Illegal Aliens: Economic Aspects and Public Policy Alternatives

Walter A. Fogel
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In this Article, Professor Fogel discusses the economic impact of illegal aliens in the United States. He first notes that the size and incidence of these costs and benefits vary with the economic conditions in the United States. The Article next addresses the effects of illegal immigration in conjunction with periods of low and high unemployment. Finally, the author concludes with a discussion of policies designed to reduce the flow of illegal aliens and recommends an increase in legal immigration from Mexico during periods of low unemployment.

INTRODUCTION

This Article assumes that the reader has a general familiarity with the phenomenon of illegal aliens\(^1\) in the United States as it has existed over the last ten years\(^2\) and focuses on two aspects of that

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1. I shall use the term illegal alien rather than undocumented worker, the designation preferred by some. The latter term is intentionally less pejorative than the former and, as used by some writers, implies that the Mexican-United States border is simply an artifact which has been established rather recently in the history of the area. The former term, however, more accurately conveys the fact that these aliens are violating United States immigration law.

phenomenon: the consequences of illegal aliens, particularly those
effects which take place within the labor market, and the policy for
dealing with the illegal alien flow.

Five different kinds of impacts from the illegal immigration which
is now occurring will be cited: sociopolitical, population, labor
standards, direct social welfare costs, and market. The first four will
be analyzed very briefly before I discuss what I consider to be by far
the most important kinds of impacts, those which take place through
labor and product markets.

Sociopolitical Impacts

There has been little public discussion of the impact of current
illegal immigration on the social and political life of the United
States. The one exception of which I am aware suggests that illegal
aliens are now forming a significant underground population which
will not have access to the educational, political, and job market
institutions of this country and which will therefore become a sup-
pressed and alienated population containing the potential for major
social protests in the latter years of this century. This analysis seems
more imaginative than carefully reasoned. Although the flow of ille-
gal immigrants to the United States does carry with it the seeds of
social protest, this potential unrest results simply from the addition
of unskilled workers to the already superfluous ranks of unskilled
workers in this country. In other words, the source of the problem is
that the aliens enlarge the poverty population. The fact that the
additional poor are here illegally has little to do with their potential
for social protest. Earlier in this century, when more unskilled jobs
were available, illegal immigrants—especially Mexicans—were as-
similated into society without major disruption.

The apparent absence of concern with the social effects of illegal
immigration contrasts with earlier periods of public discussion of
immigration, most notably with the 1920’s when some public offi-
cials expressed concern that too many Mexicans were coming into
the United States. In contemporary society, the absence of racial
allusions does not mean that people no longer react to immigration in
racist terms. Racist proclivities no doubt continue to exist. Yet, the
fact that these proclivities are no longer aired publicly may mean
that there has been a decline in racial prejudice in the United States.
This decline may have reached the point that it is perilous rather

than advantageous for participants in public debate to raise purely racial issues.

This does not mean that immigration policy will be entirely free of racial influence, for if their constituencies are racist—even if inarticulately so—legislators will find ways of knowing this and will act accordingly on specific pieces of legislation. I propose, however, to think positively on this matter and assume that there is no great concern about the social impacts of illegal immigrants which result solely from their racial characteristics.

**Population**

The population of the United States is now growing at the rate of 1,600,000 persons per year. Most of this growth results from a relative concentration of females in the childbearing ages. Birthrates have now fallen to or below the level of population replacement, so that if these rates continue, zero population change from internal sources will be achieved near the end of this century. Obviously, when population in the United States is no longer growing from an excess of births over deaths, the only source of growth will be immigration. It is this fact that has prompted adherents of population control to become concerned with illegal immigration.

Legal immigration, at an annual level of 400,000 persons, accounts for about one-quarter of current population growth. The contribution of illegal immigration probably matches that fraction. Yet, if internal population growth ceases while the illegal flow to the United States continues or increases, the latter will account for one-half to three-quarters of future increases in population. The absolute numbers of 400,000 to 800,000 would only add 0.2% to 0.4% each year to the population of the United States. However, illegal immigration would be the major source of population growth and thus the major culprit in the eyes of those who want a constant or declining population.

