THE DISPOSABLE WORKER: HISTORICAL AND COMPARATIVE PERSPECTIVES ON CLANDESTINE MIGRATION

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I. The Cyclical Nature of Clandestine Migration as an Issue

Since the founding of the republic, the formulation of United States policy on immigration has been an attempt to reconcile the desires for economic and political growth versus the preservation of the institutions, the ethos and the hegemony of the groups which control them. (Ziegler, 1953, 118).

Undocumented immigrants exacerbate the dilemma. The illegality of their presence threatens the existing orderly function of society. The underground network of communities of juridically non-existing people creates a shadowy area in society which is perceived as a threat because of its undetermined influence on the economy and life of society. Since this sub-society does not exist de jure, not only is it difficult to analyze and plan for on the practical level, but even its acknowledgement (other than in a context of law enforcement) in planning and policy as a de facto, even inevitable, element is ideologically and politically controversial. Further, clandestine migration in times of prosperity is viewed as meeting growth needs and less of a threat to institutions than settlement migration. It is in times of recession that it is seen as a threat. The more recent concern with population growth and pressure on resources adds an objection to clandestine migration that does not reflect the traditionally
cyclical pattern.

The hypothesis that the issue of clandestine immigration is cyclical is amply documented in the available literature (Samora, 1971; Bustamante, 1973; Cardoso, 1974; Hoffman, 1970; Reisler, 1973; Grebler, et al, 1966, are examples). Mexicans are the only group in the United States that have repeatedly been the objects of concern as undocumented migrants. That history is a process of institutionalized absorption and expulsion of needed labor without incurring the price that citizen workers would be legally entitled to or that settlement-type immigrants would require in terms of the social overhead costs the receiving society must provide (Samora, 1971, 33-57). Mexico has historically served as a reservoir of manpower to be utilized (1) as temporary labor in times of national emergency and (2) as cheap labor for industrial growth and agribusiness. The selective enforcement of immigration laws has been a function of this policy.

_Immigrants as Supply of Manpower in National Emergencies._

The systematic importation of Mexican workers has its roots in the needs of agriculture, railroad and mining interests in the early part of this century. With the advent of World War I, the shortage of domestic workers created a need for the utilization of the handy and available Mexican labor in all three areas of work. The Secretary of Labor authorized immigration officials to exempt illiterate temporary farm laborers from Mexico from the immigrant qualifications and head tax provisions of the Immigration Act of 1917. (Text of Secretary W. B. Wilson's Order Suspending Sections
of the Immigration Act to Permit Laborers to Enter U.S., The Official Bulletin (Committee on Public Information), Vol. 2, No. 343 (June 24, 1918), 10-12) While the exemption was effective (1917-1921), 72,862 Mexican were admitted through legal channels and an undetermined number of undocumented migrants were allured north by high war time wages and the tolerance of law enforcers.

A series of bilateral agreements between the United States and Mexico were signed between 1942 and 1947 to meet the emergency needs for manpower (U.S. Department of State. Executive Agreement Series 278. Temporary Migration of Mexican Agricultural Workers. Agreement Between the United States and Mexico, Effected by Exchange of Notes Signed August 4, 1942. Washington, D.C.: Government Printing Office, 1943). The agreement of August 4, 1942, was regularly renewed and it led to the "Bracero Program" of the post-war period, partly justified by the perceived emergency of the Cold War. As a result, even "wetbacks" were legalized (U.S. Department of State. Treaties and Other International Acts, Series 1858. Mexican Agricultural Workers, Legal Employment of Certain Workers Who Entered the State of Texas Illegally. Supplementary Agreement Between the United States of America and Mexico, March 10, 1947. Washington, D.C.: Government Printing Office, 1947). Between those coming under the agreement regarding Mexicans illegally in Texas and certain other Mexicans illegally in the United States to be placed under contract according to the provisions of the existing agreement for Mexican Contract Agricul-

"The insatiable demand for cheap labor in the U.S.," (Samora, 1971, 146) did not abate with the passing of war emergencies. National emergencies served as the occasions to legitimate an institutionalized system for the use of manpower, of tapping a pool of labor which did not require a high price and was very accessible because of the poverty and uneven development of Mexico, the internal Mexican migration to the northern borders and the constant pressure of an excessive birth rate.

Mexican immigrants as a reservoir of cheap labor.

