLIDE 51] The main corridors for illegal entry in the pre-1993 period were San Diego, California; El Paso, Texas; and the South Rio Grande Valley in Texas. [SLIDE 52] The new “main gates” are the Tucson, Arizona, sector; El Centro, Calif.; and various points along the New Mexico border.

[SLIDE 53] As border control has tightened, a higher percentage of migrants have sought assistance from professional people-smugglers, and smugglers’ fees have skyrocketed. The average fee paid to a smuggler by an unauthorized Mexican migrant more than tripled since 1993, to $1,500-2,000 per head. Nevertheless, smugglers have not yet priced themselves out of the market, because the U.S.-based relatives of would-be illegal migrants have dug deeper into their pockets to help finance their crossings.

[SLIDE 54] The post-1993 strategy of border enforcement clearly has also greatly magnified the physical danger associated with illegal entry. In recent years, 400-500 migrants have died each year as a direct consequence of attempted illegal entry. Fatalities from January 1995 through May 2004 totaled more than 2,750. [SLIDE 55] Most migrants perished from dehydration and heatstroke in the deserts, or drowning in the Rio Grande River and the All American irrigation canal that runs along the border in California and Arizona. These statistics understate the number of deaths since they include only migrants whose bodies have been recovered by the Border Patrol and the Mexican police. [SLIDE 56] To put this death toll in perspective, the fortified U.S. border with Mexico has been more than 10 times deadlier to

migrants from Mexico during the past nine years than the Berlin Wall was to East Germans throughout its 28-year existence.[10]

[SLIDE 57] The probability of dying vs. being apprehended on the U.S.-Mexico border has doubled since 1998. [SLIDE 58] And the death toll continues to mount, in spite of an expanded search-and-rescue effort by the Border Patrol. In 2003, about 1,200 migrants were rescued from the deserts and mountains, but more than 422 still died. [SLIDE 59] Between one-quarter and one-third of the migrants who die in crossing the border in any given year are never identified. They end up in mass graves in municipal cemeteries along the border. U.S. officials invariably blame these deaths on professional people-smugglers, but the smugglers are only satisfying a demand that has been created largely by the current strategy of border enforcement.

[SLIDE 60] A final consequence of the post-1993 enforcement strategy has been to stimulate organized vigilante activity on the U.S. side of the border. [SLIDE 61] These paramilitary groups, with names like "Ranch Rescue" and "American Border Patrol," now operate in all four of the southwestern border states, but especially in Arizona. [SLIDE 62] They are heavily armed and have been acquiring increasingly sophisticated technology, like night-vision cameras. [SLIDE 63] Vigilantes have even deployed an unmanned aerial drone to keep unauthorized migrants under surveillance. [SLIDE 64] The official Border Patrol openly collaborates with these groups, receiving data from them and picking up groups of migrants whom the vigilantes have rounded up.

[SLIDE 65] In summary, this is what we can say about the consequences of the current U.S. strategy of border enforcement, after nearly ten years of implementation: Illegal entries have been redistributed along the Southwest border; the financial cost of illegal entry has been

---

[10] For further evidence and analysis of trends in migrant mortality along the U.S.-Mexico border, see Wayne A. Cornelius, "Death at the Border: Efficacy and Unintended Consequences of US Immigration Control Policy," *Population and Development Review*, Vol. 27, No. 4 (December 2001): 661-685.

raised sharply; undocumented migrants are staying longer in the U.S., and more of them are settling permanently; there has been a sharp rise in migrant deaths, and an alarming increase in anti-immigrant vigilante activity. [SLIDE 66] The following consequences have *not* yet materialized: That unauthorized migration is being deterred in places of origin; that would-be illegal entrants are being discouraged at the border after multiple apprehensions by the Border Patrol and going home; that their employment prospects in the U.S. have been curtailed; and that the resident population of undocumented immigrants is shrinking. All of the latter consequences were predicted by proponents of the post-1993 strategy of border enforcement.

[SLIDE 67] There are a number of alternatives to the current strategy of immigration control that are theoretically available to U.S. policymakers. One would be to return to the *status quo ante,* by dismantling the four existing concentrated border enforcement operations built since 1993. But each of these operations has developed its own political constituency. Residents of already fortified areas like San Diego, and their elected representatives, would never stand for dismantling the fortifications. Illegal entries have been pushed out of their sight, out of their backyards, and that is where they want it to stay. In short, “going back to square 1” is politically prohibitive.

