

2009 EDITION

DRUM  
MAJOR  
INSTITUTE FOR PUBLIC  
POLICY

Principles for an **Immigration Policy** to  
Strengthen & Expand  
the American Middle Class

By Amy M. Traub, with assistance from Afton Branche and Amy Taylor

# Principles for an Immigration Policy to Strengthen & Expand the American Middle Class

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## EXECUTIVE SUMMARY

As Congress again prepares to debate comprehensive immigration reform before the end of 2009, the Drum Major Institute for Public Policy releases “Principles for an Immigration Policy to Strengthen and Expand the American Middle Class: 2009 Edition,” building on our earlier immigration research.

In the depths of the worst economic downturn since the Great Depression, Americans have nevertheless rejected the impulse to blame immigrants for their economic woes and instead show strong and growing support for legalizing undocumented immigrants. This report was written to encourage a new immigration reform package driven by the needs of the nation’s middle class and low-income American workers striving to stay afloat through the economic crisis and earn a middle-class standard of living.

We reveal that the American middle class relies on the economic contributions of immigrants both authorized and undocumented, but also that the exploitation of undocumented immigrant workers threatens to drive labor standards down for current and aspiring middle-class workers. Based on these findings, we propose a two-fold litmus test for evaluating immigration policy:

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### DMI’S MIDDLE-CLASS TEST:

In order to strengthen the American middle-class and expand it to more working people, immigration policy must:

1. **Bolster—not undermine—the critical contribution that immigrants make to our economy as workers, entrepreneurs, taxpayers and consumers,**  
and
  2. **Strengthen the rights of immigrants in the workplace.**
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### THE FINDINGS:

- **The American middle class relies on the economic contributions of immigrants both authorized and undocumented.**
  - U.S. natives gain an estimated \$37 billion a year from immigrants’ participation in the U.S. economy, according to the President’s Council of Economic Advisors.
  - On average, immigrants pay more in taxes than they use in government services, and these taxes fund programs like Social Security that strengthen and expand the middle class.
  - Undocumented immigrants alone contribute an estimated \$7 billion a year in federal Social Security taxes.
  - The middle class relies on the goods and services that the authorized and undocumented immigrants in the U.S. now produce.
  - By increasing consumer demand, immigrants generate economic growth that benefits the middle class: immigration is a major contributor to the expansion of Hispanic and Asian-American consumer markets—which total an estimated 13.6 percent of the nation’s 2008 purchasing power.

- Immigrant consumers will be particularly critical in reviving the nation's devastated housing market, according to Harvard University's Joint Center for Housing Studies. They find that immigration expands the demand for new homes, pointing out that immigration contributed to over 40 percent of net household formations between 2000 and 2005.
  - Immigrants also stimulate the economy by starting small businesses and attracting investment capital from their countries of origin. For example, immigrant entrepreneurs helped to establish a quarter of all engineering and technology companies launched in the U.S. between 1995 and 2005, creating nearly 450,000 jobs.
  - Based on these findings, we conclude that immigration policy should bolster—not undermine—the critical contribution that immigrants make to our economy as workers, entrepreneurs, taxpayers and consumers.
- **The exploitation of undocumented immigrant workers threatens to drive labor standards down for current and aspiring middle-class workers.**
    - Under current immigration law, immigrant workers compete with their U.S.-born counterparts on an uneven playing field—to the detriment of both groups.
    - Because employers threaten undocumented immigrants with deportation, these workers cannot effectively assert their rights in the workplace by, for example, asking for raises, complaining about violations of wage and hour or workplace safety laws, or by supporting union organizing drives.
    - As long as this cheaper and more compliant pool of immigrant labor is available, employers are all too willing to take advantage of the situation to keep their labor costs down, especially during the economic downturn when business margins are tight and profits are squeezed.
    - U.S.-born workers are left to either accept the same diminished wages and degraded working conditions as immigrants living under threat of deportation or be shut out of whole industries where employers hire predominantly undocumented immigrants.
    - The current recession logically increases both the desperation of undocumented workers and the temptation for employers to cut costs by dodging workplace protections. It is thus more important than ever to ensure that workplace standards are applied universally to everyone participating in our economy.
    - Based on these findings, we conclude that immigration policy should strengthen the rights of immigrants in the workplace.

## THE IMPLICATIONS:

The middle-class test and research findings have clear implications for major immigration policy decisions Congress will be weighing in the coming months:

- **Immigration reform is necessary.** Current immigration policy fails the middle class because it is disconnected from our nation's economic reliance on undocumented immigrants, and threatens to undermine the middle class because these undocumented workers cannot exercise workplace rights.
- **Earned legalization for current undocumented immigrants is an effective way to both maximize immigrants' economic contributions and prevent the workplace exploitation that makes it harder for American workers to earn a middle-class standard of living.** It must enable hard-working immigrants to gain legal status relatively swiftly and without excessive barriers, or it will not succeed in absorbing the nation's existing underground labor force.

