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THE POLITICAL ECONOMY OF IMMIGRATION REFORM

EMILY A. HARRELL*
DAVID L. FRANKLIN**

I. INTRODUCTION AND OVERVIEW

This paper presents a discussion of economic issues regarding the recent influx of illegal immigrants into the United States and is based on a review of economic literature about those issues. It uses a set of studies to frame the economic issues in terms of the current ongoing debate regarding the benefits and costs accruing to the U.S. economy from the surge in immigration. It concludes with a discussion of the political economy underlying the debates as a means for suggesting policy and legal reform initiatives that may be warranted in light of the debates, the available analyses, and the empirical research that is available in the mainstream economic literature.

The public debates about the economic impact of immigration, particularly illegal immigration, reflect a high degree of polarized opinions. The anchor for the negative perspective on the economic effects of immigration is a recent study by the Heritage Foundation. This study represents the right-wing or conservative perspective of those who think of themselves as “natives.”¹

The authors of the Heritage Foundation study assert that low-skilled immigrant families (immigrants without high school diplomas, 40% of which are undocumented) generate an annual fiscal deficit of \$19,588 per household.² This means that they receive \$19,588 more in

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1. Since they are not natives in the true sense of the word, as their ancestors were not residents of the land prior to its colonization, they will be referred to as the “extant population” for the purposes of this discussion – meaning those existing prior to the recent influx of immigrants.

2. ROBERT RECTOR & CHRISTINE KIM, *The Fiscal Cost of Low-Skilled Immigrants to the U.S. Taxpayer*, SR-14 THE HERITAGE FOUNDATION (2007).

benefits than they pay in taxes.³ More specifically, the report states that households in this population group pay an average of \$10,573 in taxes and consume an average of \$30,160 of government expenditures in the form of welfare benefits, education, and public safety expenses.⁴

The premise of the argument that low-skilled immigrants contribute a net economic deficit is based on two aspects of the direct fiscal effects attributable to immigrants: taxes paid and value of public services received.⁵ While these are particularly important considerations, a comprehensive economic analysis includes many other factors. The Heritage Foundation study mentions that the broader economic effects of immigration on the U.S. economy, such as the effect on the labor market, are not taken into account because of the uncertainty in the relevant figures.⁶ However, the Heritage Foundation study arbitrarily limits the positive benefits from immigrants by basing their analysis on an “estimated” 45% of immigrants whom are paid “off the books,” thus providing for a low estimate on the amount of taxes paid by immigrants.⁷ The Heritage Foundation Study fails to count the fiscal effects of taxing the increased output caused by the presence of illegal immigrants. Specifically, the study does not account for increased tax revenue in the form of personal and corporate income taxes paid by the owners of and co-owners in the businesses employing illegal immigrants. Also excluded are the consumption taxes on the final products and services produced with the participation of the illegal workers.

A National Academy of Sciences (NAS) study gives an alternate perspective on the topic. According to the NAS, low-skilled immigrants provide a positive benefit to the U.S. economy overall; the goods and services these immigrants consume as well as what they produce for their employers contribute close to \$800 billion into the economy.⁸ The NAS study concludes that the net effect of benefits

3. *Id.* In particular, there are 15.9 million low-skilled immigrants in the U.S. and 4.5 million low-skilled immigrant households, which constitute 5% of the country's households. Out of that 5%, roughly 40% are households with one or more illegal immigrants. *Id.* Since their arguments are against all low-skilled immigrant families, it inevitably focuses on the notion of *not* providing for 3% of the country's population whom are here legally. *See id.* Note that “immigrants” and “low-skilled immigrants” will be used interchangeably throughout this discussion.

4. *Id.*

5. *See id.* at 1-2.

6. *See id.* at 13.

7. *See id.* at 9-10.

8. Ronald D. Lee & Timothy W. Miller, *The Current Fiscal Impact of Immigrants and Their Descendants: Beyond the Immigrant Household*, in *THE IMMIGRATION DEBATE: STUDIES ON ECONOMIC, DEMOGRAPHIC, AND FISCAL EFFECTS OF IMMIGRATION* (James P. Smith & Barry Edmonston eds., National Academy Press 1998).

consumed and the taxes paid by immigrants at the federal, state, and local levels is a total fiscal surplus of \$23.5 billion (\$581 per capita).⁹

Although the NAS analysis reveals a net fiscal deficit attributable to immigrants at the state and local levels, there is a positive net fiscal effect at the federal level.¹⁰ Immigrants and their concurrent descendants pay \$61.5 billion (\$1,520 per capita) to the state and local governments annually in the form of taxes, whereas the extant population pays \$427.9 billion (\$1,941 per capita) to these local governments.¹¹ However, immigrants and their concurrent descendants cost the local and state governments \$88.8 billion (\$2,197 per capita) in the value of benefits received, whereas the extant population costs these governments \$384.5 billion (\$1,744 per capita).¹² Immigrants, therefore, generate a fiscal deficit of \$27.4 billion (\$677 per capita) on the state and local levels.¹³ The state and local governments are at a net positive balance from the taxes paid by the extant population because the state and local governments receive from these latter a net fiscal surplus of \$43.4 billion (\$197 per capita).¹⁴

In contrast, there is no fiscal deficit associated with immigrants on a federal level. Immigrants pay the federal government \$153.3 billion in taxes annually (\$3,793 per capita).¹⁵ The extant population pays \$1,104.3 billion in federal taxes annually (\$5,008 per capita).¹⁶ Although immigrants do not pay as much in federal taxes as the extant population, they cost the federal government less. Specifically, immigrants cost the government \$102.5 billion (\$2,535 per capita) due to benefits received, whereas the extant population costs the government \$808.7 billion (\$3,668 per capita).¹⁷ In neither case is there a fiscal deficit. Moreover, there is only a slight difference in the amount of money the federal government receives from these different populations per capita. Immigrants provide the government with a fiscal benefit of \$50.9 billion annually (\$1,258 per capita) while the extant population provides the government with a fiscal benefit of \$295.5 billion (\$1,340 per capita).¹⁸ Furthermore, Social Security taxes that are

9. *See id.* at 193-95.

10. *See id.*

11. *Id.* at 193.

