

Advancing Policy-Relevant Research on the Problems of Immigrant Workers

Conference Overview, Available Resources, and Research Questions

Conference Overview

On May 4th, 2002, the Institute of Industrial Relations held a conference entitled “Advancing Policy-Relevant Research on the Problems of Immigrant Workers”. This one-day symposium focused on three key immigration policy areas: *Legalization, Guest Worker Programs, and Employer Sanctions*.

Participants comprised of over fifty academic and policy researchers, advocates, and labor leaders who engaged in panel presentations and group discussions to address these three immigration policy topics. Arturo Rodriguez, President of the United Farm Workers, gave the conference keynote address and the event was generously funded by the University of California’s Institute for Labor and Employment.

With the dual goals of sharing existing research resources *and* introducing new topics for investigation and analysis, the conference generated a bibliography of existing immigration research as well as lists of unresolved questions on legalization, guest workers, and employer sanctions. Common discussion themes during the conference included analyzing historical trends in each of these three areas, their impacts on immigrant rights and immigrant participation in U.S. society, economic globalization and transnationalism, and the need to link these immigration issues with each other and to other policy issues.

The following bibliography and lists of further research questions was compiled to reflect conference discussions. We hope that the information presented will:

- Serve as reference for practitioners and advocates seeking more policy-relevant research materials to support their work
- Encourage and guide researchers who wish to examine immigration-related topics that address the concerns of the immigrant rights movement

Legalization

Large scale undocumented immigration to the U.S. began in the 1970s and today, there are roughly seven to nine million undocumented people living in this country. They comprise over 25 percent of the foreign-born population in the U.S. and immigrants from Mexico make up approximately 70 percent of the undocumented. Many elements contributed to this growth including push factors in immigrants' countries of origin, pull factors from the U.S.—availability of jobs and family reunification—as well as technological improvements in transportation and information sharing.

As part of a program to regulate undocumented immigration, the 1986 Immigration Reform and Control Act (IRCA) included amnesty policies that legalized three million undocumented immigrants, many of whom were agricultural workers. The past several years have seen a rekindling of policymakers' interest in new legalization legislation. While the events of September 11th temporarily diminished these forces, another amnesty program is not entirely off the table. The following include a sampling of arguments often heard on the issue of legalization, as well as reports and articles broken down by specific legalization topics.

LEGALIZATION—A Sampling of Common Arguments in Immigration Policy Reform	
PRO	CON
<ul style="list-style-type: none"> • The existence of an enormous underclass of workers, estimated to be between 6 and 9 million undocumented people, who have limited rights and are highly vulnerable to employer threats of deportation, creates downward pressure on wages and undermines the interests and well-being of all workers in the US. Legalizing undocumented workers would lead to raises in immigrant wages, pushing wage rates up for everyone, while increasing consumption and tax revenue. • Immigration as a whole is a great benefit to the American economy, providing the US with a large numbers of able-bodied, educated workers during their prime working years. <ul style="list-style-type: none"> ➤ The NAID Center (2000) at UCLA estimates that undocumented workers from Mexico annually contribute roughly \$154 billion to the US NGP and \$77 billion to the GSP of California alone. • The National Academy of Sciences (1997) found that found that each year immigrants contribute more in taxes than they use in services, adding about \$10 million to the nation's economy per year. The typical immigrant and his or her children pay an estimated \$80,000 more in taxes than they will receive in local, state, and federal benefits over their lifetimes. Even in local labor markets with large numbers of new immigrants, overall job opportunities and wages for the native-born are not significantly affected by immigration. 	<ul style="list-style-type: none"> • Amnesty policies paper over our failure to enforce immigration law. Giving amnesty to those who entered the country illegally sends the message that US immigration law is a sham, and all one needs to do is get here and then wait quietly for a new amnesty to be announced. Amnesty, and the dual citizenship it would afford, makes a “mockery of our traditional ideals of immigrants becoming Americans” and creates a deleterious “confusion of loyalties” for immigrants (e.g. FAIR, 2001; CIS, 2001a). • Legalization programs inevitably lead to increases in illegal immigration. A Center for Immigration Studies (2001b) report argues that the 1986 Amnesty “almost certainly <i>increased</i> illegal immigration, as the relatives of newly legalized illegals came to the United States to join their families. The flow of illegals grew dramatically during the years of the amnesty to more than 800,000 a year... Within 10 years of the last amnesty, every amnesty recipient had been replaced by a new illegal alien.”

PRO	CON
<ul style="list-style-type: none"> ➤ According to a Cato Institute (1998) study, immigrant households pay an estimated \$133 billion in direct taxes in federal, state, and local governments. In 1998, including the tax receipts paid by immigrant businesses, the total annual tax contributions of immigrants totaled \$162 billion. ➤ The Urban Institute (1996) reported that 94% of immigrants do not use welfare conventionally defined and that immigrants use welfare only slightly more (6.6% vs. 4.9%) than natives. • A significant legalization initiative is needed to maintain US economic growth. Key growth sectors, including hotel, restaurant, and nursing home industries, have endorsed more lenient immigration policy, including the legalization of those already in the workforce. These employers claim, perhaps falsely, that immigrants are needed to fill widespread labor shortages. • In the Post 9/11 context, an argument could be made that legalization (and consequent documentation) is needed as a matter of national security. Needless to say, this rhetoric has unsettling implications. 	<ul style="list-style-type: none"> • Immigrants compete with Americans for jobs, driving wages and conditions down. The same recent CIS study (2001) reports that, while it is true that most Americans, who are high school graduates, don't face competition from immigrants (most of whom are not high school graduates), there are more than 10 million native-born American workers without a high school degree, and these people are in direct competition with unskilled immigrants. This competition, CIS reports, reduces wages for native dropouts by about 5% - an inevitable result of the increased labor supply. • Immigrants are a drain on U.S. welfare and government services. <ul style="list-style-type: none"> ➤ CIS (2001b) reports: "Even after welfare reform, welfare use among Mexican immigrant households remains much higher than that of natives. An estimated 33.9% of households headed by legal Mexican immigrants and 24.9% of those headed by illegal Mexican immigrants used at least one major welfare program. In contrast, 14.8% of native households used welfare...The estimated lifetime net fiscal drain (taxes paid minus services used) for the average adult Mexican immigrant is negative \$55,200." ➤ Borjas (CIS, 2002) suggests that there is "strong evidence that immigrants sought citizenship as a means of retaining welfare eligibility. Those immigrant groups with the heaviest welfare use rates saw the largest increases in naturalization after welfare reform, further neutralizing its potential impact."