"Like the Southern plantation system, California agriculture has always depended on cheap foreign labor. In the 19th century it was the Chinese coolie. Then came the dust bowl refugees who were replaced by the Mexican contract worker, the bracero, the commuter, and now the illegal entrant" ("Statement of Sheldon L. Greene, General Counsel, California Rural Legal Assistance," in U.S. Congress, House of Representatives, Committee on the Judiciary, Subcommittee No. I, 1971, 188). In the Southwest, immigrant labor first served the growth of agriculture, mining and transportation
and, then, of other industries. In the Northeast and the Midwest European immigrants carried out the same function at the service of heavy industry and public services. When the supply of unskilled workers from southern and eastern Europe declined due to World War I and practically dried up the national origins quota system, Black unskilled workers began to move north en masse. When Southern economic development and the Civil Rights Movement of the 1960's contributed to the end of emigration from the South of cheap Black labor, Latin America and the Caribbean Islands augmented the earlier established Puerto Rican flow as labor sources for the Northeast and the Mexican movements to the Midwest. These newer streams included legal and undocumented migrants (Domínguez, 1975). If the current analysis is limited to Mexico, it becomes evident that the arrival of Mexican laborers into the Southwest and beyond as a mobile, cheap labor force available for all types of unskilled work starts at the early part of the century with the construction of the railroads. By 1909, Mexican laborers comprised over 10 percent of the workshop crews on southwestern railroads. In fact by 1903 almost all northern Mexico railroads were owned by investors from the United States and by 1910 Anglo investors owned 75 percent of all active mines in Mexico. "Railway and mining interests initiated the migratory process by bringing their trained work gangs over the border to work in their United States establishments. For example, thousand of miners went from Anaconda copper mines at Cananea in northern Mexico to work in Anaconda mines in southern Arizona" (Naco consul to Secretary, Oct. 18, 1908, AHSRE, 242.224 *72:73)/12-5-79 — cf. Cardoso, 57-58).
In one eight month period, July 1908 to February 1909, railroad companies in the United States brought in 16,47L workers, many of them former employees of the companies Mexican branches (Dillingham Commission, Vol. 85, pt. 3, p. 25. See Cardoso, 1974.) This type of economic interaction over the years built one social and economic field of activity which stretches from northern Mexico to the Southwest. This economic field coincides to a large extent to former Mexican territory now part of the United States. The population flow continued with undocumented entries becoming a fact of life in the Southwest economy. The Assistant Chief of Staff for Military Intelligence for the Southwest estimated that from February 1, 1920 to March 19, 1920, over 100,000 laborers crosses the border illegally (Secretary of Labor to Representative Cole, April 25, 1924, in Congressional Record (January 6, 1925, pp. 1366-1367). "While only 330,000 Mexicans entered the United States in accordance with registration procedures, it is possible that between 660,000 and 1,650,000 migrants actually crossed the border during the decade from 1910 to 1920. An estimate of 1,000,000 would not seem to be unreasonable" (Cardoso, 1974, 90). Dependence on Mexican laborers was also strengthened by the halt of eastern and southern European immigration. Mexico became the new labor source. As the Governor of California states in 1930, "He does tasks that white workers will not or cannot do. He works under.... conditions that are often too trying for white workers. He will work in gangs. He will work under direction, taking orders and suggestions" (Mexicans in California, Report of Governor C.C. Young's Mexican Fact-Finding Committee (Sacramento, Cal. 1930), p. 170, quoted in Grebler et al, 1970, 66). The 1920's also "witnessed the appearance of signifi-
cant numbers of Mexicans in cities, in the Midwest, and in industrial occupations. The story of Mexican immigration during the 1920's clearly indicates the nature of the relationship between the Mexican worker and American society. When the economic picture in the United States darkened in 1921 and in 1922, the Mexican laborer - once eagerly recruited to develop new crops, to maintain railroads, and to aid in the war effort - became an easily expendable commodity" (Reisler, 1973, 103). Localities initiated, on a limited basis, a policy of transporting workers and their families back to Mexico often under duress (Francisco Pereda to William Hale Thompson, April 25, 1921, Immigration Bureau File 5509116, RG85,NA). At the same time, the Mexican government took important consular measures to repatriate destitute immigrants. With the economic expansion of 1923, Mexican laborers returned in large numbers, forgetting the just concluded "wetback drive."

During the Depression years of 1930-35, the contraction of legal immigration and clandestine workers followed the pattern of the economy: 400,000 undocumented workers were deported under the voluntary departure system; 150,000 were repatriated with cost paid by cities, counties, Mexican consuls and INS; 250,000 returned because no jobs were available (Hoffman, 1970, ).

The next importation of contract labor, the war emergency of the first half of the 1940's, was stretched for 22 years from 1942 until December 1964. Along with the imported contract workers, a new wave of clandestine migrants arrived which provoked "wetback drives" in 1947, 1948, 1952 and culminated in Operation Wetback of 1953-1954, when nearly 2 million clandestine Mexicans were returned
to Mexico. (Unlike Greene, quoted above, Samora, 1971, 48-9, following Grebler, 1966, 32, correctly notes that clandestine movement paralleled and was spurred on by the Bracero Program.) Perceived as laborers and not settlers, Mexican clandestine migration did not provoke any special legislation from Congress. Administrative measures would dispose of them according to economic needs.

