

## Two Sides of the Same Coin The Connection Between Legal and Illegal Immigration

By James R. Edwards, Jr.

Are massive legal immigration and massive illegal immigration related? If so, how? Many in policy circles hold a view of “legal immigration, good; illegal immigration, bad.”<sup>1</sup> The logical extensions of such a simplistic perspective are to assume that the overall level of legal immigration does not matter and to underestimate any correlation to illegal immigration. But the facts show a distinct connection exists.

In brief, this report finds:

- Legal and illegal immigration are inextricably related. As legal immigration levels have risen markedly since 1965, illegal immigration has increased with it.
- The share of the foreign-born population who are illegal aliens has risen steadily. Illegal aliens made up 21 percent of the foreign-born in 1980, 25 percent in 2000, and 28 percent in 2005.
- Mexico is the primary source country of both legal and illegal immigrants. Mexico accounted for about 30 percent of the foreign-born in 2000, and more than half of Mexicans residing in the United States in 2000 were illegal aliens.
- The level of illegal immigration is severely masked by several amnesties that legalized millions of unlawfully resident aliens. The largest amnesty was the 1986 Immigration Reform and Control Act, which legalized 3 million aliens.
- Amnestied aliens to date have been fully eligible to sponsor additional immigrants. This has contributed to the ranks of immigrants, both legal and illegal (and often both).
- Many aliens who receive a permanent resident visa each year have spent years living in the United States illegally.
- “Anchor babies” and “chain migration” provide opportunities for many aliens to plant roots in the United States. Those aliens might not otherwise have done so.
- An overly generous legal immigration preference system, whose bias is toward relatives and against ability, sets unrealistic expectations. Many aliens who technically qualify to immigrate face the reality of backlogs and waiting lists.
- Amnesties, technical qualification for a visa, chain migration, and vast opportunities to come to the United States (particularly via tourist visa, the most abused visa by eventual immigrants, according to the New Immigrant Survey) all foster an “entitlement mentality” among many foreigners.

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This report examines the links between legal and illegal immigration. First, it sets the historical context of American immigration. It considers the data on legal immigration, illegal immigration, including countries of origin, and the ways present immigration policy and processes enable and encourage lawbreaking. Finally, policy recommendations are offered.

## Immigration in American History

It has been said that legal and illegal immigration are two sides of the same coin. That is, when legal immigration levels have been high, illegal immigration levels have also tended to be high. Similarly, when legal immigration is lower, there is less illegal immigration.

What could explain this phenomenon? A short review of American immigration history gives much-needed perspective. Immigration to the United States has ebbed and flowed. In general, from 1776 to 1965, this “nation of immigrants” averaged 230,000 immigrants per year.<sup>2</sup> By the 1990s, immigration averaged about a million each year, plus illegal immigrants.

## Historical Immigration Levels

Table 1 shows average immigration levels from the colonial era beginning in 1607 when Jamestown, Virginia, was settled until 1965. The American immigration experience has seen much lower levels of immigrant arrivals compared with today’s aberration.

Noting the ebb and flow of immigration within American historic periods, expert Carl Hampe said “average annual immigration rates were well below 400,000 during 1850-1880, an average of 520,000 legal immi-

grants entered each year between 1880-1890, but . . . fell below 450,000 from 1890-1899.”<sup>3</sup> He continued:

*During the peak “Ellis Island” period of U.S. immigration, 1902-1914, 12.4 million immigrants entered the country (over 900,000 per year). However, numerous “ebb periods” emerged after 1914 (particularly during the Depression, when only 528,000 persons entered the U.S. during the entire decade of 1931-1940). From 1925 to 1976, legal immigration did not exceed 500,000 in any one year.*

*One thing is for certain, the 1902-1914 period is an historical aberration: 900,000 immigrants per year on average far outstrips any other comparable 13-year slices of U.S. history.<sup>4</sup> (emphasis in original)*

Average annual immigration levels following the high period from 1880 to 1924, which included the “Great Wave,” subsided greatly to 178,000 a year on average (see Table 1). But this level was still the second-highest period of immigration up to that point.

## Runaway Mass Immigration

Immigration expanded rapidly after 1965, in part because Congress shifted the legal preference system to family relations and away from employment needs and immigrant ability.<sup>5</sup>

The new scheme provided seven, up from the previous four, preference categories. The new policy expanded family-based categories to include relatives well beyond the initial immigrant, spouse, and minor children. Nonquota immigrants came to include others beyond nuclear family units, such as aged parents of U.S. citizens.<sup>6</sup>

The effect of the 1965 Immigration and Nationality Act Amendments — and exacerbated by subsequent legislation in 1980, 1986, and 1990 — was to increase dramatically the number of immigrants and radically expand the pool of potential immigrants.<sup>7</sup> Hampe explained, “The Immigration Act of 1990 significantly expanded a legal immigration system which the 1965 Amendments ensured would have a *built-in growth mechanism*.”<sup>8</sup> (emphasis added)

*The numbers of new immigrants continued to climb after the new law went into effect in 1968. During the first few years the United States averaged nearly 400,000 newcomers. By the end of the 1970s the number had soared to 800,000. In*

**Table 1. Historical Trends in American Immigration Levels, By Annual Average**

| Period Years | Annual Average |
|--------------|----------------|
| 1607-1775    | 3,500          |
| 1776-1819    | 6,500          |
| 1820-1879    | 162,000        |
| 1880-1924    | 584,000        |
| 1925-1965    | 178,000        |

**Source:** NumbersUSA, based on U.S. Census data

*the 1980s immigration, still theoretically limited to 270,000 a year, averaged more than 700,000. During the decade the nation absorbed 8.9 million legal immigrants and, by most estimates, at least 2 million illegal ones. In absolute numbers the 1980s saw more immigrants (legal and illegal) than any other decade in U.S. history. By the early 1990s more than 1 million new legal immigrants were arriving in the United States every year, accounting for almost half of its population growth.<sup>9</sup>*

Figure 1 shows the sharp rise in immigration by decade. Legal immigration has jumped fourfold from 2,515,479 admissions between 1951 and 1960 to 9,095,417 between 1991 and 2000.

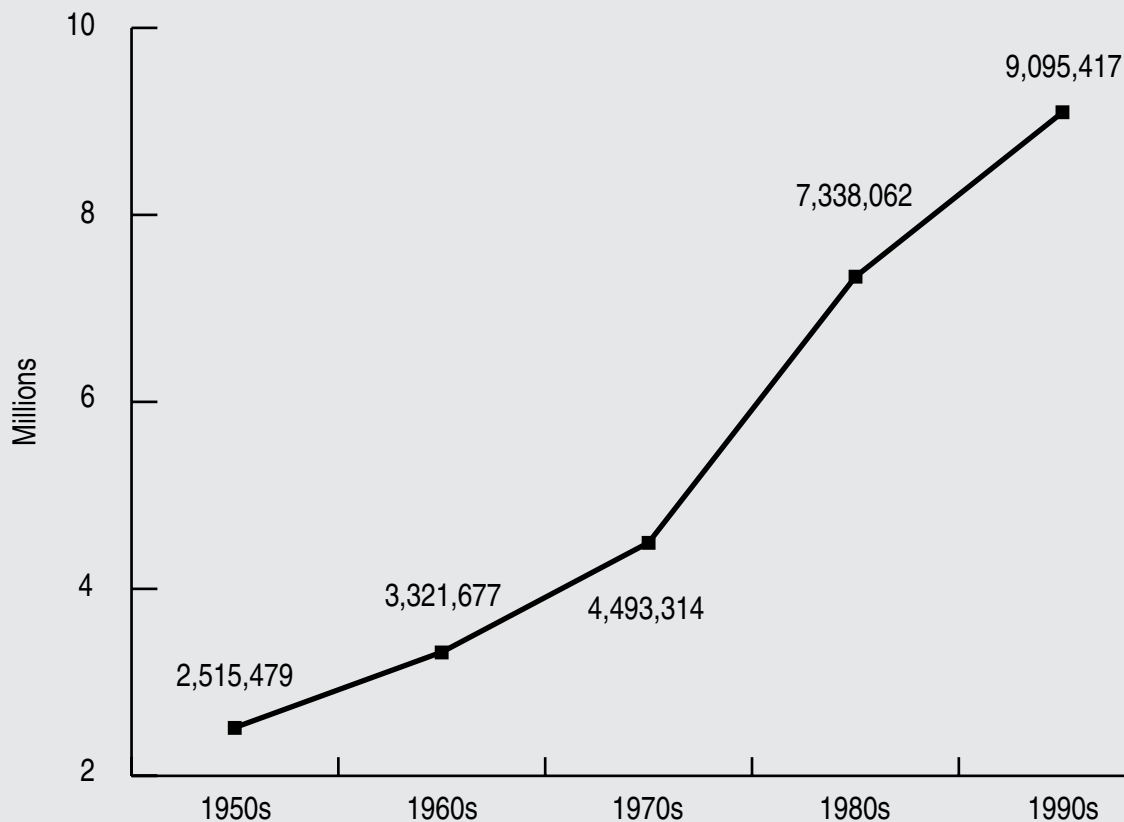
Another way to distinguish this escalation is by comparing annual admissions. For example, the United States admitted 265,393 immigrants in 1960 and 296,697 in 1965, the year of immigration expansionism. By 1969, 358,579 immigrants gained admission, 462,315 in 1977, 601,516 in 1987, and 915,900

in 1996. Going from two and a half million immigrants admitted in a decade to a million a year would overtax any immigration system; this rapid rise has stressed the U.S. system tremendously.