Available Research Resources

DEMOGRAPHICS: OVERVIEW OF UNDOCUMENTED IMMIGRANT POPULATION

Fix, Michael E. and Jeffrey S. Passel. 2001. *U.S. Immigration at the Beginning of the 21st Century*. The Urban Institute.

Available at: <http://www.urban.org/url.cfm?ID=900417>

- An overview of the U.S. immigrant population with data from the 2000 census and an extensive look at the legal status of immigrants, including those in mixed-status households.

Fix, Michael E. and Wendy Zimmermann. 1999. *All Under One Roof: Mixed-Status Families in an Era of Reform*. The Urban Institute.

Available at: <http://www.urban.org/url.cfm?ID=409100>

- Examines the increasingly large number of mixed-status immigrant families in the U.S. and explores how the complexity of these family structures has thwarted the effectiveness of recent welfare and illegal immigration policy reform.
- Discusses the ways in which current immigration and immigrant status laws block citizen children's access to public benefits due to their parents' status as noncitizens and explains how recent changes to these laws have only served to further divide families into legal and illegal sides.

Fix, Michael and Jeffrey S. Passel. 1994. *Immigration and Immigrants: Setting the Record Straight*. The Urban Institute.

Available at: <http://www.urban.org/pubs/immig/immig.htm>

- A comprehensive mid-1990s study of immigration in a policy context including immigrant characteristics, labor market impacts, and public sector impacts.

Johnson, Hans P. 2001. *The Demography of California's Immigrants*. Public Policy Institute of California.

Available at: <http://www.ppic.org/main/publication.asp?i=187>

1986 IRCA LEGALIZATION: OUTCOMES

Baker, Susan Gonzalez. 1997. *The "Amnesty" Aftermath: Current Policy Issues Stemming from the Legalization Programs of the 1986 Immigration Reform and Control Act*. *International Migration Review*. 31 (Spring): 5-27.

- This article reviews the post-IRCA socioeconomic positions of legalized immigrants and changes in the immigration "policy space" that resulted from a wave of backlash policymaking at the state and local levels.

Baker, Susan Gonzalez. 1990. *The Cautious Welcome: The Legalization Programs of the Immigration Reform and Control Act*. RAND and the Urban Institute.

Available to order at: <http://www.rand.org/cgi-bin/Abstracts/e-getabbydoc.pl?JRI-05>

- Chronicles the design, implementation, and outcomes of the legalization provisions of IRCA.
- Covers topics such as evaluating the success of IRCA's implementation; the legislative history of legalization proposals; the organizational, financing, and staffing plans adopted by the INS to implement IRCA's provisions; the politics behind legalization implementation; and discrepancies between implementation and outcomes.

Orrenius, Pia M. and Madeline Zavodny. 2001. *Do Amnesty Programs Encourage Illegal Immigration? Evidence from the Immigration Reform and Control Act (IRCA)*. Federal Reserve Bank of Atlanta.

Available at: <http://www.frbatlanta.org/frbatlanta/filelegacydocs/wp0119.pdf>

- The authors' examine the impact of IRCA on the flow of illegal migration through the U.S.-Mexico border and find that the amnesty program did not change long-term patterns of illegal immigration from Mexico.

Powers, Mary G., William Seltzer and Jing Shi. 1998. *Gender Differences in the Occupational Status of Undocumented Immigrants in the United States: Experience Before and After Legalization*. International Migration Review. 32 (Winter): 1015-1046.

- The authors find that post-IRCA, women's occupational status improved relative to men after their immigration status was legalized.

Vernez, Georges. 1994. *The United States Immigration Reform and Control Act of 1986: Implementation and Effects*. RAND

Available at: <http://www.rand.org/cgi-bin/Abstracts/e-getabbydoc.pl?RP-265>

- This report synthesizes what has already been established about IRCA's implementation and effects. It also discusses IRCA's potentially longer-term effects on immigration, legal and illegal, and on U.S. domestic policies and institutions. It draws upon findings from a number of evaluative studies on the outcomes of IRCA.

BORDER ENFORCEMENT EFFECTIVENESS

Reyes, Belinda I., Hans P. Johnson and Richard Van Swearingen. 2001. *Holding the Line? The Effect of Recent Border Build-up on Unauthorized Immigration*. Public Policy Institute of California.

Available at: <http://www.ppic.org/main/publication.asp?i=158>

- The authors find that increased border enforcement has not substantially reduced unauthorized immigration. Instead, unauthorized immigrants are staying longer in the U.S. Border build-up has changed crossing places and increased the numbers of unauthorized migrants who die while attempting to cross into the U.S.

FISCAL IMPACTS OF UNDOCUMENTED IMMIGRATION

Edmonston, Barry and Ronald Lee, ed. 1996. *Local Fiscal Effects of Illegal Immigration*. National Research Council.

Available at: <http://books.nap.edu/books/030905592X/html/index.html>

- Reviews and analyzes six case studies on this topic.

Hing, Bill Ong. 1997. "How Much do Immigrations Cost? The Methodology Wars" in *To Be an American: Cultural Pluralism and the Rhetoric of Assimilation*. NYU Press.

Available at: http://www.nyupress.org/product_info.php?products_id=2391

- Hing discusses two competing frameworks for analyzing immigration's fiscal impacts and summarizes major studies that have attempted to make these calculations.

Smith, James P. and Barry Edmonston, ed. 1997. *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration*. Panel on the Demographic and Economic Impacts of Immigration, National Research Council.

Available to purchase at: <http://www.nap.edu/catalog/5779.html>

U.S. AND MEXICO

Hinojosa-Ojeda, Raul, et al. 2001. *Comprehensive Migration Policy Reform in North America: The Key to Sustainable and Equitable Economic Integration*. North American Integration and Development Center, UCLA.

Available at: <http://naid.spsr.ucla.edu/ImmigReform83001.PDF>

- This report analyzes how current migration policies between U.S. and Mexico can be reformed to encourage economic growth and equity in both countries. The research concludes that immigration reform based on broad legalization of undocumented migration to the U.S. and targeted economic investments in the migrant-sending regions of Mexico are the best options.