A report of the Idaho State Employment Service for 1949 included in the following excerpt: "The United States Immigration and Naturalization Service recognizes the need for farm workers in Idaho, and, through cooperation with the state employment service, withholds its search and deportation until such times as there is not a shortage of farm workers" (President's Commission on Migratory Labor, 1951, 76). In fact, Samora (1971, 48-50) contends that a major function of the Border Patrol in this period was to regulate through selective enforcement (as opposed to apprehension and exclusion) clandestine migrants during the period. The Border Patrol was a tool to open and close the Border in cyclical fashion to meet demands of the U.S. economy, particularly in the Southwest. The Immigration Act of 1917 through the Ninth Proviso and the Act of 1952 through Section 212(d)(3) gave the Attorney General the power to admit alien workers where there is a certified shortage of domestic labor according to the Department of Labor. The Act of 1952 introduced in Section 101(a) temporary admission of alien workers, a type of visa maintained in the Act of 1965 and in use today for some agricultural workers, but from the Caribbean mainly and not from Mexico. In short, the law still provides for administrative responses to the need of
cheap labor under pressures from economic interests. Current law provides the basis for a large-scale Bracero Program. It is a matter of interpretation and administrative decision which currently prevents temporary workers from Mexico from entering in large numbers. The impact of bills currently before Congress (to be discussed below) is not so much to authorize such agricultural programs but to force administrators to permit them by limiting discretion to prevent them.

In response to the Supreme Court ruling in *United States vs. Evans* (333 U.S. 483, 15 March 1948), Congress passed and President Truman signed legislation on March 20, 1952 to make it an offense to conceal or harbor aliens who enter the United States illegally. Despite efforts by Senator Paul H. Douglas (Ill.) to outlaw hiring an undocumented alien, the amendment was blocked (Copp, 1963, 36-40). This elimination of hiring from being construed as harboring an alien unlawfully present, known as the Texas proviso, was unchanged by the 1965 immigration amendments. Since hiring is not harboring, the abolition of the Bracero program in 1965 did not end clandestine immigration. It has remained a permanent feature of the Southwestern economy, increasing in the last decade, if INS apprehension data are an indication.

In short, clandestine migration has been a feature of Southwestern economic life. It was a movement that in part paralleled and in part resulted from temporary worker programs. Structured loopholes like the Texas proviso and uneven administration of the law, with occasional crackdowns in response to economic recession (notably following adjustment from a war footing in the periods after
W.W. I, W.W. II, Korea and Vietnam) comprise the history of Mexican clandestine migration in this century.

Undocumented migration from Mexico has certainly been associated with and augmented by temporary laborer programs. This situation is paralleled by the European case as well as the Caribbean-to-U.S. movements of the past decade.

II. Re-emergence of the Problem: 1970-1975

When on May 5, 1971, the Subcommittee on Immigration of the House of Representatives began formal hearings on "illegal aliens," it responded to public pressure which had been mounting in response to the increase in undocumented immigrants captured by INS and to economic recession. The opening argument by Congressman Rodino, Chairman of the Subcommittee, was: "Today.... we have a high rate of unemployment.... yet, there are untold thousands of aliens, illegally in the United States working illegally and depriving Americans of jobs." (U.S. Congress, 1971, 2).

The Subcommittee hearings were part of a growing debate on clandestine migrants. In the first half of 1971, what is labelled "illegal immigration" became a featured news story. The foci of the attention was summarized in Congressman Rodino's statement: the volume of movement and the economic effects, especially jobs, but also tax payment and use of public services. It was at this time, also, that a recognition developed that clandestine migration was not limited to Mexicans in the Southwest. The New York Daily News,
for example ran a number of expose articles in the spring of 1971, on "illegals" in the New York area. Media coverage has continued and broadened. The ABC network ran an hour documentary in January 1975. U.S. News and World Report and Christian Science Monitor have had a continuous series of reports on the question. Human interest features have appeared on various segments of the clandestine population in The New Yorker (Haitians), Ms., The New York Times Magazine (Dominicans, Colombians), and New York Magazine (Trinidadians).

Clandestine migration has gained increasing attention from sources as disparate as law journals, The New Republic (22 Feb. 1975), Readers Digest (August 1970), The AFL-CIO Federationist, The American Legion Magazine, and Society (March-April, 1974). In short, clandestine migration had become a public issue, at least as reflected in the broad base of media coverage.

The media interest was due in no small part to the work of the Commissioner of INS, Leonard J. Chapman, Jr., who assumed office in 1972. Chapman has made control of undocumented migration a high priority item. He has developed a public education - public relations effort to spread the message that the volume of clandestine migration is large and deep in its effects and that INS has neither the resources nor the legislative tools it really needs. Chapman's message has been that, although manpower and money are needed for the INS, patrol and inspections are not enough. The economic incentive must be snuffed out. He, like others, strongly supports penalizing employers of undocumented aliens.
The major issues of the debate have been the volume of clandestine migration to the United States, the impact (especially on jobs and public costs) and the solutions.