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6. Id. at 31.
7. See Wirken, Borderhoppers: Checking the Traffic in Illegal Aliens, Skeptic, July/Aug., 1977, at 44.
Hence, illegal immigration increases the population of the United States. The assessment of that fact clearly depends upon the valuation one gives to population control.

**Labor Standards**

Generally, the economic effects of legal and illegal immigration are the same, for both essentially represent an increase in labor supply. However, the illegal variety does have one unique effect: it threatens labor standards.

These standards—established by national and state legislation on worker representation, minimum wages, hours of work, social security, safety, etc.—are threatened by the availability of illegal workers because these workers must accept jobs in establishments which ignore labor laws and because they are powerless to seek enforcement of those laws. Their powerlessness is due to their illegal status. They fear that any contact with an enforcement agency is likely to result in their deportation; either the agency or their employer is likely to report them to the Immigration and Naturalization Service.

Fear of retaliation by their employer culminating in a rather short-lived job also causes illegal workers to avoid unionization. This situation exists even where major attempts to organize them have been made, as in the Los Angeles apparel industry. The absence of unionization among illegal aliens also has a significant deleterious impact on labor standards because one of the functions of a union is to see that these standards are observed.

Most illegal aliens are employed in so-called secondary labor markets which are characterized by small firms which pay low wages and provide little, if any, fringe benefits. The availability of illegal aliens makes it possible for many of these firms to ignore labor statutes. Other firms in secondary markets may attempt to comply with labor laws, but competition from firms which willingly violate the law makes compliance difficult.

Journalistic reports suggest that violations of labor standards have increased in recent years. The fact that illegal immigration has increased greatly at the same time is more than coincidental. If illegal immigration is not checked, the United States will be forced to greatly increase its labor law enforcement efforts to maintain established labor standards.

**Social Welfare Costs**

Although the public at large is apparently concerned with the costs of social welfare services used by illegal aliens, most people who have

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studied the matter tend to agree that the direct social welfare costs of illegal aliens are slight. Several studies have found that very few illegal aliens collect unemployment compensation, go on welfare, receive foodstamps or use medicaid.\(^\text{10}\) Some use free public hospitals and send their children to public schools, but the incremental costs involved are probably small. On the tax revenue side, it is clear that most illegal aliens do have social security and federal income taxes withheld from their pay, although a sizeable proportion apparently pays less federal income taxes than legally required.

The very low incidence of social welfare payments to illegal aliens is not a mystery. These payments are usually made only to the unemployed, and most illegal immigrants are working. When they are not, fear of detection and deportation keeps them from applying to benefit programs. Thus, the direct social welfare costs of illegal aliens are low. But this fact ignores the indirect costs which they may produce by displacing resident workers from employment to various social welfare programs. A discussion of this displacement effect follows.

**Market Impacts**

The simplest and most abstract truth about immigration—legal or otherwise—is that it increases the supply of available labor and therefore makes labor cheaper, product prices lower, and employment greater. In this simple view, immigration promotes profits, economic growth, and general prosperity, with possibly excessive demands for social capital formation (schools, hospitals, housing) the only cloud on this otherwise pleasing picture.

But even this simple view, predicated on the full employment of labor resources, becomes less pleasant once the distribution of economic benefits as well as their occurrence are considered. There is no guarantee that all of the native population will participate in the benefits cited, and if they do not, there will be opposition to immigration. All native workers will benefit only if all immigrant workers enter the labor market in unskilled jobs, thereby permitting native workers to move up to higher skilled, higher paying jobs as the economy expands. When this occurs, the immigrants are said to be "complements" of the natives because they increase the latter's productivity and earnings. However, if some or all of the immigrants enter the labor market at higher skill levels, they may be "substituting" for

\(^{10}\) Human Resources Agency, County of San Diego, A Study of the Socioeconomic Impact of Illegal Aliens on the County of San Diego 118-43 (1977); D. North & M. Houstoun, supra note 2, 140-49.
unskilled natives who could perform higher skilled jobs if given an opportunity and, in some cases, training. Thus, the natives who are left in unskilled, low wage jobs suffer from the immigration. Without it, they would receive larger incomes, both through employment at higher skill levels and through the higher wages which would be paid for unskilled work.\footnote{11} Much of the historical immigration to the United States was complementary to native workers, enabling them to move up the job ladders of an expanding economy. Yet some of it also substituted for workers already here—especially blacks, Chicanos and rural whites.\footnote{12} It is significant that blacks did not begin to make job gains until World War I, following the cessation of European immigration to northern industrial centers.