12. *Id.* Examples of such benefits are welfare, education and incarceration costs. Non-citizens are not eligible for many welfare benefits, "including Temporary Assistance for Needy Families, food stamps, Supplemental Security Income, and Medicaid" Essential Worker Immigration Coalition, *5 Myths About Immigration and Comprehensive Immigration Reform in the US*, Oct. 25, 2008, http://www.ewic.org/index.php?option=com_content&task=view&id=44.

13. Lee & Miller, *supra* note 8, at 193.

14. *Id.*

15. *Id.* at 195.

16. *Id.*

17. *Id.*

18. *Id.*

paid by undocumented immigrants through “fake” social security numbers end up in the Social Security Administration’s “suspense file,” which grew to \$57.8 billion in 2005.¹⁹ These resources from undocumented workers are available within the Social Security System to provide benefits to current recipients from the extant population and serve to postpone the time at which the so-called “social security trust fund” will run out of money.²⁰

The findings of the NAS directly contradict the findings of the Heritage Foundation despite the fact they both concentrate on the same economic factors notwithstanding that the Heritage Foundation skewed their data by eliminating the tax contribution from immigrants that are paid “off the books.” Also, the Heritage Foundation did not account for the independent impacts on both the federal and local governments. Rather, the fiscal effects at the state and local level were aggregated with the federal-level effects, thus obscuring a significant aspect of the debate—the differential incidence across taxing and service jurisdictions. Yet, these contrasting fiscal effects may explain much of the opposition to immigration by the authorities in states and localities with large numbers of immigrants.

II. IMMIGRANTS’ IMPACT ON THE U.S. ECONOMY: AN ECONOMIC FRAMEWORK

The fiscal balance of taxes paid and benefit costs is an important part of the equation regarding the economic impact of low-skilled immigrants. Yet the analysis cannot be limited to these easily calculable data. The effect of immigration on the marketplace and labor force must be included in order to get a more complete view of the full economic impact.

A broader economic framework is needed to assess the economic impact of low-skilled immigrants on the overall economy.²¹ In such a broader context, an influx of immigrant workers represents an increase in productive resources (human capital) into the receiving country. “Human capital” is embodied in the aggregation of skills, experience, knowledge, and abilities which each immigrant brings to

19. *Is the Federal Government Doing All It Can to Stem the Tide of Illegal Immigration?: Hearing Before the Subcomm. on Regulatory Affairs of the H. Comm. on Government Reform*, 109th Cong. 19-20 (2006) (statement of Martin H. Gerry, Deputy Comm’r, Office of Disability and Income Security Programs, Social Security Administration).

20. *See generally Social Security Numbers and Individual Taxpayer Identification Number Mismatches and Misuse: Hearing Before the Subcomm. on Oversight on Social Security of the H. Comm. on Ways and Means*, 108th Cong. (2004) (statements of James B. Lockhart, Deputy Comm’r for Social Security).

21. For this broader framework we mirror the discussion on methods presented by David Card in *Is the New Immigration Really So Bad?*, 115 *ECON. J.* F300 (2005).

the economy.²² Human capital is what enables humans to produce goods and services for the marketplace and elsewhere, including their households.²³ The increase in productive capacity that arrives with the immigrants would generally be a net benefit to the economy as a whole unless the presence of the immigrants generates a higher burden on the economy than the value of their increased productive capacity. The foregoing discussion emphasized the net fiscal balance. In this broader context, we analyze the possible impacts on the labor market and on aggregate economic output in the economy as a whole.

In the labor market there are two aspects that are central to the issues—one is the possible displacement of workers from the extant population and the second is the possibility of expansion of employment for higher skilled workers attributable to the potential for increased production in the sectors that use immigrant workers.²⁴ The first would occur if the immigrants' skills and abilities are direct and close substitutes for the workers in the extant population and the second would obtain if the immigrants are complementary to higher skilled workers. This is both a matter for economic theory and for empirical analysis and cannot be determined categorically one way or the other.

The influx of human capital embodied in immigrants could have a negative market impact on workers from the extant population by increasing the supply of labor effort that serves as a direct substitute for the services of the specific skill groups within the extant population.²⁵ At the extreme, immigration would depress the wages of the extant population and the bulk of benefits from immigration would accrue to the owners of the enterprises, e.g. the owners of capital.²⁶ In other words, the cost of production for the goods and services produced would decline and additional profits from those goods and services would be distributed to the owners of capital used in production.²⁷ Under such conditions, the influx of immigrant workers would decrease the wages of all workers.²⁸ The net effect would be that more

22. See GARY S. BECKER, *HUMAN CAPITAL: A THEORETICAL AND EMPIRICAL ANALYSIS WITH SPECIAL REFERENCE TO EDUCATION* 17 (3d ed. 1994).

23. *Id.*

24. It is notable that during that last decade, the U.S. economy experienced an unprecedented and sustained increase in productivity, much of which was attributed to technical innovation, but not all. See MICHAEL MANSON, *ASIAN PRODUCTIVITY ORGANIZATION, PRODUCTIVITY WITH EQUITY*, http://www.apo-tokyo.org/productivity/097_prod.htm (last visited Feb. 17, 2009).

25. See CONG. BUDGET OFFICE, 109TH CONG., *THE ROLE OF IMMIGRANTS IN THE U.S. LABOR MARKET 20* (2005) (report from Douglas Holtz-Eakin, Dir. of Cong. Budget Office, to Chairman, S. Finance Comm.), available at <http://www.cbo.gov/ftpdocs/68xx/doc6853/11-10-Immigration.pdf>.

26. *Id.*

27. *Id.*

28. *Id.*

workers would be employed (albeit immigrant workers and now lower paid workers in the extant population), more goods produced and higher profits would accrue to the owners of the enterprises.²⁹ In this scenario, the extant workers would be net losers, being either displaced or forced to accept lower wages. A more severe outcome would result if the sectors into which immigrants came operated under monopolistic conditions in the product markets. Under these circumstances, the owners of the enterprises would choose not to expand output but simply appropriate the rents generated by the now cheaper immigrant labor. If such conditions obtained in the U.S. economy, business owners would advocate for increased immigration and workers would seek to impede it.

The usual scenario for analysis of labor market impacts from an influx of immigrants assumes that all the workers are homogenous.³⁰ This assumes that substitute workers are identical in their human capital attributes so that each additional immigrant would displace an extant worker because the immigrant would be more willing to accept substandard wages, e.g. perhaps below the statutory minimum wage. For extant workers working at the minimum wage, the influx of workers would imply unemployment, perhaps the need to migrate to another locality (displacement) and/or a need to rely on the government's "social safety net" such as unemployment compensation and food stamps.