Volume

A great deal of the debate in and out of government has centered on how many undocumented immigrants there are. At the House Subcommittee hearings in 1972, then Commissioner Raymond F. Farrell of INS, estimated the number to be about 1,013,000 (U.S. Congress, 1973, p. 4). The Subcommittee Report labelled this a "conservative estimate." The Subcommittee reasoned that one million persons were apprehended in 1954 during Operation Wetback and assumed the number to be larger in 1972. The Subcommittee report put the estimate at between 1 and 2 million. Both of these estimates were based on assumptions about the ratio of clandestine migrants who escaped to the number apprehended. The number of apprehensions (not the number apprehended) was multiplied by this assumed ratio. Commissioner Chapman in public statements between 1972 and 1975 estimated the number of undocumented migrants variously between 4 and 12 million and more recently has used the estimate of 8 million derived from a preliminary estimate made as part of an INS contract. Our understanding is that the public figure has been revised downward to 6 million, on what basis we are not aware. The estimate of 8 million was made by Lesko Associates, a Washington consulting firm, in a study contracted by the Office of Planning and Evaluation of INS (Lesko Associates, 1975). The Lesko Report was presented as very
preliminary. "For planning and budgeting purposes, it was necessary for INS to initiate a quick-reaction study to reduce the wide variance of the estimates. The limited effort reported herewith cannot replace the major study effort; rather, this task effort will attempt to narrow the wide range of previous estimates." (Lesko Associates, 1975, 1)

Lesko Associates made two estimates, one on total size and one on the Mexican component of clandestine migration. Each estimate was based on different methodologies. Both estimates have been severely criticized because of serious flaws in assumptions and methodology.

The estimate of total volume was $8,180,000. It was arrived at through use of a Delphi panel and represents the mean of the estimates of the six panelists after the Third Delphi round. It should be pointed out that the panelists were not required to submit any information on the bases for their estimates, but rather were asked to give their estimate with no request for documentation for it. The range of the estimates from the third round was 4 to 11 million (similar to the 4 to 12 million range already used). A detailed critique of Lesko's execution of the Delphi method was made as part of a 33 page memo to Congressman Herman Badillo from the Library of Congress' Congressional Research Service. (Congressional Research Service, 1976, 15-24). The summary of the author, Dennis L. Little of CRS's Futures Research Group lists the major objections (P. 24):

In general the entire study seems to be a poor application of the Delphi process. The panel was too small and deductively appears to have omitted a number of sig-
significant stakeholders; the most or one of the most knowledgeable stakeholders, employees of INS, were excluded from participation; the number of questions was insufficient and adequate baseline data were not provided; there was little effort to obtain the underlying assumption behind each individual's estimate; there is no logic for understanding the shift in the group response from round to round; and finally, the results confirm the range of uncertainty rather than narrowing it.

The Mexican estimate was also critiqued in the CRS memo. The main objections cited were: (1) the accuracy of the baseline data (Mexican undocumented migrants in 1970) which were drawn from a paper that was "never intended to be anything more than a class exercise in the Master's seminar in migration," (CRS, 1976, 7); (2) use of apprehension data from INS with no attention to the difference between apprehensions (events) and persons, thereby ignoring repeater offenses when, for example, 31% of the illegal aliens apprehended in 1972 were repeaters according to Border Patrol statistics; (3) the assumption "that the ratio between the number of illegal aliens not apprehended and those apprehended at some point other than entry remains the same year after year" (CRS, 1976, 12-13) and therefore, that the apprehension patterns are unrelated to changes in INS budget, manpower deployment, increased efficiency, effective administration or changes in law.

The CRS stated their conclusion on the validity of the Lesko estimates by quoting from a letter (Dec. 23, 1975) of the Director of the Bureau of the Census, Victor Barabba, to Congressman Badillo, outlining the results of a Census Bureau examination of the Lesko study also made at the Congressman's request: "In one opinion the
estimates of the current illegal alien population shown in the study are based on weak and untenable assumptions, and add very little to our knowledge of the size of the illegal alien population." (CRS, 1976, 15). Stoddard (1976, 6-7) makes some interesting observations using estimates of undocumented movement. First, what would the Mexican growth rate be if movement was on the magnitude estimate by the Lesko study. Second, the Lesko estimate of 5.2 million undocumented Mexicans in the U.S. as of 1975 equals 20-25% of the 15-59 year old Mexican population, the prime ages for clandestine movement.