**Chain Migration.** This profligate immigration system spurred “chain migration,” which feeds illegal immigration.

*. . . [R]elatives of U.S. residents had never been given top preference in immigration law until the 1965 [A]ct. If the legislation had extended the preference only to spouses and minor children, there would have been little effect on the numbers. But it also gave preference to adult sons and daughters, parents of adult immigrants, brothers and sisters. If one member of a family could gain a foothold, he or she could begin a chain of migration within an extended family, constantly jumping into new families through in-laws and establishing new chains there.<sup>10</sup>*

Figure 1. Total Immigration, By Decade



Source: U.S. Citizenship and Immigration Services, U.S. Census Bureau

## Center for Immigration Studies

The inherent problems arising from “chain migration” manifest themselves in relation to both legal and illegal immigration. The illegal immigration aspect is discussed later. But on the legal side, millions may claim permanent residency in the United States and even become U.S. citizens on the sole basis of an extended family relation.

*[B]ecause family reunification policy now permits the creation of migration “chains” — immigrants petitioning for their parents and brothers and sisters, who may in turn petition for their children and other relatives — family immigration has become a form of entitlement that may crowd out other types of immigration that would be equally or more beneficial to American society. In addition, “chain migration” allows the demand for family immigration to grow exponentially.<sup>11</sup>*

How does chain migration work? One example adequately demonstrates the process and shows the opportunities and temptations for illegal immigration.

*Under the new preference system, an engineering student from India could come to the United States to study, find a job after graduating, get labor certification, and become a legal resident alien. His new status would then entitle him to bring over his wife, and six years later, after being naturalized, his brothers and sisters. They in turn could begin the process all over again by sponsoring their wives, husbands, children, and siblings. Within a dozen years one immigrant entering as a skilled worker could generate dozens of visas for distant relatives.<sup>12</sup>*

Not only is a single immigrant responsible for a long chain of numerous links, but also those chains of migrants help explain legal immigration’s exponential growth. The record for chain migration is reported to be a petitioner who brought in 83 immigrants.<sup>13</sup>

### **Meaningless “Caps,” Real Backlogs, and Waiting Lists.**

Family-based preferences that give rise to chain migration cause even more profound consequences because capitation levels are not capped in fact. While family-based immigration is “capped” at 480,000 admissions a year, the nominal cap is “piercable.” Piercing the cap happens due to nonquota immigrant categories (spouses and minor children of U.S. citizens, parents of U.S.

citizens) outpacing the supposedly limited overall family immigration amount. The cap is also “flexible,” meaning unused employment-based visas from one year are added to family-based preferences the next year or vice versa. This flexibility depends on the level of demand for certain visas.<sup>14</sup>

Related to these features and to chain migration, as well as to illegal immigration, are “oversubscription and large backlogs in the family categories.”<sup>15</sup> The massive IRCA amnesty led to tremendous demand for the numerically limited spouses and minor children of lawful permanent resident visas. Even with the IRCA transition program to accommodate excessive numbers of LPR spouses and minor children, 88,673 visas of dependents were given in fiscal year 1994, the last year of the program.

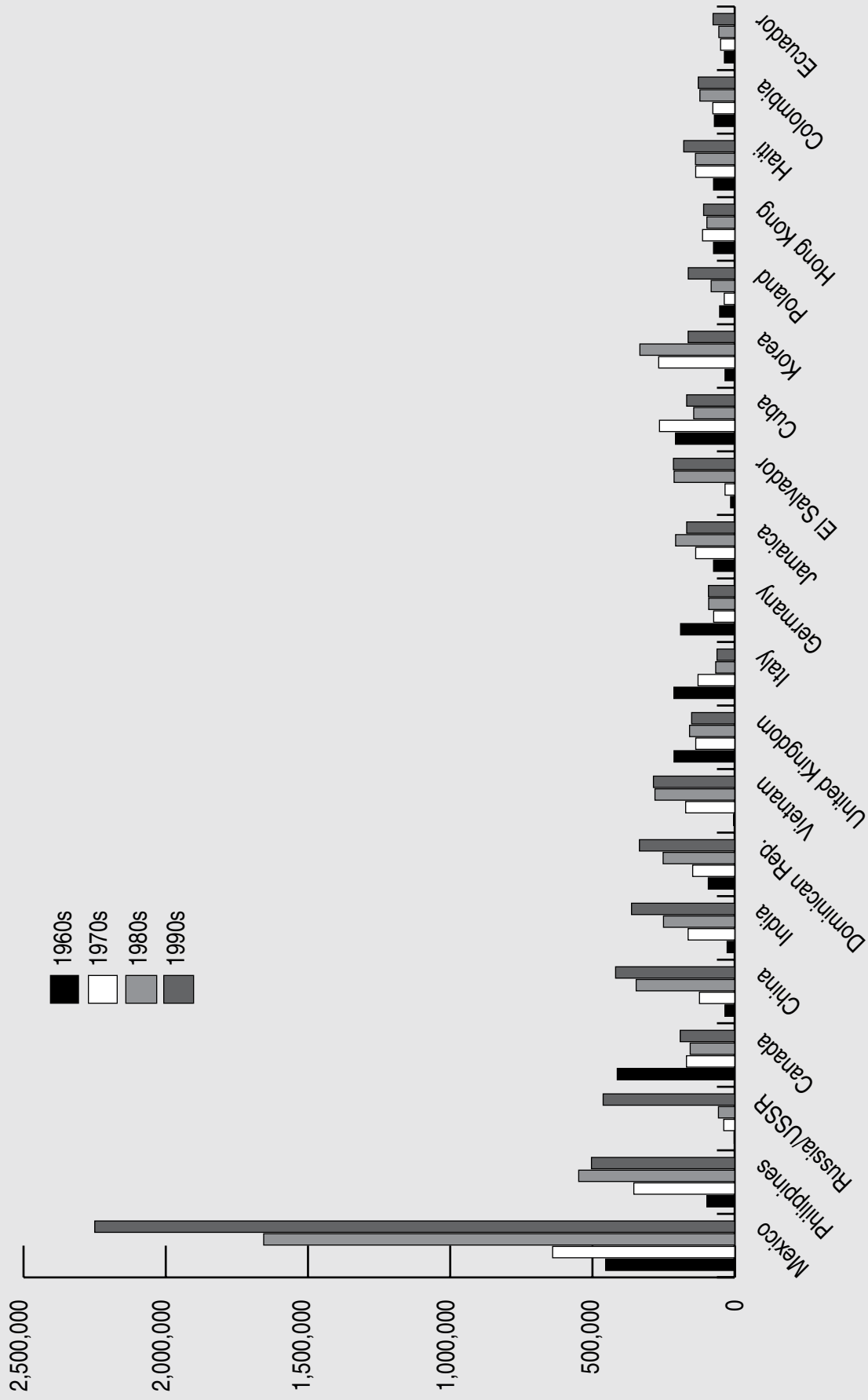
And still 80,000 dependents of LPRs were applying for admission each year. The U.S. Commission on Immigration Reform reported that this group’s waiting list was “high and rising annually. In January 1995, the waiting list for spouses and minor children was 1,138,544, up 8.7 percent from 1994 when it was 1,047,496, which was up 9.2 percent from 1993, when the backlog was 958,839.”<sup>16</sup> The wait time for LPR spouses and minor children in the mid-1990s was longer than three years and rising fast.

The bipartisan commission reported that the “longest backlog exists in the brothers and sisters of [U.S. citizens] preference category, where there are almost 1.6 million registrants . . . making up 45.5 percent of the total visa waiting list . . . .” This translated into waits of “ten years for countries with favorable visa availability and even longer for oversubscribed countries.”<sup>17</sup> Adult siblings from the Philippines, India, and Mexico accounted for the greatest number of applicants. Filipinos in this category were waiting 17 years for a visa.

Married sons and daughters of U.S. citizens queued up in a backlog of some 260,000 applicants. After the 1990 Immigration Act (which caused most backlogs to multiply), most people in this category had four-year waits. However, Filipinos, making up 56 percent of the backlog, faced decades-long waits. Mexicans were on a wait list of 13 years.

For unmarried adult children of U.S. citizens, Mexicans constantly have oversubscribed this category. But the Philippines backlog meant nearly 10-year waits. Unmarried sons and daughters of LPRs have met backlogs, “especially since IMMACT [of 1990].” The commission said the waiting lists in this category were growing in the 1990s, and expected to see 18-year waits.<sup>18</sup>

Figure 2. Comparison of Selected Immigration Source Countries, By Decade



Source: U.S. Citizenship and Immigration Services

“More than one-fifth of those in the backlog are from Mexico, with additional significant demand from the Dominican Republic and the Philippines.”<sup>19</sup>

In other words, American immigration policy was set on “automatic pilot” in 1965 and the engine shifted into high gear in subsequent laws. In effect, foreigners are determining American immigration levels by default — by simply exploiting an overly generous, misprioritized immigration system. As we shall see, this mass legal immigration has had tremendous adverse implications in terms of illegal immigration.

## Two Sides of the Same Coin

At the core of America’s illegal immigration crisis is the fact that illegal immigration is a function of legal immigration. As legal immigration has been liberalized, illegal immigration has expanded alongside it.

In addition to volume, an important aspect to consider is the predominant source countries of immigration. Figure 2 illustrates the share of immigrants from 20 of the top sending countries over the decades of the 1960s through the 1990s. Mexico has come to dominate American immigration unlike any other single nation. While a significant source country in the 1960s, Mexico did not then overshadow all other countries of

origin as it has come to increasingly in each subsequent decade.