If, however, the labor market is an amalgam of diverse levels of human capital, differential skills, knowledge, abilities and experience with heterogeneity among workers, the influx of immigrant labor would not be a substitute for all of the extant workers.³¹ Rather, the immigrant labor could be complementary to higher-skilled and knowledge-based workers.³² These higher-skilled workers could actually benefit from the influx of immigrants as the additional supply of low wage (and low-skilled) labor would enable the employing enterprises to expand production at a lower cost; as the enterprises expanded they would require more workers in the higher-skilled categories and would be willing to bid-up wages for the higher-skilled workers. Under such conditions, only the lower-skilled workers would be at risk of displacement. The actual results would depend on two factors: (1) the degree to which immigrant labor effort substitutes or complements the labor effort of extant workers and (2) the overall flexibility and competitiveness of the economy as a whole. The more competi-

29. *Id.*

30. See Card, *supra* note 21, at F303.

31. CONG. BUDGET OFFICE, *supra* note 25.

32. *Id.*

tive the economy, the more likely that the influx of immigrants would generate a positive economy-wide effect. The more rigid and less competitive the economy, the more likely that immigration would adversely affect a large number of extant workers.

In a competitive market economy, owners of enterprises faced with a lower cost of production (arising from increased supplies of low-cost labor) would normally choose to lower the price of the goods and services in order to expand output and total profits.³³ In this competitive situation, the increased availability of lower-skilled immigrants could induce an increased demand for higher-skilled workers including managers, payroll clerks, technology experts, and other knowledge-based personnel.³⁴ This is the more likely scenario in the U.S. at the present time, particularly at a time of increased international competition due to trade liberalization globally. In fact, even within low-skilled populations, immigrants tend to be complementary workers because they often specialize in different occupations than do low-skilled workers from the extant population.³⁵ “Among less educated workers, immigrants specialize in manual intensive tasks such as cooking, driving and building while the extant population specializes in language-intensive tasks such as dispatching, supervising and coordinating.”³⁶ Under recent prevailing economic conditions in the U.S., an influx of immigrants would be expected to lead to a positive expansion of output and an increased demand for complementary labor services from the extant population. The deleterious displacement effects impact the economy only to the degree that low-skilled extant workers and the new immigrants are homogeneous in skill and abilities.

Another effect from such an increase in productivity resulting from the influx of immigrants would be a surge in urban growth which increases the economic attractiveness of cities.³⁷ Traditionally, illegal immigrants were concentrated in rural activities; more recently immigration has been growing in the cities.³⁸ This brings up the question of social negative externalities such as increased crime and an expanded demand for other social services, such as schools, health facilities, public transportation and safety. This could be a consequence of the in-

33. *Id.*

34. IMMIGRATION AND ASYLUM: FROM 1900 TO THE PRESENT 167 (Matthew J. Gibney & Randall Hansen eds., 2005).

35. See generally *id.* at 166 (discussing the economic effects of low-skilled immigrant labor on the demand for higher-skilled natives in the destination country in the recent decades).

36. Giovanni Peri, *Immigration and Cities*, VOX, Nov. 20, 2007, <http://www.voxeu.org/index.php?q=node/734>.

37. *Id.*

38. BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, WE THE AMERICAN. . . FOREIGN BORN 4 (1993), available at <http://www.census.gov/apspd/wepeople/we-7.pdf>.

creased immigrant flows into the cities. This issue is addressed at a later stage in this paper.

In addition to the direct labor market effects arising from substitute and complementary skills between the immigrants and the extant workers, there is a "general equilibrium effect" or economy-wide effect. With the expansion of output, the owners of capital would either want to consume more of other products or they would invest more in plant equipment and other materials in order to produce more products.³⁹ Thus, there would be a secondary increase in consumption of goods and services made possible by increased profits and the expanded wage income of immigrants and their complementary fellow workers. This, in turn, would cause even more goods and services to be produced, which could be a channel by which the displaced workers could achieve employment.⁴⁰ The net general equilibrium effect would be that consumers would benefit from the lower prices of goods and services in the marketplace, in effect increasing their income.⁴¹ Also, since more jobs are created, there would only be partial displacement of low skilled extant workers; the ratio is not 1:1. Because of these general equilibrium effects, the wage rate does not fall as much as one might predict under the more restrictive Marxist perspective. At the same time, the increased wage income and output produced (and consumed) would be taxed as income or at the consumption level (sales and excise taxes).

Policy makers may attempt to mitigate a fall in wages for at least some members of the extant population arising from an influx of immigrants. There are three general ways of doing this. First, the value of the goods or services produced could be increased in order to pay the higher wages. Second, the owner of the capital could be offered incentives to invest in more machines and raw materials in order to increase labor productivity. A third option is to curtail the supply of labor to the industry or firm. The first option is not generally feasible in a competitive economy. The second is already in place under the U.S. Internal Revenue Code.⁴² The third option becomes particularly important to the discussion at hand because it is the premise of the argument against legalizing the inflow of low-skilled immigrants. When a country restricts the number of people who can enter its bor-

39. See CONG. BUDGET OFFICE, *supra* note 25.

40. *Id.*

41. *U.S. Immigration Policy and Its Impact on the American Economy: Hearing Before the H. Comm. on Education and the Workforce*, 109th Cong. 39 (2005) (statement of Dr. Harry J. Holzer, Professor of Public Policy, Associate Dean, Georgetown University).

42. See generally Economic Stimulus Act of 2008, Pub. L. No. 110-185 (codified in scattered sections of 26 U.S.C.) (allowing current deductions for investments in equipment and machinery for business purposes).

ders, it is curtailing the labor supply and attempting to keep the prevailing wage inside the border higher than without restrictions on migration.⁴³ The question that arises when illegal immigrants flow into the economy in spite of the efforts to curtail such flows is, "What is the extent and incidence of wage depression arising from illegal immigration by low-skilled workers in the presence of direct effects on the specific labor markets or in an economy wide context?" This question is discussed in the following section.