There is a school of thought that suggests that not only is meaningfull estimate of the total number of clandestine migrants next to impossible but such an estimate may not be as crucial or important as assumed. The important questions revolve around impact and methods to estimate costs and benefits in discrete areas such as jobs, welfare, schooling and law enforcement may be more easily ascertained and more useful. For example, future prevention may be abetted by knowing more about the folks, that is, the locations, techniques of entry and numbers. In fact INS is currently contracting such research based to some extent on such a technique. (See North, 1975.) The staff of the President's Domestic Council on Illegal Aliens, comprising representatives of affected agencies in the Departments of Agriculture, Health, Education and Welfare, Justice, Labor, and State, are also in that direction. As appealing as it might seem at first blush, an estimate of the overall total is not all that useful when it comes to concrete planning.
Impact

Claims and counterclaims on the effects of undocumented migrants have been a main ingredient of the controversy. Unfortunately little research is available to back up the claims. It is only recently, in fact, that efforts are underway to supply data on the patterns of behavior of clandestine migrants in such areas as social security and tax payment, use of schools, hospitals and social welfare agencies, transfer of money out of the country and impact on jobs and wages. We are far from a balance sheet. One study conducted for the Labor Department of 793 aliens detained by INS showed the following patterns (U.S. Department of Labor, 1975).

1. 61% were Mexican nationals - 30% were from other Western Hemisphere nations.

2. 80% of Mexicans located in California and the Southwest.

3. 53% of the respondents had been in the U.S. over 2 years.

4. 75% of the illegals are supporting or helping to support people in their home country. $105/month, on the average, is being sent home.

5. 64% of the illegals cannot speak English.

6. 10% is the unemployment rate being experienced by illegals.

7. 63% of Mexican illegals were employed in service or laboring jobs at time of entry. Skilled illegals lose occupational status entering U.S. workforce.

8. Between 20% and 25% of the illegals appear to have been paid below the minimum wage.

9. $2.71 was hourly rate of apprehended illegals. 51% of the 793 illegals earned less than $2.50/hour.

10. $1.74 - the average hourly wage of the illegals working in the border counties - was below all minimum hourly wages.
11. 17% of the illegals were union members.
12. 77% of the illegals had social security taxes deducted.
13. 73% of the illegals had Federal income taxes withheld.
14. 44% of the illegals paid hospitalization insurance.
15. 31.5% filed U.S. income taxes.
16. 27.4% used U.S. hospitals or clinics.
17. 7.6% of the 389 parents among them had children in U.S. schools.
18. 3.9% collected one or more weeks of unemployment insurance.
19. 1.3% secured food stamps.
20. .5% received welfare payments.

On the other hand a study conducted for INS concluded as follows (U.S. Department of Justice, 1975.)

That is, for every one million adult illegal aliens, there is a presumable net tax burden of roughly $2 billion. And for every additional 250,000 adult illegals -- the conservative estimate of the current annual rate of increase -- there is an additional tax burden of $500 million. (Italic in original)

The INS news release accompanying a summary of this study made the assumption that there were approximately 8 million undocumented aliens in the United States and concluded, on the basis of the above cost per alien, that the problem costs about $16 billion a year, and is increasing by about 500 million per year.

To be sure, there are both costs and benefits. But after all is said and done, no one is in favor of clandestine movement. From those who advocate a more open border based on history, the role of
U.S. investment decisions, and the use of migratory labor (documented and undocumented) to those who urge a regulated flow of temporary workers (reinstituting a Bracero program) to those who call for cessation of all temporary worker migration, there is agreement that clandestine migration ought to cease. In case there is any doubt, the argument is not over legal status but economic policy as translated into movement of labor vs. movement of capital.

In short, information on impact is scattered and contradictory. Some of the contradiction is no doubt due to assumptions and sampling problems inherent in studying such a population. Nevertheless, it seems evident that the United States may not be able to afford the luxury of getting the data before policy is formulated. Solutions are already proposed.

Solutions

Sanctions for Employing Clandestine Migrants or Aliens with Non-Work Visas. In 1970, Emanuel Celler, then Chairman of the House Judiciary Committee, introduced a bill (H.R. 18923, 91st Congress), an administration bill, which included a provision to provide penalties for employers of aliens not authorized to work. (See Interpreter Releases 47:40, Nov. 4, 1970 and Congressional Record 116:140, Aug. 13, 1970, pp. E7638-7641.) Since then a series of bills have been introduced and passed by the House (most recently H.R. 8713, 94th Congress). Only recently, has the Senate Subcommittee even taken up the question with introduction and hearings on S. 3074 introduced on March 4, 1976 by Senator James O. Eastland (Miss.) who chairs the
Senate Judiciary Committee. Eastland's bill takes up a number of other important matters (like reform of Western Hemisphere provisions) which have been treated in separate bills in the House. Eastland's bill also contains a controversial guest worker program. These sanction provisions harken back to Senator Douglas' proposal of the early 1950's.

The reasoning behind these measures is that sanctions will reduce the economic incentive of undocumented workers. Voluntary compliance on the part of employers presumably will be widespread and enforcement will be easier. The net result, it is assumed, will be to cut deeply into the problem of reducing opportunities for employment.

The major opposition to both the House and Senate versions (which differ in the nature of the sanctions) is not to the concept of sanctions. Rather objections center on the related questions of discriminatory enforcement and amnesty.