- **Establishing new guest worker programs would undermine the nation’s current and aspiring middle class by institutionalizing a permanent two-tiered labor market. The more jobs that can be transformed into “guest worker jobs,” the fewer domestic jobs will provide the wages and benefits capable of supporting a middle-class standard of living.** As the economy begins growing again and demand for immigrant labor resumes, these workers and their families should be granted legal permanent residency, not contingent, temporary status.
- **Increased enforcement of the nation’s current, flawed immigration laws endangers the middle class by both reducing immigrants’ economic contributions and driving undocumented immigrants further underground, where they become still more vulnerable to exploitation.** Current enforcement-only proposals are ineffective and costly to middle-class taxpayers. Better enforcement must wait until better immigration law can actually be enforced.

A progressive immigration policy must be one that strengthens and expands the American middle class from San Diego, California, to Portland, Maine. DMI’s “Principles for an Immigration Policy to Strengthen and Expand the American Middle Class: 2009 Edition” is our contribution to the next phase of debate over immigration policy.

# INTRODUCTION

The Drum Major Institute for Public Policy (DMI) releases “Principles for an Immigration Policy to Strengthen and Expand the American Middle Class: 2009 Edition” as Congress again prepares to take up comprehensive immigration reform legislation.

The nation’s political and economic climate has shifted significantly since comprehensive legislation was last considered in 2007: in the depths of the worst economic downturn since the Great Depression, Americans have nevertheless rejected the impulse to blame immigrants for their economic woes and instead show strong and growing support for legalizing undocumented immigrants.<sup>1</sup> In the midst of this positive shift in public opinion, we offer this report to encourage an immigration reform package driven by the needs of American workers struggling to stay afloat in the midst of economic crisis and thrive in the coming years.

The nation’s immigration debate heated up in the early and mid-2000s as the population of undocumented immigrants increased rapidly, moving into states in the Southeast and Midwest that had not previously been immigrant destinations for many decades. However, since 2006 the population of undocumented immigrants has stabilized at an estimated 11.9 million people<sup>2</sup> and the inflow of undocumented immigrants has slowed.<sup>3</sup> While there is not yet hard evidence that the bad economy is pushing sizable numbers of immigrants already living in the United States to return home, it is clear that fewer undocumented immigrants are arriving. In all, these undocumented residents make up less than a third of the nation’s total foreign-born population, which amounts to 38 million U.S. residents or 12.6 percent of the entire U.S. population as of 2007.<sup>4</sup> Seventy percent of foreign-born U.S. residents are in the country legally and 36 percent are naturalized citizens. More than half of the immigrants in the United States were born in Latin America, while just over a quarter were born in Asia and just over 13 percent came from Europe.<sup>5</sup> Looking only at undocumented immigrants, a much larger percentage—81 percent— came from Latin America and the Caribbean. This includes the 59 percent of undocumented immigrants (7 million people) who were born in Mexico. Meanwhile 11 percent of undocumented immigrants were born in Asia, and 2 percent were born in the Middle East.<sup>6</sup>

While these demographics provide a picture of the nation’s immigrant population, they don’t tell us how immigrants fit into American society and the economy. We argue that the debate over immigration reform must be connected to the larger conversation about America’s precarious middle class and working people striving to attain a middle-class standard of living. We cannot craft an immigration policy that ignores the impact of immigration on the opportunity for all Americans to realize the American Dream. Too much of the current debate misses this point completely. We offer this primer as a step in building a new paradigm in which immigration policy also advances a sound economic agenda for this country’s current and aspiring middle class.

Good immigration policy should be good for every American. So we create a litmus test to evaluate immigration policy driven by the principles laid out in the paper. In policy briefs available on our website, the Drum Major Institute has used this test to evaluate immigration bills considered by Congress in previous years. We argue that the same principles should be used to assess future legislation. At the same time, we suggest that our proposed framework, and the core principles it embodies can help advocates and policymakers to enlarge the national conversation about immigration and the role of immigrants in our society.

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1 Washington Post-ABC News Poll (April 2009) [http://www.washingtonpost.com/wp-srv/politics/polls/postpoll\\_042609.html](http://www.washingtonpost.com/wp-srv/politics/polls/postpoll_042609.html)

2 Jeffrey S. Passel and D’Vera Cohen “A Portrait of Unauthorized Immigrants in the United States.,” Pew Hispanic Center, (2009): p1, <http://pewhispanic.org/reports/report.php?ReportID=107>

3 Jeffrey S. Passel and D’Vera Cohen, “Trends in Unauthorized Immigration: Undocumented Inflow Now Trails Legal Inflow,” Pew Hispanic Center (2008) <http://pewhispanic.org/files/reports/94.pdf>

4 U.S. Census Bureau, 2007 American Community Survey 1-Year Estimates (2009).

5 Ibid.

6 Passel and Cohen (2009).

Today, millions of American families are losing their homes and their livelihoods, yet even before the current recession, the nation's middle class was in decline. During the most recent period of economic growth, wages still failed to keep up with skyrocketing health care and education costs, leading families to take on the unsustainable debts that helped to cause the crisis in the first place. Immigration policy must be part of the answer.

Public policy created America's middle class. From the GI bill, which allowed people to enter the middle class by putting a college education within reach, to Social Security benefits that today allow the middle class to retire with a modicum of financial well-being and dignity, the strength and size of America's middle class can be traced to successful policies that enable people who work hard to realize the American Dream.