Figure 2 also shows how the traditional source nations retained a decent share of the immigrant flow during the 1960s, but that their proportions have generally fallen in real terms in subsequent decades, as well as relative to new source countries. This may be attributed in part to the post-1965 preference system’s bias toward family-based and especially extended relatives’ immigration. Yet another detail to bear in mind here is the increase in immigrants occurring heavily from less developed countries, rather than from developed nations.

By comparing Figure 2 with Table 2, one may see that several of the rising source countries of legal immigration in the 1990s gained firmer footholds in part because of amnesties, particularly the 1986 IRCA amnesty. Most of the top 20 IRCA amnesty countries of origin, seen in Table 2, sent even more immigrants in the following decade. Legalized aliens could turn around and sponsor family members to immigrate.

Another picture of the relation between legal and illegal immigration may be seen in Figure 3. While reliable estimates of illegal immigration are harder to come by before the 1990s,<sup>20</sup> this graph shows that, in general, as annual immigrant admissions grew over the 1980s and 1990s (with a spike by 1991 because of the effects of the 1986 IRCA amnesty), illegal immigration has actually climbed along with legal immigration.

On paper, illegal immigration levels fell in 1991 alongside a jump in legal immigration due to IRCA amnesty legalizations. However, Figure 3 shows that the IRCA amnesty did not reduce illegal immigration, as experts and policymakers promised. Rather, the amnesty gave hope to millions more would-be illegal entrants that the United States would repeat itself and one day legalize them, too.

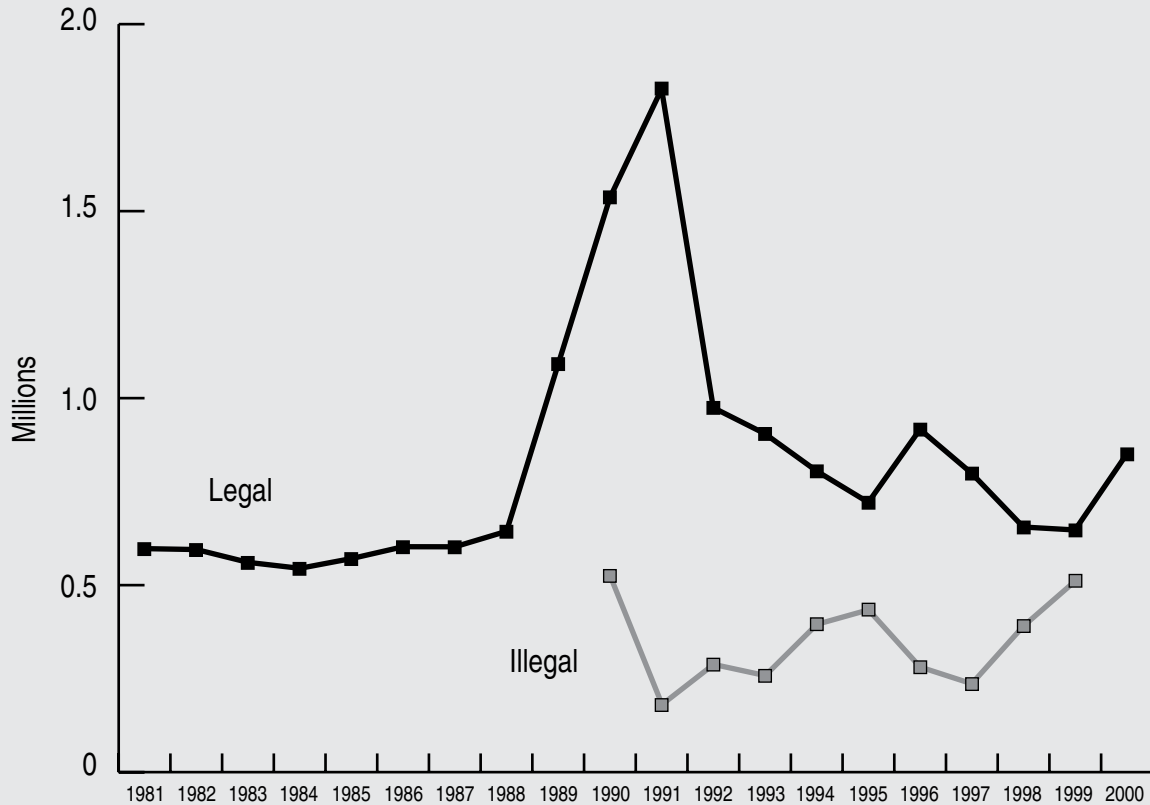
The overall illegal alien population is estimated at between 2.5 million and 3.5 million in 1980, growing to 5 million by 1987. About 3 million illegal aliens were legalized under IRCA. The remaining illegal population stood at 2 million in 1988. Estimates say 3.5 million illegal aliens lived here by 1990. Illegal residents numbered 3.9 million by October 1992 (a figure undoubtedly in flux and masked by much immigration fraud and abuse in the IRCA amnesty).

By October 1996, 5 million illegal aliens were estimated to live in the United States — in other words, the illegal population had replenished itself in less than a decade (see Figure 4). The number of illegal alien residents had doubled from 1990 to 2000, from 3.5 million to 7 million. By 2005, some 9.6 million to 9.8 million illegal aliens lived in the United States — more than

|                    |           |
|--------------------|-----------|
| Mexico             | 2,266,577 |
| El Salvador        | 167,952   |
| Guatemala          | 70,953    |
| Haiti              | 59,800    |
| Colombia           | 34,727    |
| Philippines        | 29,378    |
| Dominican Republic | 28,146    |
| Pakistan           | 21,800    |
| India              | 21,794    |
| Peru               | 19,727    |
| Jamaica            | 19,134    |
| Honduras           | 18,108    |
| Poland             | 17,611    |
| Nicaragua          | 16,755    |
| Ecuador            | 16,292    |
| Nigeria            | 16,170    |
| Iran               | 15,266    |
| Canada             | 11,686    |
| Korea              | 11,408    |
| China              | 11,241    |

Source: 1991 INS Statistical Yearbook

Figure 3. Annual Legal and Illegal Immigration Flows, 1981-2000



Source: INS Statistical Yearbooks, various years, and INS estimates of the illegal alien population.

triple the number of IRCA amnesty recipients, triple the illegal alien population in 1980, and twice the level of illegal immigration in 1996.<sup>21</sup>

Table 3 shows the estimated levels of illegal aliens residing in the United States throughout the 1990s, as well as the annual growth in the illegal population for that period. INS researchers noted that apparent drops in annual growth of the illegal population during this decade are attributable to policy changes, including the granting of temporary protected status, or TPS, to certain illegal alien nationalities and amnesties directed at certain groups.<sup>22</sup>

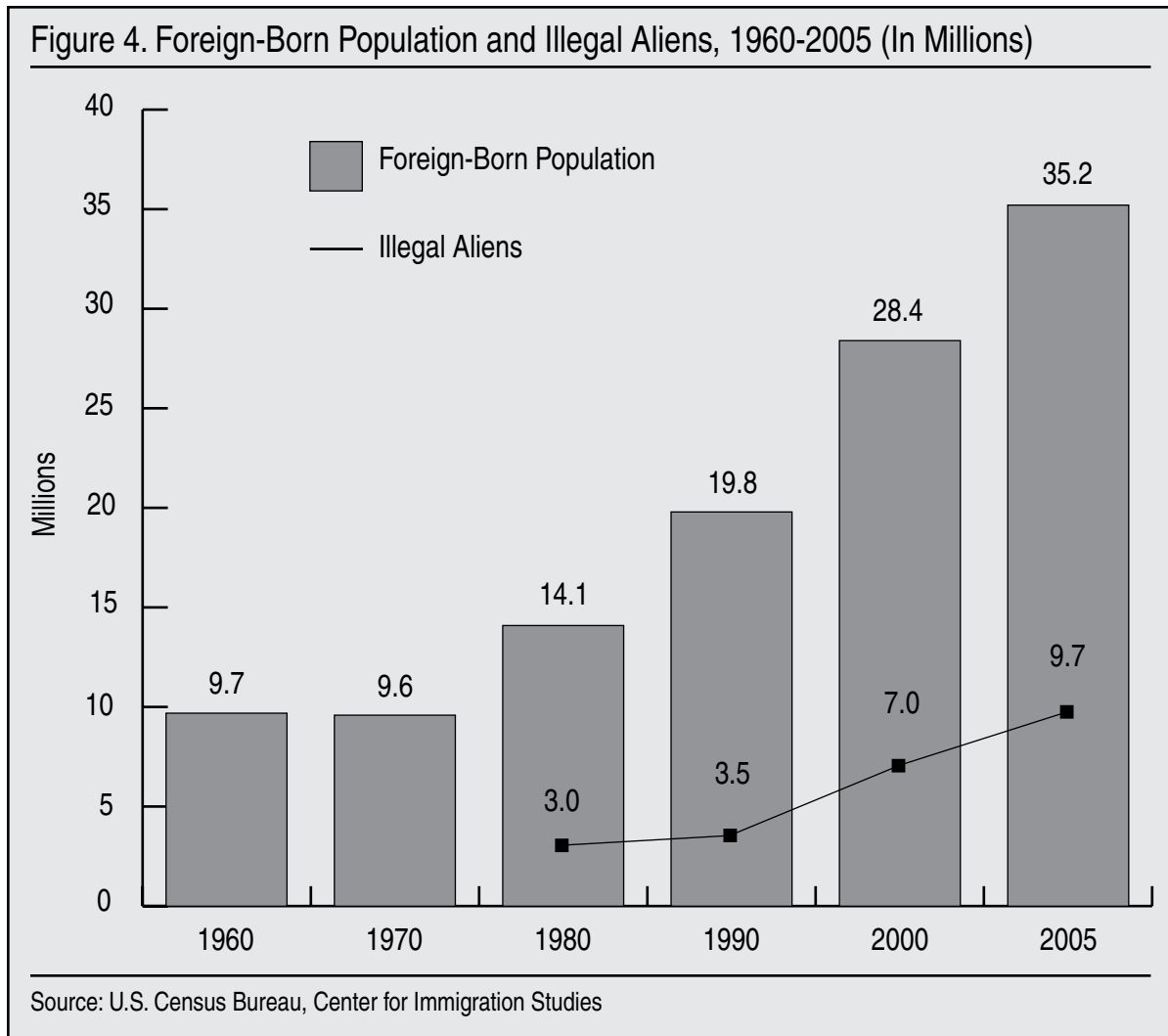
Figure 5 and Table 4 illustrate similar phenomena. Notable are the countries listed in these graphics, compared to the oversubscribed chain migration nations named in the previous section. Figure 5 indicates the proportion of the foreign-born population from certain countries for 1990 and 2000. Further, it shows for those years the portion of a country's immigrants who comprise the illegal population as a segment of the whole number of immigrants from a country. For example, Mexicans, legal and illegal, far outnumber immigrants from other nations. Mexicans who are unlawfully pres-