A. *The Labor Market: Effect of Immigrants on Wages of the Extant Population*

1. Overview of Immigrants' Effect on Wages

There seems to be solid empirical findings that run across the spectrum of economic studies that low-skilled immigrants' effect on the labor market seems to be positive overall. In cities with large immigration flows, the average wages of extant workers and housing prices increased during the period of 1970-2005.⁴⁴ However, it is important to keep in mind the distributional effects. Overall, despite a positive effect on wages of extant workers with at least a high school degree, there is a negative effect on the wages of extant workers with no high school diploma.⁴⁵

2. Negative Effects on the Wages of the Extant Population

The general consensus in the economic literature is that a 10% increase in the supply of low-skilled immigrants reduces wages of low-skilled extant workers by approximately 3.5%.⁴⁶ In other words, at a wage rate of \$10 per hour, there would be a reduction of 35 cents in the prevailing wage. This would require an influx of an additional one million illegal workers. With the inflows experienced in the last ten years, this would imply that the wages of the low skilled workers are now approximately 35% lower than had the immigration not occurred at all.

43. *See id.*

44. *See Peri, supra* note 36. It is important to note this increase in housing prices causes a slight rent increase for low-skilled people who rent but ultimately has a much more positive effect on homeowners who experience moderate appreciation.

45. Gianmarco I.P. Ottaviano & Giovanni Peri, *Rethinking the Effects of Immigration on Wages* 23 (Nat'l Bureau of Econ. Research, Working Paper No. 12497, 2006). (taking into account the general equilibrium effect discussed above and accounting for complementary and substitution effects and finding that immigrants are "imperfect substitutes" for extant workers).

46. Gianmarco I.P. Ottaviano & Giovanni Peri, *Immigration and National Wages: Clarifying the Theory and the Empirics*, 36 (Nat'l Bureau of Econ. Research, Working Paper No. 14188, 2008).

Despite this consensus, Harvard economist George L. Borjas insists that low-skilled immigrants have a negative effect on the wages of all the workers in the extant population, across all education levels and all races.⁴⁷ In particular, he argues that there was as much as a 7.4% drop in the wages of high school dropouts and a 3.6% drop in the wages of college graduates.⁴⁸ He argues that in no instance, is there a positive effect on wages due to immigration.⁴⁹

However, economists David Card, Gianmarco Ottaviano, Giovanni Peri, Chad Sparber, and Patricia Cortes have found positive effects on the wages of the extant population overall, and a slight negative effect only on the wages of high school dropouts.⁵⁰ They concur with the general consensus that a 10% increase in the supply of low-skilled immigrants reduces the wages of unskilled extant workers by approximately 3.5%.⁵¹

Mr. Peri and Mr. Sparber describe the fallacies in Mr. Borjas's study: he used the "crowding out effect" as a variable in his analysis.⁵² In another study by Mr. Peri, he explains that, in actuality, there is no crowding out effect.⁵³ In the top metropolitan areas, immigrants constitute 26.9% of the general population.⁵⁴ Because immigrants tend to cluster in cities, some people conclude that there is a "crowding out" effect.⁵⁵ If an increase in immigrants "crowded out" the extant population in those areas in which they cluster, it would not change the net population growth; it would merely change the composition of those cities.⁵⁶ However, in most cases, an influx of immigrants has been associated with a larger population overall as well as employment growth for the extant population, thereby nullifying any arguments that immigrants "crowd out the natives."⁵⁷

There are other factors that must be taken into account in order to evaluate the severity of immigrants' impact on the wages of the low-skilled extant population. Despite the slight decrease in their wages,

47. George J. Borjas, CTR. FOR IMMIGRATION STUDIES, INCREASING THE SUPPLY OF LABOR THROUGH IMMIGRATION: MEASURING THE IMPACT ON NATIVE BORN WORKERS 1 (2004), available at <http://www.cis.org/articles/2004/back504.html>.

48. *Id.* at 5.

49. *See id.* at 2.

50. Giovanni Peri & Chad Sparber, *The Fallacy of Crowding Out: A Note on "Native Internal Migration and the Labor Market Impact of Immigration"* 11 (Dep't of Econ., Colgate Univ., Working Papers 2008-001, 2008), available at <http://ideas.repec.org/p/cgt/wpaper/2008-01.html> (last visited Oct. 25, 2008).

51. *Id.*

52. *See id.* at 2, 12.

53. *See* Peri, *supra* note 36.

54. *Id.*

55. *See* Peri & Sparber, *supra* note 50.

56. *See id.*

57. *See id.*

the wage gap between high school graduates and dropouts has been constant since 1980.⁵⁸ Even with lower wages, it seems that low-skilled extant workers are no more or less affected by the influx of immigrants now than they were thirty years ago. However, to the extent immigration depresses the wage rate of low-skilled workers and increases wages of higher-skilled workers, this phenomenon should create the incentive for skill acquisition and therefore decrease the number of high school dropouts in the future. The reason for lower wages for high school drop-outs in the cities may have little to do with the influx of immigrants and more to do with their failure to acquire skills through training and education, thus limiting their ability to participate productively in a modern urban setting. Nothing in the literature suggests that the influx of immigrants increases the dropout rate among the extant population.

3. Positive Effects on the Wages of the Extant Population

Even the White House Council of Economic Advisers found that “roughly 90% of native-born workers experience wage gains from immigration, which total between \$30 billion and \$80 billion per year.”⁵⁹ These high-skilled workers are able to earn more for several reasons. With an influx of low-skilled workers with lower wages, the higher-skilled workers are able to increase production, and their employers are thereby able to hire more workers at all skill levels.⁶⁰ As noted earlier, this in turn creates more managerial-type jobs and jobs for other higher-skilled workers with knowledge and skills in technologically-driven occupations. The high-skilled workers could, in turn, hire low-skilled workers to help with their personal services (such as landscaping and child care), thus creating more jobs for low-skilled workers and increasing their own productivity.

In assessing the effect of immigrant workers on the wages of other workers, it is interesting to note the apparent wage effect in different regions. In California, a state with a large immigrant population, the wages of high school dropouts were reduced by 17% from 1980 to 2004.⁶¹ Though this seems significant and may be blamed on the influx of immigrants, it is not the end of the story. In Ohio, a state without many immigrants, the wages of high school dropouts were re-

58. See Card, *supra* note 21, at F315.

59. American Immigration Lawyers Association, *Top 5 Myths of this Campaign Season: Ending the Immigration Spin – Just the Facts*, Jan. 3, 2008, <http://www.immigrationpolicy.org/images/File/onpoint/AILAcampaignmyths01-08.pdf>.