In the same way that education and tax policies are integral to the size and strength of our nation's middle class, immigration policy is also critical. Our economy relies on the presence of immigrants: they provide a young labor force, a tax base for programs that benefit the vast majority of Americans, and many are entrepreneurs with businesses serving our neighborhoods. However, policies that drive undocumented workers into the shadows of the labor market and leave them vulnerable to exploitation threaten to undermine the efforts of low-income Americans trying to work their way up to the middle class. When our policies create a two-tiered society that marginalizes the immigrants our economy relies on, the political and economic foundation of the American middle class is undermined.

The immigration agenda of the big business lobby—allowing more immigrants but consigning them to a subordinate position in the labor market—is understandably driven by what will bolster the corporate bottom line. In the wake of the nation's tremendous financial scandals, middle-class voters are understandably skeptical of the notion that what's best for Wall Street will also be best for Main Street. Similarly, since immigrant advocates speak for immigrants, it's reasonable to assume that they have a vested interest in claiming that their agenda—more rights for immigrants—is also the right agenda for middle America, whether that is actually the case or not.

The voices in the debate that make the most direct claim to speaking for working and middle-class Americans are often those who favor the most restrictive immigration policies. They speak to middle-class economic anxieties— about competition for jobs, higher taxes, over-crowded emergency rooms and more crime. Popular CNN anchor Lou Dobbs, who includes a segment on the nation's "broken borders" on his show almost every evening, argues that deportation and a build-up of armed force on the border are the best responses to an "immigration policy [that] is a tragic joke at the expense of hard-working middle-class Americans."<sup>7</sup> While we should reject the current of xenophobia that is fueling anti-immigrant sentiment, no one should dismiss out-of-hand the valid concerns of working and middle-class Americans about immigration. It is not inherently xenophobic to worry about earning a living that provides enough to take care of your family in the wake of increased illegal immigration.

Yet while some advocates of tighter immigration policies have tapped into real concerns of a broad, middle class constituency, their policy prescriptions are misguided because they fundamentally misunderstand the relationship between immigration and the middle class. They exaggerate the cost of public services for immigrants while underestimating the economic contribution that immigrants make. Furthermore, their view of labor market competition fails to take into account the possibility of cooperation to raise standards for both immigrants and U.S. - born Americans who are striving to work their way into the middle class. This confusion over the real impact of immigration on the middle class too often leads to policy prescriptions that focus only on enforcement and "sealing the border." Such proposals, like the border fence legislation, would cost middle-class tax payers billions of dollars, while failing to significantly reduce illegal entries.

This paper does not aim to provide a comprehensive blueprint for solving all of the challenges posed by immigration to the United States. In particular, the focus on strengthening and expanding the American middle class precludes us from incorporating goals—like family reunification—whose primary objective is one of basic

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7 Lou Dobbs, "U.S. policy on immigration is a tragic joke," *The Arizona Republic*, August 28, 2005.

fairness to immigrants themselves. This does not mean that fairness towards immigrants is an unimportant goal, only that we believe that a serious discussion about how to align immigration policy with an economic policy that benefits all working Americans is a needed contribution to the immigration debate in its own right.

This analysis of immigration policy also differs substantially from approaches that use border control and the enforcement of existing immigration law as a starting point for addressing immigration policy. While effective border control is a necessary component of national security, it has little of value to say about the estimated 11.9 million undocumented immigrants—or the more than 25 million legal residents and naturalized citizens—who already live in the U.S. and form an integral part of the U.S. economy. From the perspective of the middle class and aspiring middle class, the impact immigrants have on Americans' ability to attain and maintain a middle-class standard of living is more significant than whether they entered the country legally or not.

# INTRODUCING THE MIDDLE CLASS AND THE MIDDLE-CLASS TEST

The middle class is more than an income bracket. Over the past fifty years, a middle-class standard of living in the United States has come to mean having a secure job, a safe and stable home, access to health care, retirement security, time off for vacation, illness and the birth or adoption of a child, opportunities to save for the future and the ability to provide a good education, including a college education, for one's children. When these middle-class fundamentals are within the reach of most Americans, the nation is stronger economically, culturally and democratically. Yet this paper is concerned not only with those who currently enjoy a middle-class standard of living, but also with expanding the middle class by increasing the ability and opportunities of poor people to enter it. It is low-skilled, low-income workers who are most likely to compete directly with undocumented immigrants in the workplace, and their experience is critical to expanding the middle class. The middle class is strengthened when more poor people are able to work their way into its ranks.

Most political scientists see a large middle class as crucial to political stability and to a healthy democracy. Nations that have a large middle class with a stake in society and enough respite from the day-to-day struggle for survival to engage with public and community affairs are more socially cohesive than those divided by great extremes of wealth and poverty.