Table 3. Annual Estimated Population and Growth of Illegal Aliens, 1990-2000 (Thousands)

| Year | Est. Illegal Residents Jan. 1 | Illegal Pop. Growth |
|------|-------------------------------|---------------------|
| 2000 | 7,000                         |                     |
| 1999 | 6,488                         | 512                 |
| 1998 | 6,098                         | 391                 |
| 1997 | 5,862                         | 236                 |
| 1996 | 5,581                         | 281                 |
| 1995 | 5,146                         | 435                 |
| 1994 | 4,750                         | 396                 |
| 1993 | 4,492                         | 258                 |
| 1992 | 4,204                         | 288                 |
| 1991 | 4,025                         | 180                 |
| 1990 | 3,500                         | 525                 |

Source: INS estimates of the illegal alien population.





ent approached half of all Mexican immigrants in 1990 and exceeded half in 2000.

Also, Figure 5 shows that for the countries charted, all of which are among the top 15 senders of illegal aliens, only El Salvador — and that because of 200,000 Salvadorans being amnestied in the interim period — saw a decrease in its illegal alien population from 1990 to 2000.

Table 4 gives the top 10 countries responsible for America’s immigrant population in 2000 as well as the top 10 illegal alien senders. Half of the top 10 countries of birth also number among the top senders of illegal aliens. Mexico is readily the heaviest exporter of its populace, legally and unlawfully, to the United States. Table 4 also shows that the five source countries of illegal aliens that are not among the top 10 overall immigration source countries are all in relative proximity to the United States — in Central America, the Caribbean, or South America. And of the 10 chief immigrant countries of birth, only Cuba and Vietnam are not among the

15 worst sources of illegal aliens. Cuba is somewhat of a special case, as the United States has maintained special policies for Cubans fleeing the Castro regime.

### **Crux of the Problem: Mexico**

Mexico easily stands out as the worst cause of America’s immigration problems. Continual Mexican migration northward, both legally and illegally, may pose the biggest threat to U.S. security and sovereignty.<sup>23</sup> “This situation is unique for the United States and unique in the world. No other First World country has a land border with a Third World country, much less one of two thousand miles.”<sup>24</sup>

Large-scale Mexican immigration began growing in the 1960s and “accelerated in the 1970s as the number of Mexicans in the U.S. tripled between 1970 and 1980. The number doubled again by 1990 and again by 2000. In 2004, the [Census Bureau’s] March CPS shows 10.6 million people born in Mexico [and



residing in America]. This figure represents more than a 13-fold increase over the 1970 census.<sup>25</sup> Mexicans represent nearly a third of the foreign-born population; this is about three times the proportion of the next three countries of origin (China, Philippines, India) combined.<sup>26</sup>

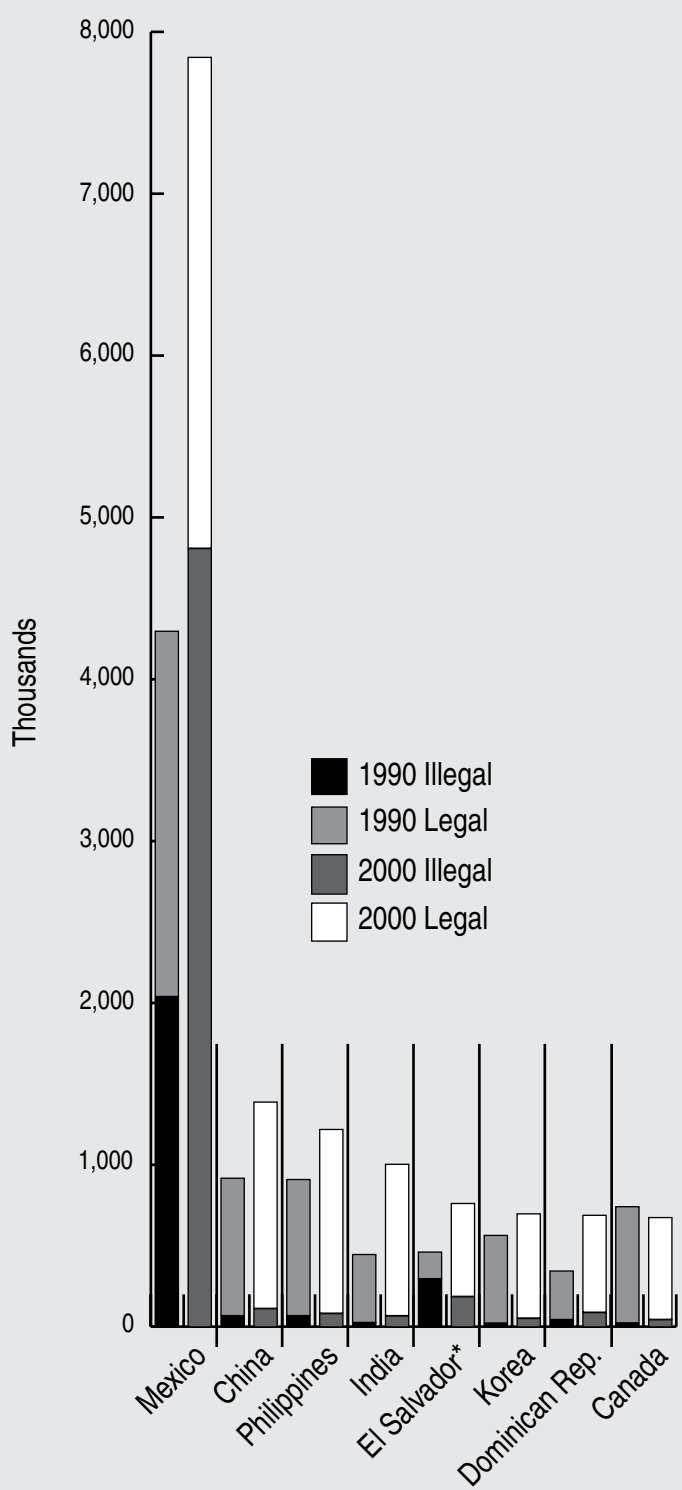
Mexican illegal migration explains much of the growth in illegal immigration overall. “Since the mid-1990s, the number of new unauthorized migrants has equaled or exceeded the number of new legal immigrants. For Mexico, 80-85 [percent] of new settlers in the U.S. are unauthorized.”<sup>27</sup> Half of Mexicans living in America are illegal aliens.<sup>28</sup>

The 1986 mass amnesty exacerbated the Mexican illegal immigration problem. Of the 3 million legalized foreign lawbreakers, the INS said 75 percent were Mexican. As previously mentioned, they became eligible to sponsor family members to join them here (or at least to legalize their status), naturalize, and sponsor even more relatives, this time distant relatives. Proximity has made it easy for “mixed status” households to proliferate.<sup>29</sup>

And amnesty, especially of Mexicans, only sparked more illegal immigration.

*The 1986 Immigration Reform and Control Act (IRCA) had the most sweeping impact on immigration policy since the repeal of national origins quotas in 1965. In the next several years, immigrant admissions would soar to new heights as the new permanent residents brought in their family members. This created unanticipated problems, including long backlogs in the queue for immigrant visas, skyrocketing costs for the provision of government services in the areas where the immigrants and their families settled, and sustained border control problems. It was clear that the implementation of employer sanctions would be no quick fix. The magnet had not been demagnetized. An exodus of emigrants from Central America continued through the late 1980s, and this influx raised questions about the asylum system. Applicants needed only to make a minimal showing that they faced a “well-founded fear of persecution” in their homeland in order to be granted an asylum review. By late in 1988, the INS office in Harlingen, Texas, was receiving 1,700 applications for asylum each week . . . .<sup>30</sup>*

Figure 5. Selected Countries of Birth of Foreign-Born Population, By Proportion Legal and Illegal



Source: U.S. Census March 2000 CPS, INS Estimates of the Unauthorized Immigrant Population.

\* El Salvador’s illegal immigrant population fell by 2000, due to the legalizations of more than 200,000 through “temporary protected status” and the NACARA amnesty in 1997.