Massey, Douglas, Jorge Durand and Nolan J. Malone. 2002. *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration*. Russell Sage Foundation.

<http://www.russellsage.org/publications/titles/beyondsmoke.htm>

- The authors attempt to show how recent U.S. immigration policies provoked a series of unintended consequences including a shift away from seasonal, circular migration toward permanent settlement, the creation of an informal market for Mexican labor, and the transformation of Mexican immigration from a regional phenomenon into a broad social movement touching every region of the country.

U.S.-Mexico Migration Panel. 2001. *Mexico-U.S. Migration: A Shared Responsibility*. Carnegie Endowment for International Peace and the Instituto Tecnológico Autónomo de México.

- A report prepared by a panel of U.S. and Mexican immigration experts for the 2001 meeting of George W. Bush and Vicente Fox.

COMPARATIVE STUDIES

Watts, Julie R. 2000. *An Unconventional Brotherhood: Union Support for Liberalized Immigration in Europe*. CCIS Monograph No. 1

Available at: <http://www.ccis-ucsd.org/PUBLICATIONS/watts.htm>

- Watt's examination of labor unions in Italy, Spain, and France documents that labor leaders prefer more open immigration policies. Her research reveals that by forcing immigrants into precarious legal and economic positions, restrictive immigration policies can undercut improvements in wages and working conditions for native workers. Unions' growing support for more liberalized immigration policies in these countries have brought labor leaders into the immigration policymaking arena, and in some cases, organized labor has also provided support services to immigrants that their governments are unwilling or unable to provide.

Guest Worker Programs

From 1942 to 1964, the U.S. maintained an agricultural guest worker program with Mexico (Bracero Program) which originated during WWII when the agricultural sector faced harvest labor shortages. The U.S. government terminated the Bracero Program because it believed that domestic growers failed to observe employment contracts. The end of the program was widely credited with stimulating an increase in the number of undocumented Mexican agricultural workers in the U.S.

During the Bracero Program, ten percent of each worker’s paycheck was deducted by the U.S. with promise of its return upon the Braceros’ arrival back in Mexico. Wells Fargo bank held the money for transfer to Mexican banks, but few workers ever received these forced savings. Recently, former Bracero workers have campaigned for these lost wages and used legal instruments against the governments of Mexico and the U.S. and against Wells Fargo Bank and Mexican banks to demand the repayment of millions of dollars taken from over 400,000 workers.

Since the Bracero Program, the U.S. has created small-scale guest worker programs including the H-2A visa program for agricultural workers, the H-2B program for non-agricultural guest workers, and the H-1B program for high-skilled workers in ‘specialty occupations’. Congress and the Executive recently revived discussions for a new, potentially more expansive agricultural guest worker program between Mexico and the U.S. What follows is a compilation of frequently heard arguments for and against guest work programs as well as research resources that address these programs’ impact on sending countries, the domestic economy and workforce, and the workers themselves.

GUEST WORKER—A Sampling of Common Arguments in Immigration Policy Reform	
PRO	CON
<ul style="list-style-type: none"> • Pro-guest worker advocates say a guest worker program is needed because there is a major labor shortage in the US and this shortage is likely to grow rapidly in the near future. The Essential Worker Immigration Coalition (2001) claims that the US’s aging workforce will not be large enough to fill the estimated 17 million new jobs that our economy will create 2010. 58% of these jobs will not require a college degree. Proponents of guest worker programs cite labor shortages not only in agriculture, but also in “hotels and resorts, restaurants, tourist attractions, hospitals, construction companies, landscaping, nursing homes, janitorial companies, and most other labor-intensive industries” (Arizona-Mexico Commission, 2001). ESIC (2001) reports that: <ul style="list-style-type: none"> ➤ Nursing homes currently need 181,00 to 310,00 nurse aids to reach full staff levels, and the number is expected to grow to over 800,000 by 2008 as the baby boom generation requires more care. 	<ul style="list-style-type: none"> • There is no need for a guest worker program because there is no labor shortage. <ul style="list-style-type: none"> ➤ There never has been a labor shortage – the original guest worker programs were created only to assuage the concerns of growers accustomed to even higher levels of surplus labor who, during the war years, had threatened to decrease production (Hahamovitch, 1999).

PRO	CON
<ul style="list-style-type: none"> ➤ Homebuilder associations claim lack of adequate labor supply as a critical concern, with labor shortage adding an average of 20 days and much additional cost to the building of a single-family home. The industry will require an additional 200,000 new workers each year to meet consumer demand. ➤ The National Restaurant Association consistently ranks labor shortages as a priority concern, particularly in urban areas. By 2010, the industry expects to employ an additional 2 million workers. • Some proposals, including the one proposed by Phil Gramm of Texas, claim that new mechanisms will prevent the widespread worker abuse of previous guest worker programs from occurring again. According to Gramm, under new proposal the Department of Labor would enforce US wage and hour laws, including the minimum wage, and normal requirements for safe working conditions, as well as clean and livable housing. (Gramm, 2001) ➤ Pro Guest Worker advocates say that a guest worker model is necessary in order to reinstate respect for American rule of law. Illegal immigrants already work in enormous levels in the US with the implicit permission of employers and many levels of the government. A guest worker program would put an end to this “mockery of our laws.” Senator Phil Gramm (2001) argues that a guest worker program “would help reestablish respect for U.S. law by restoring dignity and efficiency to what has been a sham system. It would give new will to enforcement of our laws and provide the protection of our laws to millions of people who now worker outside the law.” ➤ Formal guest worker programs would also help stop the criminal work of smugglers who profiteer by bringing undocumented people across the border, creating instead a system of legal, managed entry into the country. • Guest worker programs allow the US citizens to enjoy a greater livelihood by keeping food costs low. Migrant workers allow the food industry to keep agricultural labor costs down (in jobs citizens would rather not have any way), allowing “Americans” to spend more of their incomes on non-food items. The denial of willing migrant labor would drive food prices up. 	<ul style="list-style-type: none"> ➤ Most economists dismiss the notion of a labor shortage as an analytical fiction – the appearance of a “shortage” is only a temporary state that lasts until wages rise enough to attract more workers to the industry. What growers call a “labor shortage” is merely a shortage of workers willing to work for the rock bottom wages the employers want to pay. • Guest worker programs allow employers to ruthlessly exploit workers, who have no option but to accept such conditions or return home. Previous programs have disallowed the right organize unions, held wages at less than the prevailing rate, and have pushed working conditions down for non-guest workers. Many advocates believe that any immigrant program tied to employment status would result in abuse because such programs eliminate workers’ option to choose other employers or industries, thereby shifting an already skewed power relation further in favor of employers. • Guest worker programs have enormous social costs for immigrant families. <ul style="list-style-type: none"> ➤ Mines (2001) argues that guest worker programs create populations of young solo males, living with distant relatives or without adult supervision, where they are exposed to gambling, drugs, and violence, and endure associated mental and physical health risks. He suggests that young solo males are not as good as families at protecting their rights at work - families lead male workers to demand better pay and benefits, while women learn about their rights through participation in US institutions. ➤ Mines (2001) also argues that the program creates ghost towns in Mexico that lack their best workers during the productive season. Women are left as single heads of households, and children, expecting to go north, pay less attention to school.