Thus, even with full employment—and it must be considered a polar case, for it has so rarely prevailed in the United States—immigration is likely to produce costs as well as benefits. In the opposite polar case, that of high unemployment, immigration produces only costs without any offsetting benefits.

With a high unemployment rate, say ten percent of the labor force, immigrants only substitute for native workers. The latter could perform with no less efficiency the jobs which go to immigrants. Consequently, wages and prices are not lowered by immigration. In this situation, immigrants impose only costs on the economy. This economic burden is borne by the displaced native workers and by society generally to the extent that displaced native workers and their families are supported by public social welfare programs. Moreover, immigrants themselves use social services, but that is also true under full employment.

**The Current Period**

These polar cases of full employment and high unemployment are useful because they illustrate the two kinds of economic impacts which immigrants can have—complementary and substitution impacts. However, the fact of the matter is that both full employment and historically high unemployment have been largely absent from the American post-World War II economy. As a consequence, the effects of immigration in this period have been mixed. Economic benefits, through complementarity, have been the primary impact
when resident labor\textsuperscript{13} has been scarce. But the impact has been largely to substitute for resident labor in periods of high national unemployment.

In recent years, the period of greatest economic benefits from immigration was from 1966 to 1969, when the national unemployment rate was below four percent of the labor force. Illegal immigration began its rapid rise at that time, and the workers who arrived with this flow helped to maintain a degree of stability in wages and prices, economic growth, and profits.

The United States economic picture changed rapidly after 1969. Accompanying this economic transformation was a rise in unemployment, with an average of 8.5% of the labor force being out of work in 1975.\textsuperscript{14} With nearly 8,000,000 people jobless, the effects of illegal immigration were—and are, for unemployment continues to be high—not nearly as sanguine as they had been in the late 1960’s. One can reasonably conclude that there are major displacement effects of the current immigration because surely some of the 7,000,000 resident workers now unemployed are willing and able to substitute for employed illegal aliens.

Nevertheless, even with 7,000,000 unemployed resident workers the illegal immigrants probably still provide some economic benefits, partly because of their illegal status. The illegal entrants tend to be highly motivated people dependent on a job for their income (they are generally ineligible for social welfare programs) and who cannot count upon labor unions, law, or social sanctions to provide them with job security. Consequently, they tend to work hard to hold their jobs and are therefore generally productive, desirable employees. On the average, they are more productive at unskilled manual jobs than are the unemployed resident workers who would be willing to take these jobs at the prevailing low wage rates which they pay.\textsuperscript{15} The high productivity of illegal aliens causes their wages and the prices of

\textsuperscript{13} I shall hereafter use the term resident to refer to all legal workers. It is preferable to native because a significant number of legal workers in the United States are foreign-born.

\textsuperscript{14} U.S. BUREAU OF LABOR STATISTICS, DEP’T OF LABOR, MONTHLY LABOR REVIEW (June 1976).

\textsuperscript{15} One study has found that the average hourly wages of 779 illegal aliens were $2.34 for Mexicans, $3.05 for those from other Western Hemisphere countries, and $4.08 for those from the Eastern Hemisphere. D. NORTH & M. Houstoun, supra note 2, at 115-16 (1975 study).
goods which they produce to be somewhat lower than they would be
in the absence of these workers, even with high rates of resident
worker unemployment.