As mentioned, estimates using census data say there were 3 million illegal aliens present in 1980, rising to 4 million in 1986. The 3 million amnesty recipients were scarcely through the legalization process when, by 1992, the illegal foreign-born population was back up to 3.9 million. It doubled again by 2000 and now may exceed 10 million.<sup>31</sup> Much of this increase may be attributed to Mexico.

Given that mass immigration, both legal and illegal, predominately stems from Mexico (see Table 4) and that the IRCA amnesty only fed the desire and opportunity for Mexicans to migrate northward (legally and illegally), important findings from the New Immigrant Survey show the “two sides of the same coin” nature of legal and illegal immigration.

Table 5 indicates that Mexico leads all other source countries in two key routes to unlawful presence in the United States before eventual legalization. Mexicans account for more than two of five illegal border crossers. Mexicans also lead as visa abusers.

The New Immigrant Survey also found that, whereas two-thirds of adult immigrants had spent time in the United States prior to receiving a permanent resident visa (including about a third as illegal aliens), 84 percent of Mexican immigrants had previously been to the United States. “[A] clear majority (57%) of Mexican immigrants have prior experience as illegal border cross-

ers and another 9% are visa abusers.”<sup>32</sup> That is, two-thirds of Mexican immigrants were once illegal aliens.

In short, Mexico’s abutting the United States with a 2,000-mile border, coupled with lax American enforcement, wide economic disparity, the Mexican government’s de facto policy of driving its poorest residents northward, and vast numbers of Mexican immigrants already here to harbor illegal aliens and steer them to jobs all provide opportunity and motive for immigration lawbreaking on a grand, systematic scale.

## The Flip Side of the Coin

As we have seen, as legal immigration levels have skyrocketed to near-unprecedented highs, illegal immigration has risen alongside it. The result has been nearly four decades of constant, steeply increasing immigration both lawful and unlawful. As Samuel Huntington put it, “Substantial illegal entry into the United States is a post-1965 and Mexican phenomenon.”<sup>33</sup>

The post-1965 mass immigration scheme has established patterns and affected human behavior in response to present U.S. immigration policies. Just as people respond to any changes in law, human beings (and often their foreign governments) have adjusted accordingly to the possibilities of immigrating to the United States.

In other words, American immigration policy has directly influenced the choices foreigners have made and what they have come to expect. Changes in tax law or economic policy, such as certain tax deductions or tax credits, influence people’s economic behavior; it is no different with immigration policy.

**By Any Means Possible.** The incentive to immigrate to the United States arises from opportunity, the experiences of relatives or peers, and other forces. Liberal family-based immigration preferences, along with myriad nonimmigrant visa classes from tourist to student to business investor, provide ample immigration opportunity to many more people. Whereas one might not otherwise have contemplated uprooting and moving halfway around the globe before, the existence of opportunity affects one’s decisions.

Foreigners with access to immigration lawyers or human smugglers or with a familial relation already in the United States can exploit one of the licit or illicit opportunities to get to the United States. Everything from becoming a “mail-order bride” in what amounts to a marriage of convenience (if not an outright sham) to enrolling in one of the many scams

Table 4. Top-10 Countries of Birth of Foreign-Born Population and Illegal Residents, 2000

| Country             | Overall        | Country        | Illegal                |
|---------------------|----------------|----------------|------------------------|
|                     | U.S. Residents |                | Est. Illegal Residents |
| Mexico              | 7,841,000      | Mexico         | 4,808,000              |
| China               | 1,391,000      | El Salvador    | 189,000                |
| Philippines         | 1,222,000      | Guatemala      | 144,000                |
| India <sup>1</sup>  | 1,007,000      | Colombia       | 141,000                |
| Cuba                | 952,000        | Honduras       | 138,000                |
| Vietnam             | 863,000        | China          | 115,000                |
| El Salvador         | 765,000        | Ecuador        | 108,000                |
| Korea <sup>2</sup>  | 701,000        | Dominican Rep. | 91,000                 |
| Dominican Rep.      | 692,000        | Philippines    | 85,000                 |
| Canada <sup>3</sup> | 678,000        | Brazil         | 77,000                 |

**Source:** U.S. Census Bureau March 2000 CPS, INS estimates of the illegal alien population.

<sup>1</sup> INS estimated India’s illegal alien population in 2000 at 70,000, the 12th highest country of origin.

<sup>2</sup> INS estimated Korea’s illegal alien population in 2000 at 55,000, the 14th highest country of origin.

<sup>3</sup> INS estimated Canada’s illegal alien population in 2000 at 47,000, the 15th highest country of origin.

exploiting loopholes such as the “investor visa” program and filing bogus asylum claims provides opportunity to immigrate.

As the costs of international travel and international communication — telephone, Internet — have fallen, friends and relatives who have already immigrated to the United States can more easily share tales of their experiences in America. Or the evidence of immigrant relatives’ remittances to those who remain behind testify to the relatively higher earnings paid by U.S. jobs.

The United States enjoys the world’s highest standard of living. “Poverty” by U.S. standards is a far better lot than real poverty as it occurs in most of the world’s countries, and those living in America below the official “poverty line” often have living quarters and First World “creature comforts” that those in other nations’ middle classes lack.

The United States affords a stable political system, a legal system based on the rule of law, broad individual liberty and economic opportunity, a sound economy, and generous government welfare entitlements, in addition to extremely generous private charity. America is relatively free of public corruption and offers a safe, secure place to live. By comparison to many places, would-be immigrants may view the United States as a land of vast wealth where the streets are seemingly paved with 14-karat gold.

Even purely from an economic perspective, moving to America has a lot of appeal. The average Mexican earns a twelfth of an American’s wages. There are 4.6 billion people around the world who make less than the average Mexican. (Would-be immigrants often fail to take into account the much higher cost of living in the United States that accompanies those higher wages.) Therefore, the “pull” factor of more money entices many aliens.

Because one technically qualifies for an immigration visa, yet the backlogs may be long, many aliens immigrate illegally. They wait for their visa number to come up while living here illicitly. “Some do not wait their turn, but instead immigrate illegally to the U.S., hoping (and in many cases succeeding) to wait here until their visa number becomes available. Thus, the unrealistic expectations created by the failure to set firm priorities in the system of legal immigration causes further incentive for illegal immigration.”<sup>34</sup> Such dishonesty and cheating on aliens’ part are functions of chain migration.

Determined alien lawbreakers have discovered ways to exploit legal loopholes and “end-run” the system. Illegal immigration and cheating quickly have be-

come means to the end of permanent legal immigration. For example,

*. . . many potential immigrants came on tourist visas and worked illegally. While living and working illegally, they could obtain labor certification based on their employment and apply for immigrant visas. Once a visa was approved, sometimes two or three years later, an applicant could return to his home country for a day, pick up the visa, and return as a legal resident entitled to hold any job available.*<sup>35</sup>

Another characteristic of immigration that relates to both the legal and illegal sides of the equation, as well as to the use of every possible means of illegal immigration, is so-called “mixed families.” This term may refer to any of a combination of households in which some members are U.S. citizens or legal residents and others are illegal aliens.

The lure of “birthright citizenship” plays into the calculus of many foreigners willing to break American immigration law. A misinterpretation of the Fourteenth Amendment to the U.S. Constitution by the Supreme Court grants automatic U.S. citizenship on virtually everyone born on American soil, including the children of illegal aliens. Immigration authorities are highly unlikely to try to deport an illegal alien whose child is an American citizen. Therefore, “birthright citizenship” provides illegal aliens an “anchor baby” who provides relative assurance of permanent residence, if not legal status.

An estimated one-tenth, or 380,000, of U.S. births in 2002 were to illegal aliens, based on Census data.<sup>36</sup> “Mixed families,” in which some members (usu-

**Table 5. Top-5 Illegal Immigrant-Sending Countries, by Share of Violation Category**

| <b>Share of Illegal Border Crossers</b> |        | <b>Share of Visa Abusers</b> |        |
|---|--------|------------------------------|--------|
| Mexico                                  | 41.2 % | Mexico                       | 13.0 % |
| El Salvador                             | 5.9 %  | Vietnam                      | 7.6 %  |
| Peru                                    | 4.6 %  | China                        | 7.5 %  |
| Guatemala                               | 4.4 %  | Philippines                  | 5.7 %  |
| Ecuador                                 | 4.4 %  | Colombia                     | 5.4 %  |
| Total Share                             | 60.5 % | Total                        | 39.2 % |

**Source:** New Immigrant Survey Pilot Study, Massey & Malone

ally children) are American citizens and others are illegal immigrants or some other combination of legal and illegal residents, present a host of challenges to the United States, including determining eligibility for taxpayer-funded public assistance programs.<sup>37</sup>

One estimate puts the number of people in “mixed” households in 2004 at 13.9 million, or 6.3 million households. Within these “mixed” families, there are 3.1 million “anchor babies.” Some four-fifths of children of illegal aliens live in mixed households. Fifty-five percent of, or 2.6 million, children of illegal aliens reside in families where all the children are American citizens.<sup>38</sup>

A variation of a mixed family is where certain family members come ahead as illegal aliens and move in with a legally residing relative. The New Immigrant Survey, which assessed the amount and type of experience immigrants had had in the United States prior to becoming permanent lawful residents, found 84 percent of illegal border crossers in the sample were family-based immigrants. Nearly half of those entering without inspection who later gained a green card were spouses and children of U.S. citizens, while 27 percent were spouses and children of lawful permanent residents. Almost half of immediate family members of U.S. citizens in the New Immigrant Survey had overstayed a visa.<sup>39</sup>

The New Immigrant Survey cast a disturbing light on immigration realities. It illuminated a systematic pattern of lawlessness and line jumping, even among so-called “legal” immigrants — many were in fact illegal aliens first.