	CON
	<ul style="list-style-type: none"> <p>• Contrary to boosters of guest worker programs, the denial of guest workers to industries that want them would not result in significant rises of food prices because growers would get more efficient by mechanizing their production process and employing the currently underemployed. Researchers cite numerous instances of growers using out-of-date labor intensive production techniques when more efficient mechanical methods are readily available (e.g. Martin, 2000). The reliance on temporary immigrant labor leads to irrational business decisions and distorts the economy - leading growers, for example, to plant crops in remote areas assuming workers will be available when the crops are ready to be picked.</p> <p>• Some groups that oppose immigration generally oppose guest worker programs for the same reasons that they oppose amnesty programs or any other programs that legitimize immigrant workers.</p> <ul style="list-style-type: none"> ➤ Guest workers, like all unskilled immigrants, compete with American workers for jobs, driving wages and conditions down. ➤ It is always bad to allow masses of unskilled workers, with low educational levels, to immigrate into our modern high tech economy. ➤ Guest worker programs encourage illegal immigration. In the past, large numbers of relatives of bracero workers entered the country illegally to reunite with relatives and find work. Temporary workers tend to stay beyond their contracts and become “permanent” workers.

Available Research Resources

HISTORICAL ANALYSIS OF GUEST WORKER PROGRAMS

Ngai, Mae. 2002. *"Imported Colonialism": Braceros, Wetbacks, and the Political Economy of Racialized Foreign Labor in the Modern Southwest*. Adapted from *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Princeton University Press, forthcoming 2004.

Available at: <http://www.iir.berkeley.edu/clre/programs/economic/mae.pdf>

- This paper investigates the role that immigration policies played in the formation of “Mexican” as a racialized foreign element in the United States from the 1920s to the 1960s. The author argues immigration policies helped create a Mexican migratory agricultural proletariat, a transnational workforce comprising various legal status categories across the U.S.-Mexico boundary but a workforce that, as a whole, remained external to conventional definitions of the American working class.

California Institute for Rural Studies. 2001. *Forum for Transnational Employment*

Papers by Rafael Alarcón, Manuel García y Griego, Monica Heppel, , Paul Johnston, Phil Martin Rick Mines, and Demetrios Papademetriou.

Available at: <http://www.cirsinc.org/fte.html>

- This collection of articles looks at previous agricultural guest-worker policies and recent guest-worker proposals, and also provides an analysis of transnational citizenship as rooted in guest-worker programs.

STUDIES OF H-2A AND H-1B PROGRAMS

Cornelius, Wayne A, Thomas J. Espenshade, and Idean Salehyan. 2001. *International Migration of the Highly Skilled*. University of California, San Diego.

Available for purchase at: <http://www.ccis-ucsd.org/PUBLICATIONS/corneliusmono.htm>

- The authors discuss the migration of highly skilled workers from the sending countries of India, Mexico, and Canada and the receiving countries of the United States and Canada.

Fagnoni, Cynthia M. 2000. *H-2A Agricultural Guestworkers: Status of Changes to Improve Program Services*. Health, Education, and Human Services Division, U.S. General Accounting Office.

Available at: <http://are.berkeley.edu/APMP/pubs/gao-h2a.pdf>

- This study, requested by Congress, deems a future widespread agricultural labor shortage unlikely. It also concludes that the H-2A program can be improved to meet the needs of both guest workers and agricultural employers while protecting the interests of domestic and foreign agricultural workers.

Lowell, Lindsey B. 1999. *Skilled Temporary and Permanent Immigration to the United States*. Research on Immigration and Integration in the Metropolis.

Available at: <http://riim.metropolis.net/Virtual%20Library/1999/wp99S2.pdf>

- This paper presents statistics on the occupations of temporary migrants upon entry in the U.S. and upon adjustment to permanent residency. It also reviews the literature on the labor market impact of skilled temporary migrants in the private sector and in academia.

Papademetriou, Demetrios G. and Monica L. Heppel. 1999. *Balancing Acts: Toward a Fair Bargain on Seasonal Agricultural Workers*. The Carnegie Endowment for International Peace. Publication briefing available at: <http://www.ceip.org/programs/migrat/bb519.htm> Available for purchase at: http://www.brook.edu/dybdocroot/press/books/clientpr/carnegie/balancing_act.htm

- This study posits that policymakers, advocates for seasonal farmworkers, and the agricultural industry have not been able to engage in constructive discourse to develop a system that can meet the needs of both farmworkers and the agricultural industry. The authors offer a number of suggestions for retaining the competitiveness of the industry while dramatically improving the working conditions of those whose labor is an important factor in its success.

United States Department of Labor. *Migrant and Seasonal Farmworkers Resource Library*. Available at: <http://wdsc.doleta.gov/msfw/html/resource.asp>

- This website includes recent demographic surveys of farmworkers, regulatory updates, and information from the U.S. Office of Management and Budget

United States General Accounting Office. 2000. *H-1B Foreign Workers: Better Controls Needed to Help Employers and Protect Workers*. Available at: <http://www.gao.gov/new.items/he00157.pdf>

- Providing an overview of the H-1B program, this report concludes that despite the program's success at helping employers bring in highly skilled foreign workers, Labor's limited legal authority to enforce the program's requirements and weaknesses in INS program administration leave the program vulnerable to abuse.