Based on our analysis of how immigrants affect the American middle class, we developed a two-part test for evaluating an immigration agenda that drives legislation or advocacy:

1. **Immigration policy should bolster—not undermine—the critical contribution that immigrants make to our economy as workers, entrepreneurs, taxpayers and consumers.** Anti-immigrant policies are often premised on a flawed conception of the economy as a closed, zero-sum system—if an immigrant has a job, he must have taken a job away from an American. In fact, the economy is dynamic, and the presence of hardworking immigrants contributes to the growth of the economy and the creation of new jobs that wouldn't exist if they weren't here. They bring new tastes and cultures that generate both the demand and the supply for new goods and services. Immigrants pay taxes at state, local and national levels. This paper draws on existing studies showing that immigrants pay substantially more in taxes than they consume in government services at the federal level. In particular, the demographics of new immigrants and their families make immigration a powerful force shoring up the long-term viability of Social Security. An immigration policy that stifles any of these positive contributions of immigrants hurts the middle class.
2. **Immigration policy must strengthen the rights of immigrants in the workplace.** Under current immigration law, undocumented immigrants compete with low-skilled U.S.-born workers on an uneven playing field—to the detriment of both U.S. - and foreign-born workers. Because undocumented immigrants are under constant threat of deportation, they cannot effectively assert their rights in the workplace. Immigrants who do get involved in union organizing drives, ask for raises, or complain about violations of wage and hour or workplace safety laws risk getting reported to immigration authorities by their employers and being deported. As long as a cheaper and more compliant pool of immigrant labor is available, employers are all too willing to take advantage of the situation to keep their labor costs down and are less willing to hire U.S.-born workers if they demand better wages and working conditions. So, low-skilled U.S. - born workers are left to either accept the same diminished wages and degraded working conditions as immigrants living under threat of deportation or be shut out of whole industries where employers hire predominantly undocumented immigrants. The solution is to eliminate the second-class labor market in this two-tiered system and allow immigrants and U.S.-born workers to compete on an even playing field by guaranteeing immigrants— including undocumented workers—equal labor rights and making sure that employers cannot use deportation as a coercive tool in the labor market.

The following sections explore the rationale and implications of each part of the test in greater depth.

## MIDDLE CLASS TEST PART I: IMMIGRATION POLICY SHOULD BOLSTER— NOT UNDERMINE—THE CRITICAL CONTRIBUTION THAT IMMIGRANTS MAKE TO OUR ECONOMY AS WORKERS, ENTREPRENEURS, TAXPAYERS AND CONSUMERS.

The American middle class relies on the economic contributions of immigrants, including naturalized citizens, permanent residents and undocumented immigrants. The goods and services immigrants provide, the economic stimulus generated by immigrant consumers, and the immigrant tax dollars that help to finance vital middle-class programs combine to make immigrants an integral part of the American economy. This means that the challenges immigration poses for the middle class cannot be answered simply by shutting down or restricting the flow of immigrants. The policy implications of this part of the test are thus very simple: any immigration policy that addresses the economic interests of the middle class and aspiring middle class should not include deporting undocumented immigrants en masse or reducing legal immigration that meets the needs of the economy. Instead, the nation should act to maximize immigrants' economic contributions by enabling undocumented immigrants to attain legal residency and integrate into the United States and easing the path to citizenship for immigrants who are already legal residents.

The overall economic benefits of immigration have been well established. In June of 2006, more than 500 economists, including five Nobel Laureates and prominent economists from the administrations of Presidents Nixon, Carter, the first President Bush, and Clinton published an open letter to Congress and President Bush arguing that immigration is a net benefit for American citizens.<sup>8</sup> A 2007 report from the President's Council of Economic Advisors reached the same conclusion, finding that U.S. natives gain an estimated \$37 billion a year from immigrants' participation in the nation's economy.<sup>9</sup> The American middle class enjoys no small part of these gains.

In the simplest sense, the middle class relies on the goods and services immigrants produce. Immigrants work in every sector of the U.S. economy. Census data from 2000 shows one in every five doctors in the country is foreign-born, as well one in five computer specialists and one in six workers in science and engineering. In 2006, foreign-born U.S. residents were named as the inventors or co-inventors of a quarter of international patent applications originating in the United States, indicating the significant role immigrants play in driving the nation's innovation economy.<sup>10</sup>

Undocumented immigrants are concentrated in construction, agriculture, maintenance and hospitality: about a quarter of U.S. farmworkers are undocumented immigrants, along with 19 percent of workers in building, groundskeeping, and maintenance occupations and 17 percent of the nation's construction labor force.<sup>11</sup> Undocumented immigrants pick the apples, grapes and oranges on middle-class tables and the lettuce, asparagus and mushrooms in middle-class refrigerators. Undocumented workers build the homes and office buildings of the middle class, process their poultry, prepare their meals and wash the dishes in the restaurants they frequent across the country. In this very direct sense, the American middle class relies on the labor of immigrants.

The middle class also benefits from the generalized economic growth immigrants stimulate. Immigrant consumers increase economic demand for the products and services produced by middle-class and aspiring middle-class workers. In the Chicago metropolitan area alone, undocumented immigrants spent \$2.89 billion

8 Jeffery Abarbanell et al. "Open Letter on Immigration," (2006), <http://www.independent.org/newsroom/article.asp?id=1727>

9 White House Council of Economic Advisors, "Immigration's Economic Impact," (2007). <http://caimmigrant.org/repository/wp-content/uploads/2007/06/CEA-Immigration%20Economic%20Impact%2020070620.pdf>

10 Vivek Wadhwa et. al., "Intellectual Property, the Immigration Backlog, and a Reverse Brain-Drain: America's New Immigrant Entrepreneurs, Part III," Ewing Marion Kauffman Foundation (2007). [http://www.kauffman.org/uploadedFiles/reverse\\_brain\\_drain\\_101807.pdf](http://www.kauffman.org/uploadedFiles/reverse_brain_drain_101807.pdf)

11 Passel and Cohen, p 15

each year on goods and services, creating an additional 31,908 jobs in the local economy.<sup>12</sup> The area's legal immigrant residents undoubtedly contributed even more to the region's economic vitality.