*Thus, patterns observed for illegal border crossers and visa abusers again suggest that immediate family join their citizen or resident alien relatives abroad while they await legalization themselves, living in the United States as undocumented migrants until the time when they can return to their country of origin to pick up their documents and re-enter the country as “new” immigrants.<sup>40</sup>*

The survey found immediate family immigrants who had come first unlawfully typically made 2 to 4 trips illegally, living 5 to 8 years in the United States as illegal aliens before legalization.<sup>41</sup>

One more indicator of the interconnection of illegal and legal immigration is the increased rates of adjusting status within the United States. The Department of Homeland Security’s figures show a general rise from 1990 to 2000 (with an exceptional spike in 1991 from the IRCA amnesty). As Table 6 indicates, adjustments of status by illegal aliens not having to leave the country went from 36,000 in 1990 to 152,000 in 1999.<sup>42</sup>

Another way in which legal and illegal immigration are shown to be two sides of the same coin is with visa overstays. An estimated one-third to half of illegal immigration occurs when someone enters the United States on a valid temporary visa but stays on past the visa’s expiration.<sup>43</sup>

While violating the terms of a visa by overstaying its period is unlawful (8 U.S. Code Sec. 1227(a)(1)(C)), the statute presently does not provide criminal penalties. Thus, visa overstayers enjoy a loophole in their favor. While subject to removal, overstayers face little prospect of actually being deported. By this route, many aliens commit fraud and abuse, fully intending to use “temporary” lawful entry as a backdoor to permanent residence.

**The Entitlement Mentality.** All these factors create certain expectations among foreigners who otherwise would be perfectly satisfied to remain in their home country for the rest of their lives. With a distant family member now living in the United States, sending home monthly remittance checks, whose family members live relatively more lavishly, growing awareness of the “good-paying” American job his emigrant relative has, and enticing tales of this new land, opportunity combines with others’ experiences and the decision becomes when and how, not if, to immigrate to the United States.

Expectation to immigrate spreads throughout a society, as more and more people do so. Expectation

**Table 6. Adjustments to Legal Status in the United States, 1990-2000 (Thousands)**

| Year | Number of Adjustments |
|------|-----------------------|
| 1999 | 152                   |
| 1998 | 152                   |
| 1997 | 161                   |
| 1996 | 163                   |
| 1995 | 107                   |
| 1994 | 41                    |
| 1993 | 62                    |
| 1992 | 37                    |
| 1991 | 229                   |
| 1990 | 36                    |

**Source:** INS estimates of the illegal alien population.

feeds a sense of entitlement. People come to suppose they have some inherent right to impose themselves on another, sovereign nation.

Thus, demand (like consumer demand for a heavily advertised and marketed product) builds, as expectations grow far beyond what is reasonable or could ever be reasonably accommodated. Demand far outpaces supply of U.S. visas. So, pent-up demand overflows into illicit immigration.

Immigration policy expert Carl Hampe, testifying in regard to the mid-1990s congressional attempt to curtail legal immigration, said:

*Well, I think it's clear that the current legal immigration system, which recognizes not only the nuclear family of incoming immigrants but as well [naturalized] U.S. citizens' more distant family relations, creates a system in which expectations for immigration and growth in at least visa demand is automatic, it's inherent. The demand growth becomes exponential, because each time an additional distant family member comes in, that person as well could have spouses, children, and the other distant family relatives connected to that incoming immigrant, which as you can see, creates sort of a geometrical growth pattern.<sup>44</sup>*

The U.S. House of Representatives committee report on H.R. 2202, the Immigration in the National Interest Act of 1995, further explained this vexing phenomenon:

*Such sustained, uninterrupted growth in immigration [since 1965] is without precedent in American history. So is the underlying rationale of many that immigration is a right, not a privilege. The entitlement theory, which seeks to fit immigration policy to the demands of those who would like to immigrate to the United States, has made it increasingly difficult to establish a policy that selects immigrants according to their ability to advance our national interests.*

*A central failure of the current system is the admissions backlog for spouses and minor children of lawful permanent residents, which now number 1.1 million. This means that nuclear family members can be kept separated for years. Even larger backlogs exist in categories for adult, "extended family" immigrants. These backlogs undermine the credibility of the system by forcing people*

*who are technically eligible to immigrate to wait for years, sometimes decades, before they can legally come to the U.S. The existence of these categories thus creates expectations that cannot possibly be met within the capacity of the current system. Those failed expectations encourage many waiting in line to immigrate illegally to the U.S.<sup>45</sup> (emphasis added)*

The Jordan Commission concluded the "pro-family" way to speed nuclear family reunification, which would also diminish the "entitlement mentality," is to eliminate extended-relative categories. This would significantly reduce the load on immigration agencies that are supposed to screen visa applicants and speed processing time for nuclear family members, without compromising the scrutiny required to protect national security and other U.S. public interests, such as preventing fraud.

**Chain Migration.** Related to the build-up of immigration expectations, an entitlement mentality, and technical eligibility for a visa is chain migration. Chain migration of extended family members and vast backlogs lead to impatience and illegality. Though still keeping nuclear families of some permanent resident aliens apart for years, distant family members may cut in line and await their turn for an immigrant visa in the United States. The Jordan Commission recommended eliminating the distant relative categories in part to reunite LPRs' nuclear families more quickly, as well as acknowledgement that the national interest is not served by the chain migration categories. The very fact chain migration is an option, coupled with past mass amnesties and the ongoing proposals of mass legalization by prominent policymakers, stimulates illegal immigration.

*The availability of "chain migration" not only distorts the selection criteria for legal immigrants, but may add additional incentive for people to attempt illegal immigration to the U.S. There is growing evidence that some families overseas pool their resources to pay the smuggling fee for one family member to illegally enter the U.S., in the hope that this family member will eventually gain legal status, and be able to petition for other family members.<sup>46</sup>*

The point is that no immigration system could ever accommodate the unrealistic expectations of would-be immigrants. The numbers of potential immigrants in sending countries are far too great, and the fact that



per capita income and quality of life differ so extremely between the United States and most sending countries energizes a “pull factor” that is incredibly strong. Thus, the U.S. immigration system presently holds out false promise of technical eligibility to immigrate, particularly for extended family members. But that eligibility, based completely on blood or marriage relations, produces an entitlement mentality.

Relations-based immigration predominating the preference system for allotting visas, plus the diminution of employment-based immigration priorities and the de-emphasis of individual skills, education, and ability, have caused the mass immigration plaguing the nation. As the 1996 House Judiciary Committee said, “The primary beneficiaries of family-sponsored immigration are the families of recently-arrived immigrants, not of native-born U.S. citizens.” Further, “most immigrants are admitted solely on the basis of their relationship to another immigrant.”<sup>47</sup>

Therefore, little logic lies behind present U.S. immigration policy. There is certainly little benefit to the national interest. And, thus, the immigration system has become a beast that feeds itself perpetually, but that for all its gorging cannot satisfy the perceived “demand.” In actuality, the immigration system exacerbates both unchecked legal and uncontrolled illegal immigration.

The very existence of large legal immigration quotas, exempting certain family-member classes from annual quotas, an overly generous preference scheme that enables “chain migration,” laxity in routine enforcement of immigration laws, a record of mass amnesties to millions of illegal aliens, constant talk by prominent politicians of yet more amnesties all combine to set unrealistic expectations among foreigners. The “autopilot” aspect of current U.S. immigration policy acts like an all-fronts marketing plan that “creates” a “need” to immigrate to the United States. The result: sustained, mass immigration, both legal and illegal.

## Recommendations

As the data show, mass legal and illegal immigration are closely tied. The following recommendations would help remedy the problems that presently derive from legal and illegal immigration being two sides of the same coin.

**Reduce legal immigration.** If illegal immigration is to be curbed or stopped, then legal immigration must decrease. The volume of aliens enticed to immigrate, under the law or against the law, is too great. The system

is too open-ended, creating countless opportunities for fraud and abuse.

Overall legal immigration quotas should be halved, at least. The statutory capitation is supposed to be about 700,000; about 300,000 a year more closely resembles America’s historical average.

About 200,000 to 300,000 immigrants a year must be set with a “hard” cap; no one should be exempt from the cap. The maximum level should include refugees and asylees, as well as immigrants and their nuclear family members. Every fifth year should be a sabbatical year, in which no new immigrant visas are accepted or processed. Rather, the State Department and the Department of Homeland Security should use this respite to ensure immigrant accountability and to ferret out fraud and abuse.

**Set better immigrant priorities.** Building upon the recommendations of the Jordan Commission, extended family immigrant visa categories should be eliminated: U.S. citizens’ adult children, married or unmarried; U.S. citizens’ adult brothers and sisters; and grown children of lawful permanent residents. The visa lottery should go, too, an action taken by a large bipartisan majority of the U.S. House of Representatives in December 2005 when it passed an amendment by Rep. Robert Goodlatte to H.R. 4437 (See also Rep. Goodlatte’s H.R. 1219.).

Moreover, a new immigrant priority selection system should emphasize an individual’s qualifications.<sup>48</sup> The needs of the U.S. economy should have foremost priority for immigrant selection. Further, in order to qualify for an immigrant visa, an individual should have to merit a certain number of points under a modified point system. A would-be immigrant (except for minor children), in order to gain points, must have attained no less than a high school education (with higher education winning him more points), be proficient in the English language, be literate, possess demonstrable, verifiable in-demand job skills or superior talent, and have at least some minimum amount of financial assets satisfactory to ensure self-support.