Another option would be build a *real* “Maginot Line” of fortifications along the entire, 2000-mile border with Mexico, by extending or replicating the extant enforcement operations. But that would require tens of billions of dollars in new expenditures, and there would be major economic disruptions in border states and cities. Moreover, the record of the past decade is that fixed fortifications do not stop unauthorized migrants, any more than they stop mechanized armies. They simply rechannel them and create more opportunities for professional smugglers to cash in on the traffic.

Another option would be to strengthen enforcement of immigration laws in the workplace. Since 1986, the U.S. has had legislation that penalizes employers who knowingly hire unauthorized foreign workers, but enforcement of employer sanctions has always been at a token level. Congress has sent very clear signals to the executive branch that what truly matters in the immigration control game is *border* enforcement -- not interior enforcement. [SLIDE 68] Responding to these cues, the Immigration and Naturalization Service was devoting only 2 percent of its budget to worksite enforcement by the end of the 1990s. That is the fundamental reason why much tougher border enforcement during the last ten years has had such a weak deterrent effect on unauthorized immigration.

[SLIDE 69] During the 1990s, even as the U.S. border enforcement build-up was in progress, worksite enforcement virtually collapsed. By 2001, there were only 124 immigration agents assigned to full-time workplace enforcement in the entire country, compared with 9,500 agents on the border. [SLIDE 70] During the 2000-2003 period, only 12 unauthorized migrants per week were being apprehended at their workplace. In 2002, only 53 employers throughout the country were fined for immigration violations. In 2003, 74 employers received fines, and the average fine was only $9,729 – hardly a crippling penalty, almost a cost of doing business.

The federal government has tried to prosecute several major corporations for employing unauthorized workers (most notably, Tyson Foods, the giant chicken processor, and Wal-Mart, the country's largest retailer), but these companies have beaten the rap. The 1986 Immigration Reform and Control Act contains a giant loophole that inhibits prosecutions, and large corporations can afford the best in legal defense. That leaves the hundreds of thousands of mostly small and medium-sized firms that employ the bulk of unauthorized foreign workers. Most U.S. employers of unauthorized migrants pay them at least the legal minimum wage, and

both the employers and the workers regularly pay taxes on their earnings; so the only violation of the law is hiring immigrants who lack proper work authorization. Who wants to put small businessmen in jail – or drive put them out of business with heavy fines – for giving jobs to needy immigrants? [SLIDE 71] And needless to say, individual homeowners don't have to worry about immigration-law enforcement. They provide many of the jobs that go to unauthorized migrants in the United States: house cleaning, child care, elder care, gardening, small construction jobs, and so forth, and there is no government effort whatsoever to crack down on this type of employment.

The bottom line is that most members of the U.S. Congress simply have no stomach for the kind of economic disruptions and the constituent complaints that a systematic crackdown on employers of illegal immigrants would inevitably create. Nor has Congress shown any appetite for creating a new national system for verifying employment eligibility, without which effective worksite enforcement is quite impossible. There have been some small-scale, pilot programs to enable employers – on a voluntary basis -- to verify the authenticity of documents presented by job applicants, but Congress has not mandated any broader system. The fiscal, political, and technical challenges of creating an effective, fraud-proof, easily-accessed national system for verifying employment eligibility have blocked this option in the United States for nearly three decades. [SLIDE 72] One obvious impediment to effective employer sanctions enforcement is the proliferation of bogus documents that has occurred since the 1986 law was passed. Migrants can buy high-quality, customized IDs – or the "base documents" needed to obtain a new, government-issued ID card -- on any street corner in a Mexican border city.

[SLIDE 73] Another approach is to restrict migrants' access to public services in order to deter illegal entry and over-staying. This is the approach to immigration control that the state of

California tried to implement in the 1990s. Governor Wilson argued that once all public services were cut off, illegal immigrants would "self-deport," and those considering migration to California would be deterred. That was the logic embedded in the Wilson-backed Proposition 187, approved by 59 percent of the California electorate in 1994. The initiative's basic premise was demonstrably false. There was no scientific evidence to support the notion that decisions to migrate were being influenced by the availability of public services in California. But the passage of Proposition 187 generated enough fear and confusion in the immigrant community that parents stopped taking their children to public health care clinics. They did not "self-deport," but they did avoid using services to which their U.S.-born children were fully entitled.