Weinstein, Eric. 2001. *How and Why Government, Universities, and Industry Create Domestic Labor Shortages of Scientists and High-Tech Workers*." National Bureau of Economic Research. Working draft available at: <http://nber.nber.org/~peat/PapersFolder/Papers/SG/NSF.html>

- The author argues that employers in government, universities, and industry lobbied for immigrant "knowledge" workers in the mid 1970s and late 1980s in order to depress the market price for domestic knowledge workers. Through creating a shortage "panic," this group of employers motivated changes in immigration law and obtained government training funds to create an artificial demand for technical skills.

GUEST WORKERS, MIGRATION AND TRANSNATIONALISM: IMPACT ON WORKERS, FAMILIES AND SENDING COMMUNITIES

California Institute for Rural Studies. 2000. *Suffering in Silence: A Report on the Health of California's Agricultural Workers*. Available at: <http://www.cirsinc.org/pub/SuffReport.pdf>

- A large-scale survey of the health status of California's agricultural workers. The sample population is over 90% foreign-born and mostly young Mexican men. The report concludes that these workers' risks for chronic diseases are startling high.

Durand, Jorge, Douglas S. Massey, and Luin Goldring. 1994. *Continuities in Transnational Migration: An Analysis of 19 Communities*. *American Journal of Sociology*, 99 (May): 1492-1533.
Available at: <http://www.jstor.org>

- Researchers working in Mexican communities have observed both regularities and inconsistencies in the way that transnational migration develops over time. This article presents a theory that accounts for these uniformities and discrepancies, and proposes a method to compare the process of migration across communities.

Golden, Liliana, ed. 2000. *Identities on the Move: Transnational Migration in the Americas*. University of Texas Press.

Available for order at: <http://www.albany.edu/ims/identiti.htm>

- This collection of essays focus on the construction of transnational identities and how these identities form and change through migration and displacement. Authors discuss Latinos in the U.S., individuals and communities along the border, indigenous peoples in migration, and identity construction in international workplaces.

Haus, Leah. 1995. *Openings in the Wall: Transnational Migrants, Labor Unions, and U.S. Immigration Policy*. *International Organization*, 49 (Spring): 285-313.

Available at: <http://www.jstor.org>

- The author argues that if states cannot fully regulate the socioeconomic forces driving migration flows, then one should expect labor unions to abandon their supposed preference for restrictionist immigration policy and organize immigrant workers instead. In that case, unions would prefer migration law that accommodates the interests of transnational migrants and data in the article provide some support for this hypothesis.

Kandel, William and Douglas S. Massey. 2002. *The Culture of Mexican Migration: A Theoretical and Empirical Analysis*. *Social Forces*, 80 (March): 981-1024.

Abstract available at: <http://www.irss.unc.edu/sf/abst803.htm>

- Within certain Mexican communities, international migration has become so deeply rooted that the prospect of transnational movement becomes normative: young people "expect" to live and work in the U.S. at some point in their lives. Men, especially, come to see migration as representing a marker of the transition to adulthood, in addition to being a widely accepted vehicle for economic mobility. The authors argue that international migration is cultural in the sense that the aspiration to migrate is transmitted across generations and between people through social networks. They develop a formal theory of the culture of migration and test it using data sets collected by the Mexican Migration Project.

Portes, Alejandro, Luis E. Guarnizo and Patricia Landolt. 1999. *The Study of Transnationalism: Pitfalls and Promise of an Emergent Research Field*. *Ethnic and Racial Studies*, 22 (March): 217-237.

Available at: <http://taylorandfrancis.metapress.com/openurl.asp?genre=issue&eissn=1466-4356&volume=22&issue=2>

- An introduction to a special issue on migration and transnationalism, this article defines the concept of transnationalism and reviews some of the pitfalls in establishing and validating the topic as a new research field. A set of guidelines to orient research in this field is presented. The authors review some instances of immigrant political and economic transnationalism that have existed in the past but

point to the distinct features that make the contemporary emergence of these activities across multiple national borders worthy of attention.

Rodríguez, Néstor. 1999. "The Battle for the Border: Notes on Autonomous Migration, Transnational Communities, and the State" in Susanne Jonas and Suzie Dod Thomas, eds. *Immigration: A Civil Rights Issue for the Americas*. Scholarly Resources, Inc.

- The author discusses the battle for the southern U.S. border from three perspectives: (1) autonomous migration—the movement of people independent of state authorization and regulation, (2) the growth of transnational communities, and (3) the reaction of the state which tries to reinsert the border as a meaningful divide.

Also see: California Institute for Rural Studies. 2001. *Forum for Transnational Employment*
Available at: <http://www.cirsinc.org/fte.html>

COMPARATIVE STUDIES

Martin, Philip. 2001. *Guest Workers and US Agriculture*.

Available at: http://migration.ucdavis.edu/rmn/changingface/cf_jan2001/Martin_Guest_workers.html

- Gives an overview of recent trends in U.S. guest worker programs and presents summaries of similar programs in Canada and Germany.

RECENT DEVELOPMENTS

California Rural Legal Assistance Foundation. *National Clearinghouse on Agricultural Guest Worker Issues*.

Available at: <http://www.crlaf.org/gworkers.htm>

- A website that provides updated information on legislation pertaining to guest-worker programs.

Employer Sanctions

Employer sanctions are penalties imposed on employers who knowingly recruit, hire or retain unauthorized workers. The Immigration Reform and Control Act (IRCA) of 1986 sought to tackle the demand side of undocumented immigration flows by mandating employer sanctions for the first time. The program is generally deemed unsuccessful because it did not stem undocumented immigration flows and raised concerns about employer discrimination on the basis of national origin and race. Evidence also indicate that employers have systematically manipulated this provision to retaliate against and discourage undocumented workers who seek to improve their working conditions.

Recent policy discussions on employer sanctions have focused on strategies to improve their enforcement. Labor organizations, on the other hand, have been vocal in calling for the repeal of employer sanctions. The following is a summary of arguments for and against employer sanctions and a bibliography of existing research that address the outcomes of the employer sanctions program.