On a national level, there is little research on the magnitude of immigrants' consumer demand because businesses are more interested in marketing to consumers based on ethnicity than on immigration status. Nevertheless, researchers cite immigration as a significant contributor to the rapid growth of the Hispanic and Asian-American consumer markets, which together accounted for an estimated \$1.46 trillion in buying power in 2008—or about 13.6 percent of the nation's total purchasing power.<sup>13</sup>

Immigrant consumers will be particularly critical in reviving the nation's devastated housing market, according to Harvard University's Joint Center for Housing Studies. In their most recent study, researchers at the Center used immigration rates as the key variable to project the pace of housing sector recovery.<sup>14</sup> They find that immigration expands the demand for housing, pointing out that immigration contributed to over 40 percent of net household formations between 2000 and 2005.<sup>15</sup> Immigrants will continue to accelerate the recovery of this key economic sector.

In addition to their role as consumers, immigrants stimulate the economy by starting small businesses and by attracting investment capital from their countries of origin. Immigrants make up just over one in ten self-employed businesspeople in the United States, and some immigrant groups are significantly more likely to start small businesses than are U.S. natives.<sup>16</sup> One study found that immigrant entrepreneurs played a key role in establishing a quarter of all engineering and technology companies launched in the U.S. between 1995 and 2005. Researchers estimated that these immigrant-founded tech businesses created nearly 450,000 jobs by 2005.<sup>17</sup> Similarly, Asian immigrants in Silicon Valley leveraged millions of dollars in high technology capital from Taiwan and Japan in the late 1990s.<sup>18</sup> Latin American immigrants in South Florida have helped to make the area a leader in attracting foreign direct investment, particularly international banking.<sup>19</sup>

In a fundamental sense, the middle class relies on immigrants' economic contributions because the policies that strengthen and expand the middle class are funded by the taxes immigrants pay. In 1997, the National Research Council and National Academy of Sciences completed the most comprehensive analysis ever of the economic impact of immigrants on the United States. The report concluded that immigrants are net fiscal contributors to the U.S. economy. The average immigrant pays \$1,800 more in taxes than she receives in government benefits. Over their lifetimes, this amounts to \$80,000 more in tax contributions than the average immigrant and her immediate descendants receive in local, state and federal benefits.<sup>20</sup> A more recent analysis by the non-partisan Congressional Budget Office concurred, finding that “over the past two decades, most efforts to estimate the fiscal impact of immigration in the United States have concluded that, in aggregate and over the long term, tax revenues of all types generated by immigrants—both legal and unauthorized—exceed the costs of the services

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12 Chirag Mehta et. al., “Chicago’s Undocumented Immigrants: An Analysis Of Wages, Working Conditions, And Economic Contributions,” Center for Urban Economic Development, University of Illinois at Chicago (2002). [http://www.uic.edu/cuppa/uicued/npublications/recent/undoc\\_full.pdf](http://www.uic.edu/cuppa/uicued/npublications/recent/undoc_full.pdf)

13 Jeffrey M. Humphreys, “The Multicultural Economy 2008,” Selig Center for Economic Growth, University of Georgia (2008). [http://media.terry.uga.edu/documents/selig/buying\\_power\\_2008.pdf](http://media.terry.uga.edu/documents/selig/buying_power_2008.pdf)

14 Joint Center for Housing Studies of Harvard University, “The State of the Nation’s Housing 2009”, (2009). <http://www.jchs.harvard.edu/publications/markets/son2009/son2009.pdf>

15 Joint Center for Housing Studies of Harvard University, “The State of the Nation’s Housing 2007”, (2007). <http://www.jchs.harvard.edu/publications/markets/son2007/index.htm>

16 William J. Haller, “Immigrant Entrepreneurship in Comparative Perspective: Rates, Human Capital Profiles, and Implications of Immigrant Self- Employment in Advanced Industrialized Societies,” (2004). <http://www.lisproject.org/immigration/papers/haller.pdf>

17 Vivek Wadhwa, et. al., “America’s New Immigrant Entrepreneurs: Part I,” Duke Science, Technology & Innovation Paper No. 23 (2007). [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=990152](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=990152)

18 The Santa Clara County Office of Human Relations Citizenship and Immigrant Services Program, “Bridging Borders in Silicon Valley,” (2000): p67-69. <http://www.immigrantinfo.org/borders/>

19 Saskia Sassen and Alejandro Portes, “Miami: A New Global City?” *Contemporary Sociology* 22 Issue 4, (1993) p471–477.

20 James P. Smith & Barry Edmonston, Editors, *The New Americans: Economic, Demographic, and Fiscal Effects of Immigration*. Washington, DC: National Research Council, National Academy of Sciences Press (1997) p 349, p 351.

they use.”<sup>21</sup> However, the CBO report also found that tax revenue from undocumented immigrants in particular was not always shared by state and local governments in proportion to the cost of services, such as health care, education, and law enforcement that they provide to these residents. In other words, the federal government, which receives more revenue from undocumented immigrants than it provides in services, could more effectively reimburse states for the public services that they are required to provide to undocumented residents.