60. *Id.* at 2.

61. Eduardo Porter, *Cost of Illegal Immigration May Be Less Than Meets the Eye*, N.Y. TIMES, Apr. 16 2006, at B16.

duced by 31% in that same time period.⁶² Moreover, in a study by economist David Card, there was no wage difference found that could be attributed to the effect of immigrants, thus reinforcing the view that lower wages for high school dropouts have less to do with immigration than with the self-induced disenfranchisement occasioned by dropping out of high school.⁶³ Although high school dropouts' wages have fallen significantly, the number of high school dropouts has fallen dramatically in the last twenty-five years.⁶⁴ This decrease in high school dropouts contributes to a more complimentary workplace, providing for less competition among workers and therefore less wage depression.

The general and broad consensus among mainstream economists is that the effect of recent immigration into the U.S. has been to generate more employment for high-skilled, knowledge-based workers.⁶⁵ And, with more low-skilled and low-wage workers, owners of capital have been able to expand their enterprises and invest in new equipment in order to increase production, thus contributing to the economy by providing for lower-priced goods and thereby increasing consumption. A study by Giovanni Peri and Chad Sparber shows that "an increase in ten new foreign-born workers in a skill-set group is associated with an additional 3 to 4 extra jobs for natives."⁶⁶ Also, the number of jobs across the nation has increased dramatically; between 1990 and 2003, 15 million new jobs were created.⁶⁷ It is estimated that between 2000 and 2010, 33 million new jobs for low and moderate-skilled workers will have been created.⁶⁸ Consequently, immigrants are creating opportunity for the extant workers, not taking jobs away from them.

B. *The Political Economy*

Until now, this discussion has centered on the economic effects of immigration without consideration to other factors that may affect the political and policy context for the ongoing debates about immigration. This part of the discussion seeks to examine the role of government on the economy and how this interplays with the foregoing economic effects (political economy). In order to gain an understand-

62. *Id.*

63. *Id.*

64. *Id.*

65. *Id.*

66. See Peri & Sparber, *supra* note 50, at 6.

67. Essential Worker Immigration Coalition, *5 Myths About Immigration and Comprehensive Immigration Reform in the US*, Oct. 25, 2008, http://www.ewic.org/index2.php?option=com_content&do_pdf=1&id=44.

68. *Id.*

ing of the political economy with respect to immigration, the preamble to the Constitution will be used as a cataloging framework for the relevant topics:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.⁶⁹

1. Union

The purpose of making the union “more perfect” was to foster the creation of a country that was controlled by a federal government rather than each state being completely separate.⁷⁰ Because the central government has direct power to control its citizens, its citizens in turn expect to be treated equally in terms of its state-wide fiscal benefits gained from the federal government.

Immigrant-receiving states and their taxpayers tend to be affected by this issue more often and thus more likely to have anti-immigration sentiment than other states. This makes sense when taking into account the greater burden on states which have larger populations of immigrants. Recall the previous discussion on the findings of the National Academy of Science; the fiscal deficit attributable to immigrants is at the state and local levels as opposed to the federal level.⁷¹ This is because states pay a good deal of the costs of providing public services such as public safety, schools, roads, and transport to all residents, including any low-skilled immigrants within their jurisdictions.⁷²

On the other hand, the federal government incurs a net fiscal benefit from immigration. The federal government receives federal income and withholding tax revenue paid by most immigrants, yet does not incur much in additional expenses.⁷³ This is because there is only slight variation in federal costs attributable to providing services to immigrants as most illegal immigrants are not eligible for federally-funded benefit programs.⁷⁴ On the other hand, the costs of national defense and managing public lands do not vary significantly with respect to the size of the population.⁷⁵

69. U.S. CONST. pmbl.

70. *Id.*

71. See Lee & Miller, *supra* note 8.

72. *Id.*

73. *Id.*

74. Gordon H. Hanson, *The Economic Logic of Illegal Immigration*, COUNCIL ON FOREIGN RELATIONS, Apr. 2007, at 25.

75. *Id.*

However, at the state and local levels, some of the positive effects created by immigration do not necessarily benefit the home state of those immigrants, though these states bear the fiscal costs of immigration. The economy-wide benefits attributable to immigration such as increased productivity, jobs, and consumption are diffused over other workers and consumers, some of whom may be located in other states or cities. Thus, the increased consumption, incomes and profits are not taxed by the state in which the immigrant resides. This creates a phenomenon where there is a gain to the economy nationwide, but a fiscal cost to the individual states that receive immigrants. To prevent this unequal distribution of benefits, the federal government could compensate those states for the services they provide to immigrants. Regardless of any apparent remedy for this imbalance, increased immigration (legal or otherwise) creates a need to revisit the respective roles of the federal and state governments in funding public services in general.

2. Justice

A common misconception is that immigrants are more likely to commit crimes than non-immigrants. While immigration does increase crime because it increases the population as a whole, immigrants do not disproportionately commit more crimes than non-immigrants.⁷⁶ However, CNN commentator Lou Dobbs asserts that undocumented immigrants in the U.S. have a 2.5 times higher crime rate than the extant population.⁷⁷ Yet the truth of the matter is that both undocumented and legal immigrants are *less* likely to commit crimes than non-immigrants.⁷⁸ A study by sociologist Rubén G. Rumbaut found that among the majority of inmates, specifically those males in the age range of 18-39, the incarceration rate for the extant population was five times *higher* than the incarceration rate for immigrants.⁷⁹ Economists Kristin F. Butcher and Anne Morrison Piehl

76. John Hagan & Alberto Palloni, *Immigration and Crime in the United States*, in *THE IMMIGRATION DEBATE: STUDIES ON THE ECONOMIC, DEMOGRAPHIC, AND FISCAL EFFECTS OF IMMIGRATION* 381 (James P. Smith & Barry Edmonston eds., National Academy Press 1998).