Before any immigrant visa is issued, an immigrant or sponsor should have to show proof of purchase for the immigrant of generous health insurance, an adequate amount of disability and life insurance, and automobile insurance, if he owns a vehicle or expects to drive. The only family reunification considerations should be rejoining husband and wife, and parents with their minor children.

**Ensure allegiance to America.** To ensure that an immigrant has the right motives in seeking to immigrate, that his intent is to leave his native land, culture, and extended family behind once and for all, and to become an American (that is, to live up to the American ideal of immigration), the egregious Supreme Court ruling that allowed dual citizenship and dual nationality should be overturned, by constitutional amendment if necessary.<sup>49</sup> Dual citizenship and dual nationality provide foreigners a vested interest in two nations. Such split loyalties to sovereign nations is unfair to each nation and to fellow citizens. Dual citizenship grants immigrants an unfair, privileged status not available to native-born Americans. It undermines one's ability to fully commit to his new homeland. It devalues the naturalization oath, in which one's words swear full allegiance to the United States.

**Reduce unrealistic expectations.** Higher standards for and more realistic expectations among potential immigrants would reduce the problems associated with technical eligibility for an immigrant visa based solely on a distant relation. This could be advanced in a number of ways.

Parents of naturalized immigrants should not be eligible for an immigrant visa. Rather, elderly parents should be limited to renewable nonimmigrant visas of moderate duration, as in Rep. Tom Tancredo's H.R. 3700. Parents' sponsors should be required to prove income of at least the median U.S. income for a household the size of the sponsor's, including the prospective long-term visitor parents.

In addition, the sponsor must prove that he has secured a generous health care insurance policy for the parent or parents he seeks to bring to the United States, paid in full for the duration of the initial visa term. Parents' nonimmigrant visa renewal should require proof that the sponsor and the parents have abided by the terms of binding affidavits of support and visas, respectively, and that health insurance is prepaid in full for the next visa term.

Similarly, the spouses and minor children of LPRs could gain admission into the country as nonimmigrants and at the full expense and on the full responsibility of the sponsoring immigrant (similar to the approach in H.R. 3700). This should include health and other insurance, as well as median or higher household income. Immediate family members of LPRs could qualify for immigrant visas once the sponsor naturalizes.

The law should specify that spouse only means heterosexual husband and wife, not homosexual couples married or otherwise or other cohabitating combinations.

Insofar as family reunification remains a priority in U.S. immigration policy, the nuclear family of an immigrant who himself possesses skills, education, and English proficiency should be the extent of it. That is, a decision to immigrate to the United States should bear the full expectation that the immigrant is making a fundamental break from his homeland, extended family, and native culture. And it should only provide for the unity of husband, wife, and minor children.

The only hope or expectation of reunifying with relatives beyond their own nuclear family units should be to return to them. "Family reunification," especially of entire family trees, should not imply a single direction toward the United States.

*When an adult leaves his native land to emigrate to America, he or she makes a decision to be separated from brothers or sisters, parents, and adult children. We realize that this is a difficult decision in many cases, but ultimately, it is a decision that the immigrant has made.*<sup>50</sup> (emphasis added)

**Ensure nonimmigrant compliance and return.** Nonimmigrants should be required to maintain stronger ties to their home country. Except for those here for longer terms, such as citizens' parents and LPRs' immediate family as outlined above, nonimmigrants must understand that their visit to the United States is intentionally temporary, and that their admission is based on strict terms and conditions.

Noncompliance with temporary visa terms should be dealt with severely. Overstaying an expired visa should carry criminal penalties. The law should treat visa overstayers the same as those who sneak across the border. With up to half of illegal immigration attributable to visa overstays, no defensible distinction can any longer be made between these two circumstances of illegality. Too much willful lawbreaking takes place, with temporary visas simply a means to permanent immigration — and being an intending immigrant is reason to deny someone a visa.

Most nonimmigrants (such as students, H-1B workers, L-1 intracompany transfers, etc.) should not be accompanied by dependents. Half a nonimmigrant's time should be spent in the home country, and visa terms should be no longer than one year. For instance, if a work visa allows six months in the United States, the next six months should be in the home country. Time in the United States on a typical nonimmigrant visa should be matched by an equal period out of the country.

Nor should nonimmigrants be allowed to adjust status to another nonimmigrant category or to immi-



grant within the United States. Adjustment of status should become something that only takes place abroad, and only following rigorous investigation and complete assurance that previous visa terms have been honored and that all requirements for the new visa are met.

“Birthright citizenship” should be eliminated.<sup>51</sup>

This would remove one more means of fraud and abuse from our immigration system. Ending the ability of illegal aliens or nonimmigrants to birth an automatic U.S. citizen baby here would take away an important means of gaming the system.

**Enlist foreign governments’ cooperation.** Immigration to the United States by a foreign nation’s citizens may benefit that government, principally by monetary remittances. Some foreign governments, most notably Mexico, foster illegal immigration to unlawfully maximize those benefits. Such governments should be forced to curb illegal immigration.

Adopting a policy such as Rep. David Weldon’s Truth in Immigration, or TRIM, Act (H.R. 4317) would effect such an incentive. This legislation would require an annual estimate of the illegal alien population using Census Bureau data, by nation of origin, and restrict a sending nation’s legal immigration by a corresponding level. In combination with the recommended reductions in legal immigration, this approach would give foreign countries such as Mexico a huge incentive to keep their nationals from breaking America’s immigration laws.

Other foreign policy tools, from foreign aid to trade agreements, should be conditioned on how thoroughly a foreign government cooperates in U.S. immigration enforcement and repatriation and, importantly, how well it produces real results in cutting illegal immigration from that nation.

**Go slow on any guestworker plans.** The global economy has become more integrated, and more corporations are adopting business models that involve international labor flows. Yet, such private interests should hardly be allowed to dictate public policy. While a new guestworker program may be conceivable in principle, it represents a tenuous course with respect to its immigration and other consequences. Foremost, policymakers must keep in mind (and remind their corporate constituents) that America is much more than a market; she is a nation, a society, a body politic.

The experience of guestworker programs, in the United States and elsewhere, has been fraught with unintended consequences. In many cases, such programs have resulted in permanent residents (legal and illegal),

not guests at all. The economic consequences have proven detrimental to the most vulnerable native-born workers. The social consequences have proven harmful, even dangerous, as with insurgent radical Islam in the United States, Great Britain, France, and other parts of the West in recent times.

The risks of a massive new guestworker program should be fully considered before moving forward. The risks from hundreds of thousands more foreigners being processed for temporary visas by an already inept, out-manned, fraud-ridden immigration bureaucracy in the Departments of State and Homeland Security is folly. This bureaucracy could never handle the added workload. At a minimum, legal immigration levels, both permanent and temporary, should be scaled back by many more than the new program would admit for entry each year.

**Enforce the law.** Faithful enforcement of all our immigration laws must be fully achieved. This certainly must happen and be in place for several years before any guestworker program goes into effect. That is, every alien’s background must be checked, every alien’s eligibility for the immigration or other benefits for which he is applying must be confirmed before benefits are accorded, every case of suspected fraud (immigration fraud, benefits fraud, welfare fraud, marriage fraud, document fraud, identity fraud) involving an alien must be vigorously and routinely investigated, absconders, visa overstayers, and failed applicants must face the real likelihood of capture and prosecution, all this and more must become the norm. This is necessary, with or without a new guestworker program.

Illegal aliens should expect punishment, not reward, for lawbreaking; thus, steadily increasing the level of immigration enforcement to the point of routinization, as the 9/11 Commission recommended, is necessary and desirable. Since most illegal aliens present little national security risk, allowing their continued presence amidst continually building pressure and increasing likelihood of being caught will effect a gradual decrease of the illegal alien population by attrition, with little danger. The most promising solution for reducing the number of illegal aliens with the least impact on the economy — attrition — is the routine enforcement of all immigration laws.

Also, the law should make plain that immigration offenses relating to illegal presence (e.g., entry without inspection, visa overstay) constitute continuing offenses.

**No more amnesties.** America's experience with amnesties has shown that they only make things worse. Amnesties beget more illegal immigration. Even politicians' proposals of legalization prompt more illegal immigration. The only conceivable type of amnesty that could remotely be justified is a limited "exit amnesty." This would let illegal aliens leave the country, once and for all, without paying the full penalty due for their lawlessness (i.e., face criminal prosecution for immigration violations).

### Conclusion

The data show that while legal immigration in the United States has increased since 1965 at an exorbitant rate, illegal immigration has risen right alongside it. Further, the actual levels of illegal immigration are masked by a series of amnesties — the largest and most notorious one enacted in 1986 — and the documented experience of many immigrants who fail to abide by the law and come to the United States unlawfully before their turn for a

green card arrives, but whose ultimate legalization shows up on the legal immigration ledger.

Another compelling fact is that nations that send large numbers of immigrants to America tend also to send sizeable shares of the illegal alien population. Mexico is the most prominent example of this phenomenon. However, other Western Hemisphere countries number among the largest sources of both legal and illegal immigration.

Eastern Hemisphere nations that account for high levels of legal immigration — China, the Philippines, India, Korea — also are responsible for much of America's illegal immigration problem. Vietnam appears to be an exception, despite a post-Vietnam War spike in Vietnamese admissions.

Because of the inextricable link between legal and illegal immigration, there is no way to continue massive legal immigration and reduce illegal immigration. To cut illegal immigration, legal immigration must be curtailed. To assert otherwise attempts to maintain a fiction that is unsustainable, judging from fact and experience.