In some cases, research has found that undocumented immigrants have an overall positive impact on state-level budgets. A study by the Texas Comptroller, for example, concluded that undocumented immigrants in the state only received \$1.16 billion in state services per year while producing \$1.58 billion every year in state revenues, although the costs and benefits were not shared equitably with local governments.<sup>22</sup>

Nationally, the Social Security Administration estimates that about three-quarters of undocumented immigrants are paying payroll taxes.<sup>23</sup> Meanwhile, the I.R.S. estimates that individuals who are not eligible for Social Security numbers pay nearly about \$7 billion a year in Social Security taxes.<sup>24</sup> The overwhelming number of these taxpayers are believed to be undocumented immigrants who cannot claim the benefits they have worked for.

The Social Security system is a mainstay of the middle class. In addition to providing guaranteed retirement income, Social Security provides disability insurance for people who become too injured to work and supplies survivor’s benefits when a family’s breadwinner dies. Analysts point out that by releasing working people from the necessity of being the sole economic support of their aging parents, Social Security enables Americans to invest in their children, giving them the leg up they need to do better than their parents’ generation.

The problem is that as the large baby-boom generation ages, there will be fewer working people paying into the system for each retiree drawing benefits. As a result, the Social Security Board of Trustees projects that the system will no longer be able to pay the full promised benefits in 2037. Immigrants help to provide a solution, because those entering the country are younger, on average, than the American population as a whole. The initial generation of immigrants also tends to have more children who will pay into the Social Security system for their entire working lives before withdrawing benefits. In this way, immigration slows the decline in the ratio of workers to retirees, shoring up the system’s solvency. As a result of its higher levels of immigration, the United States does not face the severe crisis of an aging population confronted by Japan and Europe. An analysis of Social Security Administration data by the National Foundation for American Policy, a non-partisan policy organization, finds that at current immigration levels, new immigrants entering the United States will provide a net benefit of \$407 billion to the Social Security system over the next 50 years.<sup>25</sup>

Immigration policy must recognize the significance of immigrants’ tax contributions to programs like Social Security or it risks robbing the middle class of a crucial support program or increasing the fiscal burden on middle-income taxpayers. Based on Social Security Administration data, the National Foundation for American Policy projects that if legal immigration to the United States were reduced by one third, Social Security’s actuarial deficit would increase by ten percent over fifty years. To make up for the shortfall, a middle-class person making \$60,000 in 2004 would have to pay \$600 more in taxes over the next ten years if the program was maintained as it is currently structured. More drastic restrictions on immigration would expand the deficit still further, meaning deeper cuts in Social Security benefits or still higher taxes to maintain the same benefits.

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21 “The Impact of Unauthorized Immigrants on the Budgets of State and Local Governments,” Congressional Budget Office (2007). <http://www.cbo.gov/ftpdocs/87xx/doc8711/12-6-Immigration.pdf>

22 Carole Keeton Strayhorn, “Undocumented Immigrants in Texas: A Financial Analysis of the Impact to the State Budget and Economy,” (2006). <http://www.cpa.state.tx.us/specialrpt/undocumented/>

23 Eduardo Porter, “Illegal Immigrants are Bolstering Social Security with Billions,” New York Times, April 5, 2005

24 Randolph Capps and Michael E. Fix, “Undocumented Immigrants: Myths and Reality,” The Urban Institute (2005). <http://www.urban.org/publications/900898.html>. These funds are stored in the “Earnings Suspense File” which is made up of tax contributions from individuals who have reported earnings using false or “mismatched” Social Security numbers. As of October 2006, the Earnings Suspense file had accumulated about \$586 billion in total wages on which Social Security taxes were being paid despite a mismatched number. Experts believe that undocumented immigrants make all but a small percentage of these payments, but there is no official estimate on the percentage.

25 Stuart Anderson, “The Contribution of Legal Immigration to the Social Security System,” National Foundation for American Policy, (2005): p8, <http://www.nfap.net/researchactivities/studies/SocialSecurityStudy2005Revised.pdf>

A complete moratorium on legal immigration would cost our prototypical middle class American making \$60,000 in 2004 an additional \$1,860 in payroll taxes over the next ten years just to make up for the loss of immigrants' contributions.<sup>26</sup>

The examination of Social Security financing demonstrates one way the middle class would be harmed by an immigration policy that fails to recognize the critical role immigrants play in the U.S. economy. Because the middle class relies on immigrants, immigration policy that seeks to strengthen and expand the middle class must not include mass deportation or aim to shut down future immigration arbitrarily. An analysis by the Perryman Group, an independent economic and financial analysis firm, finds for example, that eliminating the nation's undocumented workforce would result in the loss of an estimated \$651 billion in annual economic output and 8.1 million lost jobs.<sup>27</sup> This does not account for the tremendous projected cost of attempting to deport these residents, an idea which is explored further in the "Putting the Test to Work" section beginning on page 18.