The federal welfare reform law of 1996 had the same kind of effect. Inspired by Proposition 187, the federal law made not only unauthorized immigrants but legal permanent resident ineligible for virtually all federally-funded benefits, like food stamps and Medicaid, until they had lived in the U.S. for at least five years. "Welfare reform" stimulated no mass exodus of unauthorized migrants, and there was certainly no let-up in the massive wave of new immigration occurring in the second half of the 1990s. But immigrant parents whose children were eligible for benefits did not access them, due to confusion and fear of disclosing information about themselves to the authorities. About three-quarters of all children living in immigrant-headed households in the U.S. are U.S. citizens, and there was a significant decline in benefit use by such families in the latter half of the 1990s.[11] In short, restricting access to public services is a very blunt instrument of immigration control; it creates major social problems, and it does not discourage illegal immigration.

---

[11] Audrey Singer, "Welfare Reform and Immigrants: A Policy Review," in Philip Kretsedemas and Ana Aparicio, eds., *Immigrants, Welfare Reform, and the Poverty of Policy* (Westport, Conn.: Greenwood Publishing Group, 2004), p. 31.

Legalizing the migration flow to the greatest extent possible is another option. The United States could expand legal access to low-skilled employment, for migrants who would otherwise enter clandestinely or with visas lacking work authorization. This could be done either by increasing the number of permanent resident visas or by creating new guestworker programs, but the U.S. policy debate today focuses almost entirely on temporary worker schemes, which are characterized very carefully as *not* being "amnesties."

[SLIDE 74] A guestworker program is the centerpiece of the comprehensive immigration reform plan proposed by President Bush in January 2004. This plan been widely dismissed as an election-year ploy, and the Bush administration has done nothing to promote it in Congress; but it remains the flagship immigration reform proposal on the Republican side. It calls for a temporary worker program of unlimited size, with 3-year visas, renewable once (for a total of 6 years of employment). There is no nationality limitation, and migrants are permitted to work in any sector of the economy. The visa-issuance process is employer-initiated; a migrant must be sponsored by a specific U.S. employer. [SLIDE 75] The worker can apply either from his home country or from U.S. territory, but if he is already in the United States a "fee" (fine) must be paid. Family reunification during the visa period is permitted, but the visa-holder's dependents are not allowed to work in the United States unless they, too, obtain a temporary work visa. [SLIDE 76] The Bush plan provides a mechanism for converting temporary visa status to permanent residency, but there is no guarantee that this process can completed during the six-year limit for the temporary visa. The temporary visa holder can apply for a "green card" as soon as he gets his temporary visa, but he goes to the back of a very long queue. The President would seek from Congress a "reasonable annual increase" in the number of permanent resident visas, to shorten the waiting period. The plan provides no automatic path to U.S. citizenship;

temporary visa holders must convert to permanent legal residents, then apply for citizenship. [SLIDE 77] Neither is there a provision for immediate legalization of unauthorized immigrants already in the United States, regardless of their length of U.S. residence. If they obtain a temporary worker visa, such immigrants can be employed in the U.S. for 3-6 years but must go home at the end of this period unless they have obtained a "green card" in the interim. The Bush plan would create several economic incentives for repatriation (transferable social security benefits and "tax-preferred" savings accounts accessible only after repatriation). Finally, the President promises stepped-up enforcement of penalties against employers who continue to hire undocumented migrants.

[SLIDE 78] The Bush proposal leaves several key questions unanswered. First, will temporary visa holders be able to convert to permanent resident status (and eventually U.S. citizenship) within the six-year time limit? The answer to that question will depend on the number of additional "green cards" that Congress is willing to make available. With no guarantee that they will be able to complete the transition to permanent residency within six years, undocumented migrants already working in the United States will be hesitant to "out" themselves to the authorities in order to obtain a temporary visa. Many employers may also hesitate to participate in the temporary worker program, if they perceive its bureaucratic requirements to be too onerous. For example, the existing H-2A temporary worker program for agriculture is not perceived as sufficiently user-friendly to attract large-scale employer participation; only 15,628 visas were issued under this program in Fiscal Year 2002. Finally, it is highly doubtful that the U.S. Congress will support the massive effort to enforce employer sanctions promised by President Bush. Without such an effort, employers who now hire

unauthorized migrants off the street will have little incentive to change their labor recruitment method.

[SLIDE 79] Democrats in Congress have proposed an alternative plan. The main differences from the Bush plan can be summarized as follows. First, the Democrats provide *earned legalization for unauthorized migrants already in the United States* – i.e., "amnesty." Those who have been in the U.S. for at least 5 years and demonstrate English proficiency can apply for permanent residency immediately; those with less than 5 years of residence can apply for a green card after 2 years as temporary workers. Wives and unmarried children under 21 are also eligible for legalization. Second, the Democratic plan creates *two new temporary worker programs for low-skilled workers* – one for agriculture, one for non-agricultural employment. Together, the programs would grant up to 350,000 visas per year. Agricultural workers would receive visas for 9 months, renewable for up to 40 months; non-agricultural workers get 2-year visas, renewable twice for a total of 6 years. Temporary workers would have two guaranteed paths to permanent residency: An employer can petition on behalf of the worker as soon as he is hired; or the worker can petition for himself after two years of employment. Finally, under the Democrats' plan there would be *no major new effort to enforce immigration laws in the work place*.