The hesitation about discrimination revolves around the question of whether citizens or permanent resident aliens who "look foreign" or have accents will be denied jobs by employers on the grounds of fear of prosecution. One way around this is to have all prospective employees sign a statement that they are eligible for employment. While this may legally relieve the employer of responsibility for knowingly employing an ineligible alien, it defeats the purpose of the sanctions since the ineligible alien may have few qualms or fears about signing such a statement.

Another suggestion is use of the Social Security card and number.
Since May, 1974, all recipients of Social Security Cards are supposed to have been checked concerning lawful status. Using this date as a cut-off, it is proposed that all Social Security cards indicate the eligibility of the holder of an account number to work. Implementation of such a plan is not without difficulties but is technically possible. The point is that the screening for eligibility be done by a government agency not the employer. The use of algorithms for such tamper proof cards is already being rested in regard to other alien documents. Such a proposal falls short of a national identity card for all citizens although it does add to the trend of using the Social Security number as a universal identifier. The assumption is that the employer cannot use the excuse about prosecution as a cover for discrimination. Thus the potential employee will not be penalized by a sanctions law.

The 1974 date raises the second objection to current sanctions proposals. Currently, persons who entered the United States clandestinely before 1948 can have a record of lawful admission created. Both House and Senate versions of the sanctions bills move that date to 1968, the year of the full implementation of the 1965 Immigration Act, including the imposition of the 120,000 ceiling in the Western Hemisphere, the first time for any ceiling for this hemisphere. The House bill required continuous presence since that date and the Senate bill requires continuous residence. The latter is an easier test for it allows for stays outside the country for short duration.

The opposition to these provisions (including religious and non-sectarian social services agencies and many ethnic groups) contend that the United States, legislatively and administratively, has
shown at best an ambivalent attitude toward clandestine migration in past years and even at present. They point to funding of INS and the State Department for border and visa control, the practice of indefinite stays of deportation for highly skilled and professional persons working without documentation during part of the last ten years, and the lack of any employer sanctions to date. The policy on future prevention, they contend, must be separate from that on current residents. The 1974 date is chosen since that was the effective date of the 1972 amendments to the Social Security Act that inaugurated a clear legislative intention and program to limit unauthorized work.

The force of these arguments is countered by recalling that the legislative dimension at least has been hampered by Senator Eastland who, as Chairman of the Senate Subcommittee on Immigration, had not held hearings for nearly 10 years until the recent introduction of his bill. The fear here is that the 1974 date may include too many people.

As the matter now stands, the House bill on sanctions has been reported out of the Judiciary Committee but no action has taken place on the floor of the House. The Senate Subcommittee is holding hearings on the Eastland bill but opposition is high to many parts of the bill. It is not clear whether or in what form the Eastland bill will emerge. When, if and in what form it does pass the Senate, in all probability, a conference committee would also be involved to reconcile House and Senate bills.

One other form of employer sanctions should be mentioned here which is notable for its lack of attention in recent discussions. In-
stead of new legislation and concentration of funding to INS for enforcement, attention and funding could be given to Labor Department enforcement of current law on wages and working conditions. Such enforcement could reduce abuses and thus the economic incentive of employers who exploit the undocumented migrant's status. Such expenditure has the additional benefit that it would not be money spent to enforce a law concerned solely with clandestine migrants but would benefit citizens and legal resident aliens in the workforce by enforcing laws to protect all U.S. workers.

While the approach of enforcing labor laws does not preclude an employer sanctions bill, it calls into question the wisdom of a policy of putting most resources into enforcement of the narrow problem. Questions should be asked about how to control bureaucratic infighting of agencies for larger budgets, the wisdom of policies that are narrow in impact vs. beneficial to all U.S. residents, and the necessity of forcing the Department of Labor to take a fuller share of responsibility for the impact of immigration, a role it has been reluctant to assume due to the heavy fire it has drawn for its administration of the labor certification program.

**Temporary Worker Program.** The Eastland bill introduces two changes regarding temporary visas for workers (H-2 visas) of basic importance. First, the bill would change the law so that an H-2 worker could perform work which is permanent in nature, rather than the current restriction to work that is temporary in nature. Second, and more important, it would require that, upon application by an employer, the Secretary of Labor would have 60 days, or in the case of agricultural labor 20 days, to certify whether eligible U.S. laborers are available
in the region and refer such workers. If this cannot be done, H-2 visas can be issued for temporary workers. The difficulty of administering such a procedure is the time given makes it clear that the provisions of the bill not only establish a farm labor program but open the gate to a guest worker program in all areas of work. The opposition is formidable and includes organized labor which is opposed to any further temporary workers.

**Other Solutions.** Among the proposals for solution are other measures aimed at prevention and control. These include: (1) increased funding for consular officers so that tourist visas be issued only to *bona fide* visitors for pleasure; (2) more funding for border control and inspections by INS; (3) funding for tamper proof documents to reduce forgery; (4) adoption of some form of identification document, including the previously discussed use of the Social Security card and number; and (5) some voices are faintly raised questioning investment strategy (capital vs. manpower mobility), although such questions are more forcefully and openly raised in European context.