At the same time, the economic contributions of the nation's existing immigrants could be expanded if currently undocumented immigrants were provided with an opportunity to legalize their status. As we've seen above, undocumented residents already enrich the nation buying homes and starting small businesses, but they face significant obstacles—such as a lack of identification and the fear of deportation if they interact with the public—in doing so. Secure legal status would enable these immigrants to more easily purchase homes and cars and create jobs by starting and growing their businesses. Wages and tax contributions would also rise if undocumented immigrants were allowed to legalize. A Department of Labor study concluded that workers legalized under the Immigration Reform and Control Act of 1986 saw a 15 percent mean hourly wage increase within five years.<sup>28</sup> A comparable increase in wages now would increase tax revenue, immigrant buying power, and overall economic contributions from currently undocumented residents. The Immigration Policy Center further points out that gaining legal status would also encourage currently undocumented immigrants to improve their skills, including English language proficiency. "When workers are undocumented, there is little or no relationship between their actual skill levels and the wages they earn. Once they are legalized, however, workers with more skills are able to earn higher wages."<sup>29</sup> Newly legalized immigrants are able to earn increased wages both because of the incentive to increase their skills and—perhaps more significantly—due to a greater ability to exercise their rights in the workplace once the fear of deportation has been removed. The consequences of that fear are discussed further in the following section.

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26 Ibid.

27 "An Essential Resource: An Analysis of the Economic Impact of Undocumented Workers on Business Activity in the US with Estimated Effects by State and Industry," The Perryman Group (2008).

28 Shirley J. Smith, Roger G. Kramer, and Audrey Singer, "Characteristics and Labor Market Behavior of the Legalized Population Five Years Following Legalization," Bureau of International Labor Affairs, U.S. Department of Labor, (1996).

29 "The Economics of Immigration Reform: What Legalizing Undocumented Immigrants Would Mean for the U.S. Economy," The Immigration Policy Center (2009). <http://www.immigrationpolicy.org/images/File/factcheck/EconomicsofCIRFullDoc.pdf>

## MIDDLE CLASS TEST PART II: IMMIGRATION POLICY MUST STRENGTHEN THE RIGHTS OF IMMIGRANTS IN THE WORKPLACE.

Strong labor rights are a cornerstone of the American middle class. The wage and hour laws and other legal protections for working people that were won by labor unions during the dark days of the Great Depression helped to lift millions of American workers out of poverty and into the post-war American Dream of home ownership, secure retirement and college-bound children. Keeping those labor rights secure for every worker in the United States is key to the continued economic security of our middle class. But our current immigration laws fuel a two-tiered labor market in which many employers, especially those who rely on low-skilled workers, do not comply with labor laws or other workplace regulations. Ending this two-tiered system and making sure workplace regulations are universally enforced is critical for the continued prosperity of the middle class and particularly the ability of low-income workers to work their way into the middle class. To do this, we must reinforce the rights of immigrants in the workplace.

Under current immigration law, undocumented immigrants are at the mercy of their employers to the same degree that U.S.-born workers were before the labor victories of the 1930s. Technically, minimum wage and overtime laws and health and safety regulations extend to every worker in the U.S., regardless of immigration status.<sup>30</sup> But in practice, undocumented immigrants face the threat of deportation if they try to exercise any of these rights. To a lesser extent, legal permanent residents and the holders of temporary work visas, like the H-1B, may also experience anxiety about their immigration status that restrains them from exercising full rights in the workplace. Studies suggest that workers in the small H-2 guest worker program might be particularly vulnerable to exploitation.<sup>31</sup> This exploitation creates a two-tiered system between workplaces that comply with labor laws and those that don't.

As long as a cheaper and more compliant pool of immigrant labor is available to employers who are willing to wield the threat of deportation against their workers, those same employers will be less willing to hire U.S.-born workers if they demand better wages and working conditions. Eliminating the second-class labor market in this two-tiered system, allowing foreign and U.S.-born workers to compete on an even playing field with equal workplace rights and making sure that employers cannot use deportation as a coercive tool in the labor market would strengthen the existing middle class. It would also give a leg up to both immigrants and U.S.-born workers trying to join the middle class.

Difficult economic times make reform even more urgent. The current recession logically increases both the desperation of undocumented workers, many of whom are struggling to support family members caught in worsening economies overseas, and the temptation for financially strained employers to cut costs by dodging workplace protections. Working Americans aspiring to a middle-class standard of living—including those recently thrown out of work that might be looking for a new position for the first time in many years—will find it even more difficult to obtain decent employment if they are competing with workers who effectively have no rights.

Shifting the debate about immigration among middle-class Americans to focus on the impact of ineffective labor rights for immigrants on their jobs and wages will be challenging. The idea that immigrant workers undercut “native” American workers in the labor market is long-standing and pervasive. A 2005 Gallup survey found that more than half of American adults believe that, rather than helping the U.S. economy, “illegal immigrants mostly

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30 Other workplace rights of undocumented immigrants were thrown into question when the Supreme Court ruled in *Hoffman Plastic Compounds, Inc. v. NLRB* that an undocumented worker thrown out of work for union organizing could not receive back pay. For the distinction, see U.S. Department of Labor Wage and Hour Division, “Fact Sheet #48: Application of U.S. Labor Laws to Immigrant Workers: Effect of Hoffman Plastics decision on laws enforced by the Wage and Hour Division.”