EMPLOYER SANCTIONS—A Sampling of Common Arguments in Immigration Policy Reform	
PRO	CON
<ul style="list-style-type: none"> • The logic behind employer sanctions is that previous efforts to control immigration through border enforcement have not worked - an effective policy must intervene at the demand end by punishing employers who hire unauthorized immigrants. Sanctions on employer would stop immigrants from entering the United States by removing their source of livelihood here. Immigrants would cease to come or stay illegally if they knew that employers would not hire them. • But pro-employer sanctions groups, such as FAIR and CIS, agree that the program has not achieved its desired results. They say the program has faltered in large because a cottage industry providing counterfeit papers has managed to satisfy employers' responsibility under the law that they do not "knowingly" hire undocumented workers. The INS should institute a computerized paper verification system to address this problem. ➤ As evidence that it can work, they point to a drop in INS apprehensions of illegal border crossers shortly after the system was instituted and before fake papers became widely available (CIS, 1995; FAIR, 2001). 	<ul style="list-style-type: none"> • The I-9 system and Employer Sanctions have not achieved their stated goal of reducing undocumented immigration. <ul style="list-style-type: none"> ➤ Employer sanctions have not deterred undocumented immigration – the current population of 8.5 million immigrants is higher than before the system was put in place (AFL-CIO, 2001). Employers have not taken the prohibition against hiring undocumented workers seriously because the enforcement of the policy has been unsystematic and lax. • While sanctions have not deterred undocumented immigration, employers have used the ban on hiring undocumented workers as a tool to prevent immigrant workers from exercising their employment rights. Employer sanctions allow employers to harass and intimidate immigrant workers under the guise of complying with the law. Anecdotal evidence shows that INS raids have been used conveniently during union organizing drives, resulting in the deportation of union leaders and defeat for striking workers. Such cases have persuaded the AFL-CIO to abandon its support of employer sanctions.

PRO	CON
<ul style="list-style-type: none"> • In addition, supporter of employer sanctions claim the INS has been too lenient with employers when it has had the opportunity to enforce the existing provisions. Employer Sanctions can work toward deterring immigration, they argue, if the penalties are vigilantly enforced. <ul style="list-style-type: none"> ➤ Of the 15,000 cases between 1994-96 in which the INS had evidence of violations, the agency imposed fines only in 3,765 of the cases, or about 25% of the time. The INS has collected less than half of the \$34.5million in fines it has imposed, and allowed the many employers who plead ignorance of the law to negotiate down their penalties, often to zero (FAIR, 2001). ➤ The INS has also allowed them to settle “99.5% of the time” rather than face civil punishment or loss of license (FAIR, 2001). • Some proponents of employer sanctions argue that stricter enforcement of sanctions is especially critical in the wake the 9/11 attacks and should be made an integral part of the “war on terrorism.” Gaining control of the border requires that fewer people routinely cross the border in search of work, and turning off the magnet of jobs through sanctions can accomplish this. In addition, says Camarota (2001), “it would be much harder for terrorists who overstay their visas to blend into normal life if finding a job is made much more difficult.” <ul style="list-style-type: none"> ➤ Proponents also argue that a computerized employee verification system would be helpful in the war on terrorism by making it easier to locate non-citizen legal immigrants who may be placed on the “watch list” after entering the country (e.g. Camarota 2001). 	<ul style="list-style-type: none"> • Even when employers threaten workers with INS investigations, workers tend not to emigrate – instead, they are forced further into the informal economy where they must accept even worse conditions and lower wages (AFL-CIO, 2001). <ul style="list-style-type: none"> ➤ According to Philips and Massey (1998), the passage of IRCA significantly increased the wage penalty associated with being undocumented, thereby lowering the already low wage floor for immigrants. • By making undocumented immigrants more vulnerable and easier to exploit, employer sanctions also drive working conditions down for legal immigrants and native citizens. Legal residents are less prone to complain about their own wages and conditions when they know that their employer can replace them at will with an undocumented worker who is less likely to complain. <ul style="list-style-type: none"> ➤ Several studies suggest IRCA resulted in lower earnings of documented immigrants. Donato, Durand, and Massey (1992) report a sharp decline in monthly wages of Mexican immigrants post-IRCA. Sorenson and Bean (1994) found a substantial pre- post IRCA decline in real hourly wages for Mexican immigrants who have been in the US for more than a decade. But other studies have shown mixed results (e.g. Donato and Massey, 1993). • Employer sanctions contribute to the discrimination against workers who look or sound “foreign.” <ul style="list-style-type: none"> ➤ A 1990 GAO survey found that 20% of US employers engaged in illegal discriminatory practices, such as not hiring workers with a “foreign” appearance or examining the documents of applicants that appear foreign. ➤ Basak and Raphael (1998) found, in the most controlled study to date, that employer sanctions have caused discrimination, including substantial loss in earnings, against Latino workers in sectors where the legislation has been implemented.

Available Research Resources

EFFECTIVENESS AND ENFORCEMENT

Crane, Keith, et al. 1990. *The Effect of Employer Sanctions on the Flow of Undocumented Immigrants to the United States*. The Urban Institute.

Abstract Available at: <http://www.rand.org/cgi-bin/Abstracts/e-getabbydoc.pl?JRI-03>

- The authors find that none of their datasets provide conclusive evidence that employer sanctions have or have not reduced undocumented immigration.

Fix, Michael. 1990. *Enforcing Employer Sanctions: Challenges and Strategies*.

The Urban Institute.

Available for purchase at: <http://www.rand.org/cgi-bin/Abstracts/e-getabbydoc.pl?JRI-04>

- This report identifies four major challenges to employer sanction implementation by the INS: (1) establishing the legitimacy of sanctions as a new set of employment regulations; (2) satisfying the exacting legal requirements that attach to business regulation; (3) adapting the INS, which is used to working with immigrants, to the very different role of educating, regulating, inspecting, and sanctioning employer; and (4) regulating a vast economic process with limited investigative enforcement resources.

United States Congress Committee on the Judiciary, Subcommittee on Immigration and Claims. 1995. *Worksite Enforcement of Employer Sanctions: Hearing Before the Subcommittee*, 104th Congress, 1st Session.

- Testimonies from the Department of Labor, INS, Social Security Commissioner, an employer and the Department of Motor Vehicles.

IMPACT ON UNDOCUMENTED WORKERS, DOCUMENTED WORKERS AND NON-IMMIGRANTS

AFL-CIO. *Talking Points on How Current Employer Policies Harm Workers*.