Proposals are scarce concerning the undocumented aliens already in this country. Aside from the limited amnesty proposed in bills in committee and the broader amnesty including all entries up to May 1974, there are no specific proposals except business as usual. This means an INS force admittedly understaffed and repeatedly warned by the courts that stop and search and dragnet tactics must not infringe upon basis rights against unlawful search. Justifiable causes must be articulable reasons and accent or features are not sufficient
grounds to detain a person for questioning. (Illinois Migrant Council, et al., N. Pelliod et al., F. Supp.: N.D. Ill., No. 74-C-3111, July 29, 1975.)

Summary

The current controversy arose, as in the past, in a time of economic recession and, has been the modal case, in the wake of foreign military activity. The reaction to this point has not been one of a round-up and deportation. The assumed size of the problem, recognition that the problem is to a large extent of our own making, and the still formidable power of those desiring temporary labor seem plausible explanations. The focus has been elsewhere, namely on trying to rally opinion to support measures for further prevention. The emphasis on volume and impact has been to a large extent an effort to gain public acknowledgement that there is a problem of extreme importance and steps must be taken. Specific knowledge to be used as the basis of concrete policy and program is scarce. Nevertheless, solutions aimed at removing the economic incentive and controlling aliens in the job force through documentation programs are proposed as seeming to be at least logical steps in the current situation. But the enforcement of current labor law is a neglected policy alternative. Different groups would also support temporary laborer programs or amnesty, although there is opposition to both proposals.

III. The International Dimension of Clandestine Immigrations

Clandestine immigrations in the world, compared to any other demographic trend, are the least measurable. The illegality of the
process and the underground life of the illegal communities of immigrants do not allow for even approximate Census taking. The fluctuation of estimates is the most common characteristic of any discussion of international clandestine movements of workers and their families (Jacques Houdaille and Alfred Sauvy, 1974, an example of limited documentation). The second evident characteristic is the direction of the flow of illegals from poor and developing countries to economically dominant areas of the world which function as poles of control of political and industrial power and of the rate of growth. The International Labour Organization's Convention 143: Concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, June 24, 1975, came as a response to the increased awareness "of illicit and/or clandestine movements of migrants for employment" (International Labour Conference. Migrant Workers, 1975.) The representatives of employers and workers agreed to advocate sanctions against organizers of clandestine migrations and employers of undocumented migrants. In the mid-1970's the phenomenon was, in fact, found in a variety of countries and well-institutionalized.

West Germany. "In Germany where all legal immigration is organized by a state agency (firms who want migrants pay a fee of $392 per head to the agency for bringing him in), there are between a quarter and a half million migrant workers who have been smuggled in or, more rarely, have smuggled themselves in" (John Berger and Jean Mohr, 1975. 88. The Working Party on Clandestine Immigration of the Council of Europe estimates illegal workers as 10 percent of all foreign workers in the Federal Republic of Germany and in the other
European labour-importing countries (Council of Europe, RS: 274 (1975) revised, 1976.) On Oct. 20, 1974, the government of the Federal Republic of Germany agreed to introduce a bill which would impose stricter penalties on those who employ foreign workers illegally. Existing legislation provides that unauthorised recruitment or procurement of foreign workers is punishable by a fine or imprisonment of up to one year. The bill proposes that any person recruiting or finding work for foreigners without the prior consent of the Federal Employment Agency is to be punishable by a fine or imprisonment for up to three years. If the acts involve profiteering or massive exploitation, the offender may be imprisoned for up to five years. The same penalties will apply to any person who hires out a foreign worker who does not have a valid work permit.

Employers who hire foreign workers without a valid work permit will also be liable to stricter punishment under the proposed bill. Existing fines for such offenses will be increased and, in cases where the illegal employment takes place under discriminatory conditions, the penalty will be imprisonment of up to three years. Imprisonment for up to five years in envisaged in cases involving trafficking or profiteering in such practices. (Social and Labour Bulletin 1975.)

France. According to governmental sources, in 1968, 83 percent of the immigrants were living illegally without papers. After several efforts made at regularizing illegal workers, on February 19, 1974, the Ministry of Work, Employment and Population informed that 38,500 cases were being regularized and that Tunisians and Moroccans leading other nationalities (Jacques Houdaille and Alfred Sauvy, 731).
Venezuela. The movement of illegal immigrants assumes gigantic proportions within the frontier states of Venezuela with Colombia. In 1972, 500,000 undocumented Colombians were estimated to reside in Venezuela and the number had risen to 800,000 to one million at the beginning of 1976, which implies an annual growth of 50 to 75,000 illegals. The policy of Venezuela is to arrest and deport all clandestine aliens. About 80 percent of all deported migrants seem to be caught between one and three months from entry. There is no appeal from administrative decrees of deportation, which have among some of their negative consequences the breaking up of families on the basis of the nationality of their components. In October 1974, the Social Affairs Council of the member States of the Andean Pact (Bolivia, Chile, Colombia, Ecuador, Peru and Venezuela) worked out a Instrument on Labor Migration and an Adrean Instrument on Social Security for migrants. The Instrument dealing with the migration of labor lay down rules for the entry of migrants, their protection and rights, for seasonal and frontier workers and for workers without official residence permits. (Georges Roschau, 1975) The immigration trends into Venezuela cannot be considered temporary. They are a durable phenomenon likely to continue. (International Labour Organization. Informations sur les Conditions Generales de Travail, No. 31, 1974.)