## End Notes

- <sup>1</sup> See James G. Gimpel and James R. Edwards, Jr., *The Congressional Politics of Immigration Reform*, Boston: Allyn & Bacon, 1999, pp. 1-4, for a sense of this sentiment.
- <sup>2</sup> Roy Beck, *The Case Against Immigration*, New York: W.W. Norton, 1996, p. 16.
- <sup>3</sup> Carl W. Hampe, testimony at a hearing of the U.S. House Judiciary Committee, Subcommittee on Immigration and Claims, June 29, 1995, on H.R. 1915, Immigration in the National Interest Act, p. 173.
- <sup>4</sup> Hampe, p. 173.
- <sup>5</sup> James R. Edwards, Jr., testimony at a hearing of the U.S. House Judiciary Committee, Subcommittee on Immigration and Claims, March 25, 1999, on “The Benefits to the U.S. Economy of a More Highly Skilled Immigrant Flow.” <http://judiciary.house.gov/legacy/106-edwa.htm>
- <sup>6</sup> The parents visa category serves to bring aged parents of adult immigrants; this category does not serve the reunification of minor children with parents on whom they are dependent.
- <sup>7</sup> See Gimpel and Edwards, chapters 4 and 5, particularly Tables 5.5 and 5.6. Also, see Beck, chapter 4, and James R. Edwards, Jr., “Changes in the Law,” pp. 181-185, in James Ciment, editor, *Encyclopedia of America Immigration*, Vol. 1, Armonk, N.Y.: M.E. Sharpe, 2001.
- <sup>8</sup> Hampe, p. 172.
- <sup>9</sup> Steven M. Gillon, “*That’s Not What We Meant to Do: Reform and Its Unintended Consequences in Twentieth-Century America*,” New York: W.W. Norton & Co., 2000, pp. 176-177.
- <sup>10</sup> Beck, pp. 40-41.
- <sup>11</sup> Committee on the Judiciary, U.S. House of Representatives, Report on H.R. 2202, the Immigration in the National Interest Act, March 4, 1996, Report 104-469 Part 1, p. 134.
- <sup>12</sup> Gillon, p. 178.
- <sup>13</sup> Gimpel and Edwards, p. 264.
- <sup>14</sup> U.S. Commission on Immigration Reform, 1995 Report to Congress, “Legal Immigration: Setting Priorities,” Washington, D.C.: Government Printing Office, June 1995, pp. 45-46.
- <sup>15</sup> U.S. Commission, “Setting Priorities,” p. 46.
- <sup>16</sup> U.S. Commission, “Setting Priorities,” p. 65.
- <sup>17</sup> U.S. Commission, “Setting Priorities,” p. 73.
- <sup>18</sup> U.S. Commission, “Setting Priorities,” p. 75-77.
- <sup>19</sup> U.S. Commission, “Setting Priorities,” p. 76.
- <sup>20</sup> A Congressional Research Service report from 1977 indicates that INS estimates of the illegal alien population in the mid-1970s ranged from 1 million to 12 million. CRS cites a Cabinet-level task force, which concluded that “hard data on illegal aliens is virtually non-existent.” Many citations of the mid-20<sup>th</sup> century decades seemed to extrapolate from the number of deportable aliens apprehended. See Joyce Violet, “Illegal Aliens: Analysis and Background,” (77-47 ED), Congressional Research Service, February 16, 1977.
- <sup>21</sup> Office of Policy and Planning, U.S. Immigration and Naturalization Service, “Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000,” available [http://uscis.gov/graphics/shared/statistics/publications/Imm\\_Report\\_1211.pdf](http://uscis.gov/graphics/shared/statistics/publications/Imm_Report_1211.pdf); INS Immigration Statistical Yearbooks for 1992, 1993, 1994, 1996, and 1998; Steven A. Camarota, “Immigrants at Mid-Decade: A Snapshot of America’s Foreign-Born Population in 2005,” Center for Immigration Studies *Backgrounders*, December 2005, p. 4. <http://www.cis.org/articles/2005/back1405.html>
- <sup>22</sup> See INS “Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000,” pp. 9-10; and Douglas S. Massey and Nolan Malone, “Pathways to Legal Immigration,” *Population Research and Policy Review*, Vol. 21, No. 6, December 2002, which analyzed the initial New Immigrant Survey. Available at <http://nis.princeton.edu/papers/pathways.pdf>
- <sup>23</sup> Samuel P. Huntington, *Who Are We?: The Challenges to America’s National Identity*, New York: Simon & Schuster, 2004, chapter 9.
- <sup>24</sup> Huntington, p. 222. Also, see Gillon, p. 188.

- <sup>25</sup> Jeffrey S. Passel, "Unauthorized Migrants: Numbers and Characteristics," Pew Hispanic Center background briefing, June 14, 2005, p. 37. <http://pewhispanic.org/reports/report.php?ReportID=46>
- <sup>26</sup> Passel, p. 37; Huntington, p. 224.
- <sup>27</sup> Passel, p. 41.
- <sup>28</sup> Passel, p. 36. Also, see Huntington, pp. 225-226.
- <sup>29</sup> [http://uscis.gov/graphics/shared/aboutus/statistics/IRCA\\_REPORT/irca0114int.pdf](http://uscis.gov/graphics/shared/aboutus/statistics/IRCA_REPORT/irca0114int.pdf); Gimpel and Edwards, pp. 12-13, 179.
- <sup>30</sup> Gimpel and Edwards, p. 179.
- <sup>31</sup> Gimpel and Edwards, pp. 11-14; Passel, p. 10.
- <sup>32</sup> Massey and Malone, p. 14.
- <sup>33</sup> Huntington, p. 225.
- <sup>34</sup> Committee report on H.R. 2202, p. 135. Also, see Massey and Malone.
- <sup>35</sup> Gillon, p. 185. See also Rep. Elton Gallegly's additional views in the committee report on H.R. 2202, p. 514, which further explains this loophole, as well as Massey and Malone.
- <sup>36</sup> Steven A. Camarota, "Birth Rates Among Immigrants in America," Center for Immigration Studies *Background*, October 2005, pp. 1, 6. <http://www.cis.org/articles/2005/back1105.html>
- <sup>37</sup> Gimpel and Edwards, p. 89; U.S. Commission on Immigration Reform, 1994 Report to Congress, "U.S. Immigration Policy: Restoring Credibility," Washington, D.C.: Government Printing Office, Sept. 1994, pp. 115ff.
- <sup>38</sup> Passel, pp. 17-20.
- <sup>39</sup> Massey and Malone, pp. 16-17.
- <sup>40</sup> Massey and Malone, p. 17.
- <sup>41</sup> Massey and Malone, p. 28.
- <sup>42</sup> INS "Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000," p. 10. However, a portion of this increased U.S.-based adjustment of status in this period occurred under the controversial Section 245(i) policy, which INS favored because it generated revenue for the agency; politicians liked it because the process was effectively a form of amnesty they could give.
- <sup>43</sup> Gimpel and Edwards, p. 81. Also, see the 1998 INS Statistical Yearbook, which estimated overstays at 41 percent of the illegal alien population. INS estimated that overstays accounted for 33 percent of illegal aliens in 2000, as stated in the 1990 to 2000 INS estimates.
- <sup>44</sup> Hampe, p. 228.
- <sup>45</sup> Committee report on H.R. 2202, pp. 108-109.
- <sup>46</sup> Committee report on H.R. 2202, p. 134.
- <sup>47</sup> Committee report on H.R. 2202, pp. 133-134.
- <sup>48</sup> See Edwards testimony, 1999.
- <sup>49</sup> See John Fonte, "Dual Allegiance: A Challenge to Immigration Reform and Patriotic Assimilation," Center for Immigration Studies *Background*, November 2005 <http://www.cis.org/articles/2005/back1205.html>; Stanley Renshon, *Reforming Dual Citizenship in the United States: Integrating Immigrants into the American National Community*, Center for Immigration Studies Paper, October 2005. <http://www.cis.org/articles/2005/dualcitizenship.html>
- <sup>50</sup> Committee report on H.R. 2202, p. 134.
- <sup>51</sup> See John C. Eastman, testimony at a hearing of the U.S. House Judiciary Committee, Subcommittee on Immigration, Border Security, and Claims, September 29, 2005, on "Dual Citizenship, Birthright Citizenship, and the Meaning of Sovereignty" (<http://judiciary.house.gov/media/pdfs/printers/109th/23690.pdf>) and Charles Wood, "Losing Control of America's Future -- The Census, Birthright Citizenship, and Illegal Aliens," *Harvard Journal of Law and Public Policy*, Vol. 22, No. 2, Spring 1999, pp. 465-522.



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# Background

## Two Sides of the Same Coin The Connection Between Legal and Illegal Immigration

By James R. Edwards, Jr.

Are massive legal immigration and massive illegal immigration related? If so, how? Many in policy circles hold a view of “legal immigration, good; illegal immigration, bad.” The logical extensions of such a simplistic perspective are to assume that the overall level of legal immigration does not matter and to underestimate any correlation to illegal immigration. But the facts show a distinct connection exists.

In brief, this report finds:

- Legal and illegal immigration are inextricably related. As legal immigration levels have risen markedly since 1965, illegal immigration has increased with it.
- The share of the foreign-born population who are illegal aliens has risen steadily. Illegal aliens made up 21 percent of the foreign-born in 1980, 25 percent in 2000, and 28 percent in 2005.
- Mexico is the primary source country of both legal and illegal immigrants. Mexico accounted for about 30 percent of the foreign-born in 2000, and more than half of Mexicans residing in the United States in 2000 were illegal aliens.

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