Available at: <http://www.aflcio.org/issuespolitics/immigration/upload/employersanctions.pdf>

- The AFL-CIO states that employers increasingly use IRCA's employer sanctions provision when they want to target immigrant workers trying to improve their working conditions. Employers, they argue, specifically use the potential of sanctions as a tool to stop immigrant-organizing efforts that aim to enforce federal, state or local workforce protections laws. Undocumented workers are then threatened with deportation and the loss of their jobs.

Bacon, David. 2001. *Labor Fights for Immigrants: The Stage is Set for a Showdown Over the Fate of Undocumented Workers*. The Nation. Volume 272 (May).

Available at: <http://www.thenation.com/doc.mhtml?i=20010521&s=bacon>

- The author narrates cases where companies manipulate employer sanctions as a weapon to resist immigrant organizing drives.

Bansak, Cynthia and Steven Raphael. 2001. *Immigration Reform and the Earnings of Latino Workers: Do Employer Sanctions Cause Discrimination?* *Industrial and Labor Relations Review*. 54 (Jan): 275-295. Earlier version available at: <ftp://weber.ucsd.edu/pub/econlib/dpapers/ucsd9820.pdf>

- This paper investigates whether employer sanctions adversely affected the hourly earnings of Latino workers in the southwestern U.S. The authors exploit the staggered implementation of sanctions and employee verification requirements across sectors to estimate this effect. In particular, IRCA's employer sanctions provisions were not extended to agricultural employers until two years after their imposition on non-agricultural employers. Hence, Latino agricultural workers provide a control group against which to compare changes in the wages of Latinos in non-agricultural employment. The study finds substantial pre-post IRCA declines in the hourly earnings of Latino nonagricultural workers relative to Latinos in agriculture. Similar inter-sectoral shifts were not observed in relative wages among non-Latino white workers.

Cobb-Clark, Deborah, Clinton R. Shiells, and B. Lindsay Lowell. 1995. *Immigration Reform: The Effects of Employer Sanctions on Wages*. *Journal of Labor Economics*. 13 (July): 472-527. Article available for order at: <http://www.infotrieve.com/search/databases/detailsNew.asp?artID=6830006>

- The authors examine IRCA's attempt to use labor market regulation to control illegal migration. The employer sanctions provision of IRCA should lower wages because they act as a tax on hiring additional workers while legalization should affect wages by changing the relative supply of authorized and unauthorized workers. This study estimates IRCA's impact on wages of manufacturing production workers in metropolitan areas and finds small but statistically significant effects: sanctions lower wages, while legalization raises them.

Gordon, Jennifer. 1995. *We Make the Road by Walking: Immigrant Workers, The Workplace Project, and the Struggle for Social Change*. *Harvard Civil Rights-Civil Liberties Law Review*. 30 *Harv C.R.-C.L. L. Rev.* 407.

Article soon to be available at: http://www.law.harvard.edu/studorgs/crcl_lawreview/articles.html

- The author contends that in practice, employers can use sanctions to terrorize workers who attempt to organize or otherwise defend their workplace rights. Employers often use sanctions as a means of intimidating their cheap labor pool by threatening to turn in unauthorized workers if they complain of exploitation. The author also maintains that employers frequently call the INS on themselves if they suspect that employees may be preparing to engage in collective action or a union drive, knowing that there will be other unauthorized workers to take their place.

Nessel, Lori A. 2001. *Undocumented Immigrants in the Workplace: The Fallacy of Labor Protection and the Need for Reform*. *Harvard Civil Rights-Civil Liberties Law Review*. 36 *Harv. C.R.-C.L. L. Rev.* 345. Available for order at: http://www.law.harvard.edu/studorgs/crcl_lawreview/articles.html

- Although it was not the intention of policymakers that employer sanctions be used to undermine labor protections in existing law, the author argues that has been the policy's outcome. Specifically, the author recounts a case where the INS began a workplace raid, based solely on a tip from the former INS district director representing that employer in the midst of an intense labor dispute.

United States General Accounting Office. 1990. *Immigration Reform: Employer Sanctions and the Question of Discrimination*.

Available at: <http://161.203.16.4/d24t8/140974.pdf>

- For this study, the GAO reviewed federal agency implementation of IRCA, discrimination complaints filed with federal agencies and data from groups representing immigrants, surveyed over 9,400 employers, and conducted a “hiring audit” with 360 employers in two cities. They found that the employer sanctions provisions of IRCA has reduced illegal immigration and is not an unnecessary burden on employers. However, the GAO also found that there was widespread discrimination directly as a result of IRCA.

HOFFMAN DECISION

Avendaño, Ana, Marielena Hincapië, Amy Sugimori and Rebecca Smith. 2002. *Assessing the Impact of the Supreme Court’s Decision in Hoffman Plastic Compounds v. NLRB on Immigrant Workers and Recent Developments*. National Employment Law Project (NELP) and National Immigration Law Center (NILC)

Available at: http://www.nilc.org/immsemplymnt/Hoffman_NLRB/Hoffman_NELP_NILC_FINAL.PDF

- In March 2002, the U.S. Supreme Court ruled in *Hoffman Plastic Compounds, Inc. vs. the National Labor Relations Board* that the NLRB lacked authority to order back pay to an undocumented worker who was laid off from his job because of union activities. This document provides a history of the Hoffman case and projects the legal impacts of this decision on the rights of undocumented workers. The authors reveal that the Hoffman decision still leaves certain remedies available to undocumented workers, including conditional reinstatement, but warns that some courts may attempt to expand Court’s decision in this case to further undermine undocumented workers’ rights.

United States Department of Labor. *Fact Sheet #48: Application of U.S. Labor Laws to Immigrant Workers: Effect of Hoffman Plastics decision on laws enforced by the Wage and Hour Division*.

Available at: <http://www.dol.gov/esa/regs/compliance/whd/whdfs48.htm>

COMPARATIVE STUDIES

Martin, Philip and Mark Miller. 2001. *Employer Sanctions: French, German, and US Experiences*. International Labour Organization.

Available at: <http://www.ilo.org/public/english/protection/migrant/download/research/imp/imp36.pdf>

- This article reviews and compares the efforts of France, Germany and the U.S. to stop the employment of unauthorized immigrant workers through employer sanctions. The authors conclude that (1) employer sanctions are seen by enforcement agencies and labor and migration specialists as necessary but not sufficient to prevent the entry and employment of unauthorized workers, (2) sanctions are believed to be less effective at deterring illegal entry and employment in the 1990s than they were when first introduced in the 1970s and 1980s because of the spread of false documents, the rise of subcontractors in more flexible labor markets, inadequate labor and immigration law enforcement, and an economic boom in some countries which lowered unemployment rates and made employers more willing to hire unauthorized workers, and (3) some employers and labor unions that once accepted and advocated for employer sanctions no longer support their use.