Thus, the economic effects of illegal immigration over the last
decade and a half have not been unequivocal. In times of full employ-
ment, the effects were principally beneficial, as reflected by lower
wages and prices, higher profits, and the prolongation of economic
growth. Even then, however, there were adverse impacts on the
wages of resident workers who had to compete with the illegal aliens.
In times of high unemployment, the economic effects of illegal aliens
have been largely negative because of their substitution for resident
workers. Yet, because the available unemployed resident workers
tend to be less productive than illegal immigrants, the illegal aliens
have to a slight degree held down wages and prices, even when
unemployment has been high.

Because these impacts of illegal immigrants are mixed, difficult to
discern casually, and impossible to measure, latitude exists for much
public controversy about them; and this controversy has been and
will continue to take place. The controversy also exists because the
discussants put different valuations on the various impacts, someth-
ing which they often do not make clear amidst their assertions
about the nature of these impacts. The next two sections will present
my own assessments of the market impacts of illegal alien workers
and will state my own valuation of these impacts.

Displacements

Much of the controversy over the economic impacts of illegal aliens
concerns the displacement question: Do they actually take jobs from
resident workers? Many people, noticing that most illegal immi-
grants seem to be employed at federal or state minimum wage levels
and in arduous or otherwise unattractive jobs, answer in the negative
to this question because they believe that resident workers will not
take these jobs. This conclusion is often correct, but it is at best a
partial truth which obscures, rather than enlightens, the issue.

Resident workers are often not available for the jobs held by illegal
aliens simply because of the presence of illegal immigrants. The
latter group removes resident workers from these jobs in two ways.
First, as stated above, because illegal aliens tend to be better workers
at unskilled jobs, employers prefer them and refuse to hire resident
workers.\footnote{16 During the bracero (Mexican contract labor) program, growers consis-
tently preferred braceros over resident workers. See E. GALARZA, MERCHANTS
OF LABOR (1964).} This practice causes the latter to drop out of these job
markets. Second, the availability of illegal immigrants causes wages for the jobs they hold to be very low and thus unattractive to qualified resident workers. Again, the resident workers drop out of the job markets.

Because of these effects, employers of large numbers of illegal aliens can always accurately state that resident workers are not available for their jobs. But these employers ensure this result. The chronological process, for which farm labor is the prototype, is as follows: 1) employers offer wages which are so low that they attract principally undesirable resident workers; 2) instead of raising wages, the employers turn to illegal aliens (or braceros or some other source of nonresident labor);\(^{17}\) and 3) as the illegal aliens take over the jobs, both the undesirable and qualified resident workers leave these markets—the latter because wage increases are now doomed, the former because they cannot find employment—and it becomes literally true that resident workers are not available.

Thus, the fact that resident workers are unavailable tells us only that wages are low for the kind of work performed. The more important matters are the increases in wages and resident employment which would occur if the illegal aliens were unavailable for the jobs which they now hold. In this event, if wages were to rise substantially and were accompanied with only small gains in resident employment, society, if it were guided on purely economic grounds, would probably want to keep the illegal immigrants. However, if large gains in resident employment were accompanied by only modest wage increases, most people would probably prefer the removal of the illegal aliens, or at least prevention of increases in their numbers.

**Wage and Employment Impacts**

The precise wage and employment changes which would take place if illegal aliens could no longer be employed in the United States are impossible to estimate. Information on these matters is so limited that even qualitative statements are hazardous. Yet, policy formulation requires some notion of the wage, price, and employment impacts of restricting or removing illegal alien workers. Therefore, as a student of this phenomenon, I feel an obligation to put forth some guesses.

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17. For information on how California growers have historically used foreign labor, see C. McWilliams, Factories in the Field (1939).
I shall assume, for this purpose, a current employment of 4,000,000 illegal aliens in the United States. This figure is well below the 8,000,000 to 12,000,000 estimate of the Immigration and Naturalization Service, but seems reasonable in view of the rate at which illegal aliens are being apprehended, now 1,000,000 per year. Hence, my guess is that if the 4,000,000 illegal aliens now employed were no longer available, employment of legal resident workers would go up by at least 2,000,000, with only modest increases taking place in wage levels in affected job markets and even smaller effects on product prices. The other 2,000,000 jobs vacated by illegal aliens would disappear through mechanization, more efficient use of labor, and the closing of some business establishments. I suspect that the number of business closures would be less than is often intimated, however, because affected employers would be remarkably effective at both finding new sources of inexpensive labor and adapting to the loss of illegal aliens in other ways.