Argentina. Argentina hosts about 1,500,000 South American immigrants, mostly from Paraguay, Bolivia and Chile. Although estimates vary, 80 to 90 percent of these immigrants are considered to be undocumented by Argentinian authorities. In general the immigrants
are 30-35 years old, active workers of very low educational attainment pushed to migrate by one fundamental fact, the economic disparity between countries of emigration and immigration. (ILO, "Les conditions de Travaileurs," op. cit.; Argentina. Ministerio del Interior. Oficina Sectorial de Desarrollo de Recursos Humanos, 1973.)

South Africa. The existence of clandestine migration to South Africa is also reported. Francis Wilson, after a careful analysis of workers migrations in Southern Africa, says: "Even if decisions were made by the South African government or by one or more of the bordering countries to halt recruiting for work in the Republic of South Africa, it is highly probable that considerable numbers of "illegal aliens" would make their way across the frontiers. It is likely too that most of them would go first into agriculture where policing of the labour force is most difficult." (Francis Wilson, 1975)

Australia. In Australia, news releases from the Minister for Immigration and Ethnic Affairs and press reports have been extensively commenting on the presence of 50 to 80 thousand clandestine immigrants and a three month amnesty program offered by the Federal Government (For Ex., The Sunday Mail (Brisbane). February 9, 1976, p. 14).

Other Areas. A program similar to Australia's for an equally indefinite number of migrants had been previously adopted by Canada and England in 1873 (cf. Hommes et Migrations-Documents, No. 864-15/5/1974;
John Constable, 1974). In Japan immigration officials estimate that 40,000 to 100,000 South Koreans are living there without documenta-
tion (The New York Times, Sunday, February 15, 1976, p. 9) and there is no estimate of how many Chinese reside in Hong Kong without proper documents.

The patterns of manpower distribution emerging from the U.S. experience and the international scene seems to be indicative of socioeconomic structures which sustain a continued flow of illegals.

1. Demographic and economic conditions operate in a regional con-
text whose boundaries are determined by political dominance. There seems to be a regional model of manpower mobility ex-
plained by common historical experience, ecological and cul-
tural continuity, and uneven development of social, educational and economic conditions. The Cono Sur region (Bolivia, Uruguay, Paraguay, Chile) gravitates around Buenos Aires; Southern African countries (Malawi, Zambia, Lezotho, etc.) gravitates toward the Republic of South Africa; the Mediterranean Basin, toward Northern Europe; the Caribbean Area and Mexico, toward the United States and Canada.

2. A pattern of geographical stratification of clandestine migrants seems also to be at work in correlation to "low status" jobs. For example, while Greek, Spanish and Italian immigrants, some-
times without documents, work in Northern Europe, North African clandestine workers fill thousands of "low status" jobs in Greece, Spain and Italy.

3. The flow of undocumented immigrants seems constantly linked to legal immigration as an unavoidable component. The continuuum
of legal and clandestine migrations within large politico-economic regions suggests that the issue of migration transcends unilateral and legislative measures (cf. Robert S. Chapman and Robert F. Kane, 1975).

4. The social conditions, types of basis of "illegal" status and the role of clandestine immigrants are similar in the different countries and world's regions, but access to social security protection of labor contracts, health and unemployment protection vary in accordance with national legislation. (cf. for example, Jane Reister Conard, 1975.) Although on the international level there is a growing tendency to punish the employer who employs undocumented foreign workers, another approach is being discussed, i.e., that it may no longer be attractive to employ workers without documents if they were entitled to minimum wages, social security and other basic benefits normally recognized for legal foreign workers. (cf. Council of Europe, RS274 (1975) revised.)

IV. Conclusion

It is clear from the brief overview on international movements and the review of the U.S. situation, that the U.S. situation is not unique either historically or in today's world. The genesis, role and some proposed solutions are similar. The dominance in economic regions, shared borders, temporary worker programs all contribute to a situation where clandestine migrants are drawn into countries to fill labor shortage, usually at the lower end of the
job spectrum in secondary industries and "dead end" jobs. The modal response is deportation and employer sanctions, although there are some efforts at worker protection and, somewhat more broadly, amnesty programs have been used.

We would conclude, therefore, that clandestine migration is not a unique phenomenon in the U.S. at this point, but such movements world-wide have structural roots in the patterns of economic structure and dominance. Clandestine migration movement is part and parcel of the relations of developed and developing countries.
REFERENCES