77. Lou Dobbs Tonight: *President Bush Convenes Two-Day War Summit at Camp David: Will U.S. Troops Soon Be Leaving Iraq?* (CNN television broadcast June 12, 2006) transcript available at <http://transcripts.cnn.com/TRANSCRIPTS/060612/ldt.01.html>. In particular, they insist that \$3 million dollars is spent on incarcerating illegal aliens daily and 30% of all inmates in the Federal Prisons are illegal aliens. *Id.*

78. Hagan & Palloni, *supra* note 76, at 381.

79. RUBÉN G. RUMBAUT & WALTER A. EWING, IMMIGRATION POLICY CENTER, *THE MYTH OF IMMIGRATION CRIMINALITY AND THE PARADOX OF ASSIMILATION: INCARCERATION RATES AMONG NATIVE AND FOREIGN-BORN MEN* (2007), available at <http://www.immigrationpolicy.org/index.php?content=SR20070221>. In 2000, the extant population had an incarceration rate of 3.5% and the immigrants had an incarceration rate of 0.7%. Even with a larger percentage of immigrants that are in this bracket than non-immigrants due to the ages of the respective

concur with Rumbaut's study, and state further that the newer immigrants have even lower rates of incarceration.⁸⁰

Although the incarceration rate of immigrants is lower than the same sex and age group of non-immigrants, there is another apparent consequence of the influx of immigrants. It has created an increase in incarceration rates of low-skilled natives, particularly African-Americans.⁸¹ In particular, a 10% increase in immigration has accounted for nearly 1% increase in incarcerated African-Americans.⁸² This may be due partly to the displacement of low-wage workers from the extant population, particularly in the cities.⁸³ From this it would appear that immigrants do not provide an undue burden on the administration of justice. It is true that all illegal immigrants are breaking the law by their immigration status alone. The remedy for that would be to establish a path to legalization of their residence, which could be conditioned on being "clean" of any other criminal violations.

3. Domestic Tranquility

Anti-immigration activists have urged that immigrants are not being assimilated rapidly enough and are creating a subculture among themselves.⁸⁴ However, a study done by the Pew Hispanic Center in 2007 states that of "adult first-generation Latinos, just 23% say they can carry on a conversation in English very well. That share rises sharply, to 88%, among the second generation of adults, and to 94% among the third and higher generations."⁸⁵ Home ownership is also a good indicator of whether a sub-group is assimilating into mainstream culture; it shows the group is entering the middle class.⁸⁶ In California, Latino immigrant homeownership rose from 16.3% to 51.9% among

groups, immigrants have a much lower incarceration rate. Hagan & Palloni, *supra* note 76. It is also noteworthy to mention that those immigrants that have the highest incarceration rates are from Cuba, The Dominican Republic, Colombia and Jamaica. That a few nationalities are under-represented in society but overrepresented in prisons sheds a new light on the immigrants' incarceration rate yet. *See id.*

80. Kristin F. Butcher & Anne Morrison Piehl, *Why are Immigrants' Incarceration Rates So Low? Evidence on Selective Immigration, Deterrence, and Deportation* 2 (Nat'l Bureau of Econ. Research, Working Paper No. 13229, 2008).

81. George L. Borjas, et al., *Immigration and African-American Employment Opportunities: The Response of Wages, Employment & Incarceration to Labor Supply Shocks* 4 (Nat'l Bureau of Econ. Research, Working Paper No. 12518, 2006).

82. *Id.*

83. *Id.* at 3.

84. Editorial, *America's 'Identity Crisis'*, WASH. TIMES, June 08, 2008, at B02, available at <http://www.washingtontimes.com/news/2008/jun/08/americas-identity-crisis/>.

85. Shirin Hakimzadeh & D'Vera Cohn, *English Usage Among Hispanics in the United States*, PEW RESEARCH CENTER, Nov. 29, 2007, <http://pewresearch.org/pubs/664/english-language-usage-hispanics>.

86. DOWELL MYERS, IMMIGRANTS AND BOOMERS: FORMING A NEW SOCIAL CONTRACT FOR THE FUTURE OF AMERICA 116-117 (Russell Sage Foundation) (2007).

those Latinos who have lived there from 1970-2000.⁸⁷ These studies show that even newly arrived immigrants have begun to assimilate, and future generations will assimilate even more rapidly. Some members of the then extant population have held similar negative against prior waves of immigrants from Ireland, Eastern Europe, and Italy. It is the descendants of these latter that are now concerned about the assimilation of the new immigrants from Latin America⁸⁸

4. Security

Much of the political argument against an influx of illegal immigration centers around the opportunity it creates for terrorists and drug dealers to enter the country. A Homeland Security Report stated that “in 2005, as many as 10 to 4 million illegal aliens crossed into the United States; and as much as 2.2 to 1.1 million kilograms of cocaine and 11.6 to 5.8 million kilograms of marijuana entered the United States.”⁸⁹ However, in their study of crime in El Paso and San Diego, John Hagan and Alberto Palloni found that two-thirds of the illegal immigrants that had been arrested were arrested for mere property offenses, and only 9-15% had been arrested for drug crimes.⁹⁰

5. General Welfare

Many within the extant population argue that the fiscal burden of the low-skilled immigrant households increase poverty nationwide, thus harming the “general welfare” of non-immigrants.⁹¹ This argument is based on the premise that since low-skilled immigrants consist of 5% of the nation’s population and are perceived as not paying taxes, they burden U.S. taxpayers with paying for their welfare benefits.⁹² For example, the Heritage Foundation stated that it is “fiscally unsustainable to apply this system of lavish income redistribution to an inflow of millions of poorly educated immigrants.”⁹³

The discussion above suggests that low-skilled immigrants are not such a burden as the anti-immigration activists choose to believe. The perception of a problem with the fiscal burden associated with immigrants must be mostly related to a misunderstanding of the differential

87. *Id.*

88. JUAN GONZALES, *HARVEST OF EMPIRE: A HISTORY OF LATINOS IN AMERICA* xvi (Viking Penguin) (2000).

89. STAFF OF H. COMM. ON HOMELAND SECURITY, *A LINE IN THE SAND: CONFRONTING THE THREAT AT THE SOUTHWEST BORDER* (2006), available at <http://www.house.gov/mccaul/pdf/Investigaions-Border-Report.pdf>.

90. Hagan & Palloni, *supra* note 76, at 387.

91. RECTOR & KIM, *supra* note 2, at 7.

92. *Id.* at 5.