If these estimates are correct, the wages for many jobs now filled by illegal aliens would rise from $2.65 per hour (the probable federal minimum wage in 1978) to a range of $2.75 to $3.10 per hour. Employers would then be able to find resident workers to fill their somewhat reduced demand for labor. Wages and employment on the better paid jobs—jobs which illegal immigrants now hold in significant numbers—would change very little.

Assuming that these speculations are at all accurate—and I must frankly admit that they are based only on a combination of intuition and reason—what are the implications for policy? The answer to that ultimate question is not obvious, because any response depends upon a variety of values about which both reasonable and unreasonable minds disagree. I will address some of these values subsequently. However, let me at this point simply state my own value preferences within a United States domestic context, ignoring, for the moment, the effects of policy on the illegal aliens themselves.

The employment of 2,000,000 people presently out of work would, in my valuation system, be well worth some very minor increases in product prices. The rehabilitative effects on the lives of those employed would be substantial. The reduced strains on our economy and on our somewhat rebellious taxpayers for the support of people who cannot now support themselves would also be significant. Con-

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18. The federal minimum wage is currently $2.30 per hour for most employees. For agricultural employees, it is $2.20 per hour and will become $2.30 per hour in 1978. 29 U.S.C. § 206 (Supp. 1975). California's minimum wage is set by state law to be at least equal to the federal minimum wage. CAL. LAB. CODE § 1182 (West Supp. 1977).
subsequently, I favor a policy which severely restricts illegal immigration.

It is important to note that this position is taken in the context of a United States unemployment rate of over seven percent of the labor force. When we are able to reduce unemployment to more satisfactory levels, immigration can be increased without insufferable economic impacts. But orderly increases in immigration must proceed through legal means, for the sake of the immigrants as well as our own interests.

IMMIGRATION POLICY

The Ethical Problem

The preceding analysis suggests that illegal aliens do have significant negative impacts on the United States. These impacts operate principally through the labor market, producing both a displacement of resident workers and a lowering of the relative wage where illegal aliens are employed. Labor standards for that segment of the labor force most in need of standards are also significantly affected. Population is increased by illegal immigration, although only slightly at present. If the flow of illegal aliens is ignored, however, the question of population control could become imperative as levels of illegal entry increase. Illegal aliens do not directly affect social welfare programs, but the effects of their displacement greatly increase the numbers of residents who are supported by unemployment compensation and by the various public assistance programs. Although illegal workers are also beneficial in terms of economic growth, their negative effects outweigh these benefits within my ordering of values—at least when United States unemployment rates are as high as at present and as will be in the foreseeable future.

These considerations, all internal to the United States, may settle the policy matter for many. But I believe that an examination of our external obligations, if any, is necessary before a conclusion making wide-ranging policy changes is reached. Relations at the political level between the United States and other countries—especially Mexico—may also be important, but I will leave the development of these matters to others.

International relations aside, the ethical question is largely: What is our obligation to permit people, especially poor people, to immigrate to the United States? Because the question involves ethics, the answers can be wide-ranging. Some would argue that we have no
obligation to permit any immigration. They would possibly rationalize this position on the grounds that we cannot begin to accommodate everyone who would like to enter and that we have no clear basis for allocating the relatively few places which could be offered.\textsuperscript{19} This argument is highly self-serving, but the opposite position is even less satisfactory. This latter view is completely altruistic and would require the United States to admit all immigrants as long as its quality of life exceeded that of the sending countries. Few people would support such a policy, even in a modified form.

It seems that as between these two extremes a principle can be applied. We should accommodate immigrants only to the extent that we can maintain the existing quality of life in this country—in other words, to the extent that we can keep our own house in order. This principle would place restraints on immigration, for the ability of our economic resources and our political and social institutions to successfully integrate immigrants into this society is now limited, perhaps more than it has ever been. Yet, if one is at all optimistic about the future of our society, some immigration would be permitted.