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Further Research Questions and Needs

LEGALIZATION

- Differentiating undocumented groups: analyze demographics of these groups and compile narratives from different undocumented populations.
- Analyze domestic legalization and guest worker programs within the context of global migration and international economic restructuring.
- An economic survey of the undocumented workforce—
 - What is the aggregate wage paid to undocumented workers in California? In the U.S.?
 - What are the average wages paid to undocumented workers in the industries in which they're concentrated?
 - How do these compare to average wages for legal residents/citizens?
- Backlogs in the issuance of family reunification visas can warrant waits of up to twenty-two years for some families. How can efforts to clear these backlogs be linked to legalization efforts?
- What are the social costs of maintaining a large population of undocumented workers and families without full rights and protection under the law? Costs to physical and mental health? To educational attainment?
- What support does a new amnesty program enjoy among employers? In what industries? For what reasons?

GUEST WORKER PROGRAMS

- Analyze the economic and social policies in sending countries that 'push' workers toward guest work programs.
- What are examples of organizing institutions that address transnational labor?
- What industries are interested in using guest workers, where would they work, in what jobs, and with which companies?
- What social costs do guest worker programs, which currently employ younger men, bear on immigrants' families? How can guest worker programs be changed to involve industries that employ women and older men?
- How does the history of U.S. guest worker programs compare with similar programs in Europe?
 - Have the additional rights afforded guest workers in European programs prevented exploitation and abuse from taking place?

EMPLOYER SANCTIONS

- Opponents of sanctions warn that employers use this policy as a form of leverage to deny undocumented workers improved workplace standards.
 - What impact has employer sanctions had on unionization among undocumented workers?
 - Have INS raids been linked disproportionately to union campaigns? What are the results?
- In the past year, there has been an increase in "no match letters" sent by the Social Security Administration to employers, which is perhaps linked to new homeland security initiatives. How has this increased enforcement of employer sanctions impacted undocumented workers?
- Since September 11th, to what extent have local police participated in the enforcement of immigration laws? At what cost?
- What proposals for demand-side enforcement of immigration laws may be proposed in the future?

CONFERENCE HOSTS

National Immigration Law Center

National Network for Immigrant and Refugee Rights

University of California, Berkeley—California Studies Center

University of California, Berkeley—Center for Labor Research and Education

University of California, Berkeley—Institute for Labor and Employment

CONFERENCE PARTICIPANTS

American Friends Services Committee | Fernando Garcia

California Institute for Rural Studies | Rick Mines

California Labor Federation | Angie Wei

California Policy Research Center | Andres Jimenez

California Rural Legal Assistance Foundation | Mark Schacht

CARECEN | Angela Sanbrano

Center for Third World Organizing | Katy Nunez-Adler

Central Labor Council of Alameda County | Robert Dohndrup

Coalition for Humane Immigrants Rights of Los Angeles | Susan Alva

East Bay Alliance for a Sustainable Economy | Amaha Kassa | Kirsten Cross

Food First | Christine Ahn

IA-NE Immigrant Rights Network | Edward Leahy

Illinois Coalition for Immigrant and Refugee Rights | Fred Tsao

Korean Resource Center | Soosan Choe

Labor Council for Latin American Advancement | Oscar Sanchez

National Campaign for Jobs and Income Support | Son Ah Yun

National Council of La Raza | Raquel Rubio-Goldsmith | Michele Waslin

National Immigration Law Center | Josh Bernstein | Sara Campos

National Network for Immigrant and Refugee Rights | Claudia Gomez | Cathi Tactaquin

Pineros y Campesinos Unidos del Noroeste (PCUN) | Ramon Ramirez

San Diego State University | Maria de la Luz Ibarra

Service Employees International Union | Solange Bitol | Frank Martin del Campo

United Farm Workers | Rosalinda Guillen | Arturo Rodriguez

University of California, Berkeley | Jeremy Blasi | Peter Brownell | Andres Jimenez | Jose Palafox | Mary

Purcell | Katie Quan | Harley Shaiken | Richard Walker | Catha Worthman | Carol Zabin

University of California, Davis | Bill Ong Hing | Phil Martin | Roger Rouse | Michael Peter Smith |

Miriam Wells

University of California, Irvine | Hector Delgado

University of California, Los Angeles | Ruth Milkman

University of California, Santa Cruz | Lionel Cantu | Paul Johnston | Susanne Jonas | Manuel Pastor

University of Chicago | Mae Ngai

US Catholic Conference | Kevin Appleby

Zellerbach Family Fund | Lina Avidan

**Advancing Policy-Relevant Research
on the Problems of Immigrant Workers**

May 4th, 2002
Institute of Industrial Relations
UC Berkeley

Agenda

8:30 - 9:00	Registration and Coffee	
9:00 - 9:15	Welcome and Introductions	Ruth Milkman, UCLA Katie Quan, UC Berkeley
9:15 - 10:00	Keynote Address	Arturo Rodriguez, UFW
10:00 - 12:00	Legalization Discussion	
	Moderator	Harley Shaiken, UC Berkeley
	Panelists	Phil Martin, UC Davis Sara Campos, NILC
	Discussants	Susan Alva, CHIRLA Solange Bitol, SEIU
	Group Discussion	
12:00 - 1:00	Lunch Provided	
1:10 - 3:00	Guest Worker Discussion	
	Moderator	Rosalinda Guillen, UFW
	Panelists	Rick Mines, CIRS
	Discussants	Mark Schacht, CRLAF Ramon Ramirez, PCUN Mae Ngai, Univ. of Chicago
	Group Discussion	
3:00-3:10	Break	
3:10-5:10	Employer Sanctions Discussion	
	Moderator	
	Panelists	Miriam Wells, UC Davis
	Discussants	Cathi Tactaquin, NNIRR Lina Avidan, Zellerbach Foundation Family Fund Josh Bernstein, NILC
	Group Discussion	
5:10-6:00	Wrap Up and Conclusion	Katie Quan, UC Berkeley