93. *Id.* at 2.

incidence of the burden and the benefits between the federal government and the states and localities. Notwithstanding the “general equilibrium effect” previously discussed, low-skilled immigrants contribute to the economy via direct taxes collected on their income and consumption and indirectly through the taxes collected on the output increases to which they contribute. Even with the conservative estimate of the Heritage Foundation that only 55% of undocumented workers pay taxes, this would mean that 78% of immigrants pay taxes since they estimate that 40% of all immigrants are undocumented. In reality, an even higher percentage of immigrants likely pay income taxes due to the Tax Identification Numbers that are used in lieu of Social Security Numbers.⁹⁴ Moreover, most immigrants pay consumer and asset taxes such as real estate and other property taxes which are imbedded in their rental payments. Recall that a study by the NAS found that immigrants provide the government with a fiscal benefit of \$50.9 billion annually (\$1,258 per capita) apart from the billions of dollars which end up in the Social Security Administration’s “suspense file.”⁹⁵

The Heritage Foundation fails to take into account why the immigrant population would receive benefits, although they mention it in passing – “the average immigrant earned 23% less than the average non-immigrant.”⁹⁶ The low-skilled immigrant families are working as hard as any other “native” American, the majority of whom are paying taxes, yet they are living on much less money than most families. Moreover, since there is no real economic burden on the U.S., the only real difference between low-skilled immigrant families and “native” families is their language, culture, and the color of their skin. If it is “fiscally unsustainable” to provide welfare benefits to low-skilled immigrant families, then the “fiscally unsustainable” could possibly be stretched to include welfare benefits to African-American families or to other low-income non-immigrant families.

6. Liberty

The Fourteenth Amendment’s Due Process Clause provides as follows:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the

94. Francine Lipman, *The Taxation of Undocumented Immigrants: Separate, Unequal, and Without Representation*, HARV. LATINO L. REV. 1, 26 (2006) (discussing the usage of individual taxpayer identification numbers and the taxation of undocumented immigrants).

95. See *supra* note 19 and accompanying text.

96. RECTOR & KIM, *supra* note 2, at 5.

United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.⁹⁷

This clause formally defines "citizenship" as being born or naturalized in the United States. In 1898, the Supreme Court held that a person born in the United States or its territories is eligible for birthright citizenship notwithstanding the nationality of his or her parents.⁹⁸ However, the Supreme Court has not explicitly ruled on whether children of illegal parents are entitled to birthright citizenship, although it is generally assumed they are.⁹⁹ Moreover, in dicta, the Court has said that children of illegal parents are entitled to birthright citizenship.¹⁰⁰

The Heritage Foundation urges the elimination of birthright citizenship for children of illegal immigrants.¹⁰¹ The Foundation views these children as "anchor babies," since once twenty-one years old, they can petition for their parents to be granted legal permanent resident status.¹⁰² "[H]aving a child as an illegal immigrant within U.S. borders is a nearly automatic pathway to welfare, Social Security, Medicare, and eventually citizenship for an illegal immigrant."¹⁰³ Rather, immigrants are aware of the economic opportunities for themselves and for their families here compared to their home countries where opportunities are much lower. It is economic opportunity and not the remote possibility of citizenship that attracts most immigrants.¹⁰⁴

The Heritage Foundation urges that children of illegal immigrants should not only be excluded from citizenship, but also from schooling, health care and other benefits.¹⁰⁵ The lack of public education for immigrant children would only increase the highschool dropout rate. But according to the Foundation itself, households formed by high school dropouts receive three times in benefits than what they pay in taxes.¹⁰⁶ Thus, their decision to not educate children would only exacerbate the "drain" on the U.S. economy and the burden on its taxpayers that they argue against.

The Fourteenth Amendment was enacted to overrule the part of the *Dred Scott* decision which held that African-Americans could not be

97. U.S. CONST. amend. XIV, § 1.

98. *United States v. Wong Kim Ark*, 169 U.S. 649, 705 (1898).

99. *See generally* *Plyer v. Doe*, 457 U.S. 202 (1982).

100. *Id.*

101. RECTOR & KIM, *supra* note 2.

102. *Id.*

103. *Id.* at 21.

104. Rick Su, *A Localist Reading of Local Immigration Regulations*, 86 N.C. L. REV. 1619, at n. 5 (2008) (citing Hal L. Millard, *A Problem That Doesn't Exist?*, MOUNTAIN XPRESS (Asheville, N.C.), Aug. 1, 2007, available at <http://www.mountainx.com/news/2007/080107city>).

105. RECTOR & KIM, *supra* note 2, at 21.

106. *Id.* at 13.

citizens of the United States.¹⁰⁷ To hold that children of immigrants cannot be citizens merely because of the status of their parents is to deny justice to those of another culture and ethnicity, in effect returning to the days of *Dred Scott*.

7. Posterity

As mentioned above, contributions to “fake” social security numbers used by illegal immigrants in their employment amount to approximately \$8 billion annually. These funds help to defray the costs of benefits to persons in the extant population and postpone the projected eventual default of the Social Security trust fund. Immigrants are likely to develop a more significant role in the Social Security system as the U.S.’s population, like populations of other developed countries, continues to age with a decreasing birth rate among the extant population. As these demographic changes progress, the U.S. is likely to face a severe problem meeting its Social Security obligations to future retirees.¹⁰⁸ Most immigrants are young working age individuals and come from cultures with a tradition of large families.¹⁰⁹ The influx of immigrants is providing for expansion in the base of the age-gender demographic pyramid and creating the possibility for long term sustainability of the social security system.¹¹⁰ Such benefits to the U.S. economy are more likely to materialize if there were to be a path to legalization of the current cohorts of illegal and undocumented workers. Maintaining the *status quo* of illegality serves to drive the workers “underground” and foregoes the collection of Social Security contributions from the immigrant workers.

Some of the proposals to exclude the U.S.-born children of illegal immigrants from educational services and health care would serve to create a permanent underclass of poorly educated persons with few opportunities for economic progress. At an extreme, these children would be driven into lives of despair and illegality by such a policy. Indeed, then some of Lou Dobbs’ dire statements about criminality would become true, but only as a consequence of a failed policy with short foresight.

In the foregoing economic discussion it is clear that labor force expansion is a driving force for economic expansion. It is also clear that

107. See *Dred Scott v. Sandford*, 60 U.S. 393 (1856); Risa E. Kaufman, *Access to the Courts as a Privilege or Immunity of National Citizenship*, 40 CONN. L. REV. 1477, 1494 (2008) (“[T]he Fourteenth Amendment [was] enacted in response to *Dredd Scott*’s denial of citizenship rights to slaves and their descendants.”).