Application of this principle to the current phenomenon of illegal immigration leads me to conclude that it would not be unethical to block the flow of illegal aliens, even though most of those entering illegally are very poor. These illegal entrants are threatening the quality of life in the United States through the wage and displacement effects previously cited. Those who are most injured by these effects are the low wage workers and would-be workers of this country—in other words, the poor and near-poor.

However, I must reiterate that even in view of this conclusion, the United States can and should permit some of the external poor to enter when this nation's health improves. Hence, contrary to some public officials,\textsuperscript{20} I believe that we have a special obligation to the poor of Mexico and that we should establish special treatment of immigration from that country.

\textbf{Increased Mexican Immigration}

The arguments for special treatment of Mexico are three: first, we share a 2,000 mile border with her; second, per capita incomes in Mexico are just a small fraction of those in the United States; and third, prior to United States annexation of the southwest, Mexicans

\textsuperscript{19} For a discussion which develops—but does not necessarily endorse—this point of view, see Hardin, \textit{Living on a Lifeboat}, \textsc{Bioscience}, Oct., 1974, at 561.

\textsuperscript{20} See \textsc{House Comm. on the Judiciary, Immigration and Nationality Act Amendments of 1973, H.R. Rep. No. 461, 93d Cong., 1st Sess. 9-10 (1973).}
were able to move freely into and out of that part of the continent. The fact that most illegal entry into the United States is from Mexico is an additional pragmatic justification for treating that country uniquely.

Rather appallingly, our most recent policy move was in the opposite direction. In October, 1976, the Congress passed and the President signed an amendment to the Immigration Act which adopts the Eastern Hemisphere immigration provisions for all countries of the Western Hemisphere. This decision means that an annual limit of 20,000 immigrants now applies to all Western Hemisphere countries. By far, the most affected country is Mexico, whose immigration to the United States under the total Western Hemisphere numerical limitation of 120,000 has continued at an annual rate of about 49,000 in the 1970's.

It is my view that there should be an increase in the numbers of Mexicans who are permitted to permanently immigrate to the United States. The number should vary with the level of unemployment in the United States, but when that level is low, 100,000 to 125,000 per year seems to be a reasonable number.

I oppose special treatment for Mexico in the form of a new bracero program which would make Mexican workers welcome only part of the year while they perform the lowest paid jobs in our society. Immigrants to the United States should be both permitted and encouraged to integrate fully into our society. This process requires the authorization of permanent residency.

Specific measures for raising the permanent immigration quotas from Mexico should be developed bilaterally with the Mexican government. Perhaps, in that context, population control and income distribution in Mexico, as they contribute to illegal entry into the United States, could be discussed, as well as forms of United States


23. During the 1970's, an additional 25,000 or so Mexicans have immigrated to the United States each year as close relatives of United States adult citizens. This immigration is not numerically restricted and will presumably continue under the 1976 amendment.
economic assistance to Mexico. It would be naive, however, to expect ready acceptance of our positions by the Mexican government.

Increasing permissible levels of immigration from Mexico is an appropriate step to take. A side benefit may be greater acceptance by this country's Chicano population of measures designed to restrict illegal immigration.

Restricting Illegal Immigration

Under existing statutory and constitutional authority, the United States is no longer able to prevent illegal entry, nor is it able to prevent the illegal employment of those who enter legally with tourist or student visas. The only way to regain control over illegal immigration is to remove the incentive for it. This incentive is a job. The attractiveness of employment in this country easily outweighs both the risks of being apprehended for illegal entry or employment and the inconvenience of a trip home (usually at United States government expense) in the event of apprehension.

The job incentive can only be eliminated by making it unlawful for employers to hire illegal aliens, and several pieces of legislation which would achieve this have been introduced in Congress in recent years. But how would such a law be enforced? Employers cannot tell by visual means which job applicants are legal and which are illegal. Nor would the requirement of a birth certificate, citizenship papers, alien registration receipt, or signed statement of legal residence ensure enforcement, because all of these documents can be falsely obtained—or given, in the case of a signed statement—with- out great difficulty.