The guestworker programs advocated by both Democrats and President Bush share a basic conceptual flaw, *i.e.,* the lack-of-fit between a temporary worker program and the needs/preferences of migrant workers and their employers. Even among Mexicans, who have a multi-generational history of short-term labor migration to the U.S., only about 1 out of every 10 or 12 now employed in the U.S. is working in a seasonal or "temporary" job. Because of technological changes, even agricultural jobs increasingly are year-round. Rotating temporary

workers through permanent jobs is simply not sound policy, and it invites – indeed, virtually guarantees – non-compliance with the terms of the program by both migrants and employers. But it *is* politically expedient, since hardly any politician wants to acknowledge that there are permanent jobs in the economy that cannot be filled with native-born workers, especially low-skilled jobs.

Guestworker programs also set up unrealistic public expectations about deterring new illegal immigration. Such programs can never dry up unauthorized migration unless they are very large – far beyond what is politically acceptable. So there are always parallel flows of legal temporary workers and illegal entrants. [SLIDE 80] The U.S. experience with the so-called "bracero" contract labor importation program for agriculture in the 1940s, 50s, and '60s provides a clear example. Not until this program was issuing more than 400,000 visas per year, in the second half of the 1950s, did the number of legal guestworkers equal the number of apprehended illegals. [SLIDE 81] Over the 22-year history of the "bracero" program, the total number of illegals known to have attempted to enter the labor market exceeded the total number of guestworker visa-holders.

In short, guestworker programs are always more efficient as vehicles for importing labor than for reducing unwanted immigration. And even if the program is perfectly designed to maximize repatriation of workers, there is always some leakage out of the program into long-term residence, which makes it necessary to create paths to legal permanency – "earned regularization," or whatever you want to call it. From a public policy perspective, it would be preferable to go directly to a sizable increase in permanent-resident visas ("green cards") to accommodate foreign workers and employers in labor-intensive industries. That is certainly a harder sell, politically, than temporary worker programs, but it is likely to yield better long-term

results, by giving migrants who are *de facto* permanent additions to the labor force a better platform for upward mobility and social integration.

[SLIDE 82] The United States has studiously avoided this route. We issue a total of about 100,000 visas a year to low-skilled *temporary* foreign workers, in all occupational categories (the largest single chunk to agricultural workers). But only 10,000 *permanent resident* visas are allocated each year to low-skilled foreign workers, based on their occupation rather than family ties. This represents only 6 percent of the total allocation of permanent resident visas. Total U.S. employer demand for low-skilled foreign workers is considerably larger than for high-skilled workers, to whom nearly 200,000 temporary visas were granted in 2002, but that reality is not reflected in the U.S. immigration system. Like the U.K. and most other labor-importing countries today, the United States is in denial about the structural character of the demand for low-skilled foreign labor. Most of the illegality in low-skilled occupations today is "manufactured" illegality -- a direct function of the unrealistically low quotas for low-skilled foreign workers, quotas which are set so low for political rather than market-based reasons.

[SLIDE 83] In the long run, the most effective approach to immigration control would be get serious about creating alternatives to emigration in the key sending areas. [SLIDE 84] In the case of the United States and Mexico, we know exactly where such efforts would need to be targeted: the roughly 5 percent of Mexican *municipios* (counties) that contribute the lion's share of migrants to the United States. Thus far, however, neither the U.S. nor the Mexican government has shown any serious interest in the "developmental approach" to immigration control. The time-line for results – probably at least 10-15 years -- is too long for most politicians, and in the United States a unilateral approach to immigration control is clearly preferred over bilateral efforts that depend on the Mexican government.

As David Blunkett recently acknowledged, there are “no fantasy islands” in immigration policymaking. “So you pick your solution. Either you have the big bang and the intellectual brilliant ideas that don’t work, or you try to muddle through.”[12] The United States went for the “big bang” in 1993, when the Clinton administration committed to a massive build-up of border enforcement. And we are still living with the unintended consequences of that electorally motivated policy choice.

---

[12] David Blunkett, “Managing Migration in the 21st Century,” Chatham House speech, 13 November 2003.