108. See Mitra Toossi, *A New Look at Long-Term Labor Force Projections to 2050*, 129 MONTHLY LAB. REV. 19, 25 (2006).

109. *Id.*

110. *Id.*

with declining birth rates and aging of the extant population, the expansion of the labor force will slow down and so will economic growth and prosperity in the future.¹¹¹ This demographic reality can be stemmed with a well-regulated system of legalized immigration to help enhance the economic prospects for all Americans. Furthermore, the U.S. has lost market share to many developing countries because of labor scarcities (higher-cost labor), even for technology-based products.¹¹² With a well-regulated influx of immigrants, the U.S. economy may be able to increase competitiveness in a number of important markets to restore competitive advantage based on productive yet relatively low-skilled labor from immigrants. The alternative to labor in-migration is for the out-migration of capital (human, physical and financial) to countries with more ample supplies of productive workers. For example, Lawrence F. Katz states that the economic impact of low-skilled immigrants in the labor market is slight, and that it may dissipate if other factors such as trade flows were taken into account.¹¹³ Particularly, he believes that without low-skilled immigrants, some products made in this country would probably have to be imported from other countries.¹¹⁴

III. CONCLUSION

The consensus among economic researchers is that immigrant labor provides direct and indirect positive benefits to the economy.¹¹⁵ Immigrant households do not represent a fiscal burden to the nation as a whole, though they represent a net burden to the states in which large numbers of immigrants reside.¹¹⁶ The principal deleterious effects are related to their impact on the competing low-skilled workers from the extant population. These latter have experienced lower wages than would have otherwise obtained, and for those at or near the minimum wage they may have been displaced from employment. While the depressive effect on wages may be small at any point in time, the effect over time in lower wages and lower income earning opportunities for extant workers at the lower end of the job-scale could be significant.

The deleterious effects attributable to immigration would appear to manifest themselves more in cities in which immigrants have clustered. As such they may have added burdens to public service systems and perhaps induced other social externalities. The main apparent social externality is that the influx of illegal immigrants into certain cities

111. *Id.*

112. *Id.*

113. Porter, *supra* note 61.

114. *Id.*

115. See Lee & Miller, *supra* note 8.

116. *Id.*

may have indirectly induced a higher degree of criminality among the displaced young and low-skilled workers from the extant population. Significantly, the rate of incarceration for low-skilled immigrants is substantially lower than that of the same age-gender cohort from the extant population. It is not clear if the apparent displacement effects among high school dropouts in the extant population are related to immigration or to other social phenomena that underlie the self-induced detriment of dropping out of school at an early age for members of the extant population. Furthermore, the main “criminality” associated with “illegal” immigrants is their illegal status in violation of the existing immigration laws.

As the economic benefits from increased immigration by young workers are clear in the present and will become more palpable as the extant labor force ages (and retires), it would seem that the U.S. should, as a matter of public policy, institute a means to legalize and regulate the in-flow of workers from other countries. The number of illegal workers has become a vital part of the U.S. economy, and it would be economically detrimental and administratively impossible to attempt to enforce the existing laws through deportations. Given the benefits from the presence of immigrant workers, priority attention must be given to legalization and to creation of a system for orderly regulation of future flows of workers into the U.S. economy.

President Bush introduced a “temporary worker/legal status proposal” on January 7, 2004, which advocates for the creation of a new temporary visa program.¹¹⁷ Although the proposal has not yet been passed by Congress, one such bill that was reviewed by Congress would “create a new temporary worker program; provide undocumented workers who are in the country and working at the time of the bill’s introduction a process to qualify for legal work status following security and background checks,” as well as heighten security of the borders and crack down on employment regulations to ensure one’s eligibility to work.¹¹⁸

This country’s current stagnant immigration policy forces so many families who are significantly contributing to the U.S. economy to live a life of “non-existence,” in fear of being visible to the public eye. Because of this traumatic practical reality, it is imperative that both sides of the political debate be willing to compromise. A proposal such as Bush’s that would grant some sort of immigration status to

117. Press Release, White House Office of the Press Sec’y, Fact Sheet: Fair and Secure Immigration Reform (Jan. 7, 2004), *available at* <http://www.whitehouse.gov/news/releases/2004/01/20040107-1.html>.

118. Press Release, U.S. Chamber of Commerce, Chamber Calls for Comprehensive Immigration Reform (Oct. 18, 2005), *available at* <http://www.uschamber.com/press/releases/2005/october/05-164.htm>.

undocumented workers may begin to untangle the turmoil created by this longstanding immigration debate. Not only would such action redress the grievances of so many families, it would also be in tune with the economic reality of low-skilled immigrants.

Two major issues will have to be faced in establishing a new legal framework for immigrant workers. One is the issue of the fiscal pressures on the states and localities that receive large numbers of immigrants for work in their enterprises. This issue can be resolved by two methods: (1) participation by the federal government in revenue sharing with the states and local jurisdictions or (2) the taxation of enterprises that employ immigrant workers to help provide compensation for the local authorities in the provision of public services to the immigrants and their households. The aforementioned bill also provided for "reimbursement to the states for certain health care expenses related to the treatment of undocumented immigrants."¹¹⁹ Since it is the state and municipal governments who bear the fiscal burden for immigration, the federal government should distribute some of the fiscal benefits created by immigration to those municipalities, not only for health-related expenses but for other social services that are provided to low-skilled immigrant families. The other issue relates to remedies for the workers displaced by immigrants. Again there may be a role for the federal government in a way similar to the provision of compensation to workers displaced by the impact of free trade agreements.

Finally, the political debate will have to face the rhetoric associated with legalization of illegal immigrants already in the country. The opponents of immigration reform argue that legalization would constitute granting "amnesty to criminals" that have violated the U.S. immigration laws. This is a Gordian Knot that must be cut in full realization that the economy needs the continuing services of these immigrant workers and that it would be impossible to return them all to their countries of origin. The sooner the debate focuses on the facts and eschews jingoistic posturing the sooner an equitable and humane solution can be found.

119. Press Release, U.S. Chamber of Commerce, S. Chamber Welcomes Bipartisan Immigration Reform Bill (May 12, 2005), *available at* <http://www.uschamber.com/press/releases/2005/may/05-78.htm>.