Because of these enforcement problems, many Hispanics oppose employer penalties. They fear that employers, unable to confidently identify illegal applicants, would tend to discriminate against applicants who appear to be of Hispanic origin, since most illegal entrants are of Hispanic origin. Their concern, although understandable, may be unduly pessimistic. It is hard to see how employers in some industries—agricultural, apparel, food services—could discriminate against Hispanic applicants, for practically the entire work force of these industries is Hispanic. In better paying industries, qualified Hispanics, because of their long residency in the United States, would have little trouble in establishing their eligibility for employment. It may be, however, that they would encounter discrimination in industries which fall in neither of these two types.

The solution to discrimination against Hispanics and to the enforcement of a ban on hiring illegal aliens generally would seem to be the use of a work card which would establish the holder's legal eligibility for employment. Because all workers would be required to have a card, and because the possession of the card would establish work eligibility, there could be no discrimination against Hispanics who are citizens or legal resident aliens. It would be logical to adapt the existing social security card for this purpose, because almost all workers must now have one and almost all employers are required to record its number for their employee's social security account. The new social security card would have to be counterfeit-proof, non-transferable, and it could not be issued to illegal aliens. But it is feasible to achieve these requirements, even if they are somewhat costly.

Despite the logic and probable effectiveness of a work card, it is unlikely to come into being because many Americans apparently fear that it could become a kind of national passport required for identification purposes and, consequently, used to restrict civil liberties. This fear is not entirely rational because legislative prohibitions could be placed on the use of a work card for identification purposes and because there has been a fair amount of satisfactory experience with cards of this kind. For example, cards of this type are used as driver's licenses and for Selective Service purposes. Moreover, there has been a satisfactory experience in Europe with actual identification documents, if it should, somehow, ever come to that. Indeed, one of the more curious phenomena of our times is the great fear of civil repression held by many Americans despite the fact that citizens of no other country in the world would appear to enjoy as much unrestrained freedom. Be that as it may, the Carter Administration, after initially appearing to support the work card, has now backed away from it and the card is probably dead.

An alternate, less threatening approach would be to require work cards only in industries and perhaps in areas which do not self-enforce the legislative prohibition on hiring illegal aliens. Employment of illegal aliens is concentrated in a relatively small number of industries—agriculture, low-wage manufacturing and construction, and certain service sectors. The Secretary of Labor could be authorized to require work cards for all employees in industries which proved to be unable or unwilling to stop employing illegal aliens. The card would then simplify identification of illegal aliens by the Im-
migration and Naturalization Service and by labor-standards enforcement agencies, assuming that illegal aliens could not obtain them. Legal workers in these industries should welcome a work card as a means of preventing competition from cheap labor. All workers and employees in industries unaffected by illegal aliens would not have to bother with the cards.

Unless a provision of this type is adopted, enforcement of a prohibition on employing illegal aliens will have serious problems. Nevertheless, as a first step toward reducing illegal immigration, such a prohibition should be enacted even without enforcement certainties.

Finally, there is the question of amnesty—the legalizing of illegal entry and residence which occurred prior to some cutoff date. I propose a liberal amnesty, up to a quite recent date, in order to make the illegal alien problem prospective rather than retrospective. Few illegal immigrants who have been in the United States for any length of time are apprehended anyway, and I can see little reason to maintain a fugitive status for the illegal aliens already here in order to deport a relatively small number. This policy would also avoid the administrative burden of adjudicating the “equity” status of illegal immigrants on a case by case basis if amnesty were granted only up to an earlier date—for example, 1970. Liberal amnesty would also be well received by Hispanics and might help reduce their opposition to tighter control of illegal entry.

CONCLUSION

In summary, I must reiterate that illegal immigration is one of our more difficult national problems, involving, as it does, questions of fact, value, and feasibility. I hope that the statements of analysis, values, and policy put forward here will be of some help toward a solution.