31 “Close to Slavery: Guestworker Programs in the United States,” Southern Poverty Law Center (2007). [http://www.splcenter.org/pdf/static/Close\\_to\\_Slavery.pdf](http://www.splcenter.org/pdf/static/Close_to_Slavery.pdf)

hurt the economy by driving wages down for many Americans.”<sup>32</sup> More recent polls suggest continuing public skepticism about the workplace contributions of immigrants.<sup>33</sup> Other research suggests that voters from low- and middle-income households are more likely to express anti-immigrant attitudes than are wealthier voters.<sup>34</sup>

While we contend that the impulse to blame immigrants for our economic insecurity is misguided, the middle class and aspiring middle class are right to feel that they were losing economic ground even before the recession took hold. The Economic Policy Institute notes that from 1979 to 2007, real compensation increased only 7 percent, while economic productivity soared 70 percent.<sup>35</sup> And the divergence between economic growth and middle-class Americans’ standard of living only increased over the last economic cycle, as working age households *lost* more than \$2,000 in real income from 2000 to 2007 even though productivity rose 19 percent. Even when the economy as a whole was growing, increasing inequality meant that low-income and middle-class families got fewer of the benefits from that growth.

There is evidence (discussed below) suggesting that the exploitation of immigrant workers played a role in this growing inequality and will continue to undermine the ability of middle-class and aspiring middle-class workers to get a good deal in the American labor market if current policies continue. The solution is to bolster the rights of immigrants in the workplace, reducing immigrants’ vulnerability to exploitation and enabling them to demand a deal in the labor market that doesn’t undercut the aspiring middle class.

For the most part, economists have focused on how increased numbers of immigrants affect the U.S. labor market, regardless of the extent to which these immigrants can exercise full rights in the workplace. In a survey of immigration’s effects on the wages of native-born Americans, the non-partisan Congressional Budget Office concluded that “the ultimate impact on wages is difficult to quantify [due to] uncertainty surrounding what employers and native workers would have done if those foreign-born workers had not been present.”<sup>36</sup> Some economists argue that immigrant workers have had little or no effect on the wages and employment prospects of natives in the U.S.<sup>37</sup> Yet others, using various statistical models and analyses of empirical data, argue that the presence of immigrants has a significant detrimental effect, particularly on unskilled workers.<sup>38</sup> What are we to make of this contradictory data?

On the most basic level, the question looks like one of supply and demand: basic economics suggests that if the supply of anything, including labor, increases significantly, the price buyers are willing to pay—in this case the amount employers will spend on wages, benefits or improved working conditions—will go down. The result is that those working people whose skills are similar to those of the new immigrant workers get a worse deal in the labor market. In the case of undocumented immigrants, this means low-skilled workers, typically high school graduates and those without a high school diploma. However, the way immigration economics operates in practice in American labor markets is far more complex. As discussed in Middle-Class Test Part I, immigration does not just increase the supply of labor. Immigration also boosts demand as immigrants purchase consumer

32 “Gallup’s Pulse of Democracy: Immigration,” The Gallup Poll (survey data from December 2005). <http://www.gallup.com/content/default.aspx?ci=1660&VERSION=p>

33 See, for example, <http://www.pollingreport.com/immigration.htm>

34 Westhill Partners, “Voters Divided on Immigration Reform,” The Monthly Westhill Partners Hotline Poll (February 2005), p2, [http://diageohotlinepoll.com/WHP\\_Hotline2\\_exec\\_summary\\_3-2-05\\_Recent.pdf](http://diageohotlinepoll.com/WHP_Hotline2_exec_summary_3-2-05_Recent.pdf).

35 Jared Bernstein, “Challenges Facing American Workers,” Economic Policy Institute (2008) [http://www.epi.org/publications/entry/webfeatures\\_viewpoints\\_testimony\\_challenges4workers/](http://www.epi.org/publications/entry/webfeatures_viewpoints_testimony_challenges4workers/)

36 Congressional Budget Office, “The Role of Immigrants in the U.S. Labor Market”, (November 2005) p 2. <http://www.cbo.gov/ftpdocs/68xx/doc6853/11-10-Immigration.pdf>

37 For example, see: Robert J. LaLonde and Robert H. Topel, “Immigrants in the American Labor Market: Quality, Assimilation and Distributional Effects,” *American Economic Review* 81 no. 2 (1991); Kristin F. Butcher and David Card, “Immigration and Wages: Evidence from the 1980s”, *American Economic Review* 81 no. 2 (1991); Stanley L. Engerman and Ronald W. Jones, “International Labor Flows and National Wages”, *American Economic Review* 87 no.2 (1997); David Card, “Immigrant Inflows, Native Outflows, and the Local Labor Market Impacts of Higher Immigration,” *National Bureau of Economic Research* (1997); Rakesh Kochar, “Growth in the Foreign-Born Workforce and Employment of the Native Born,” *Pew Hispanic Center* (2006). Gianmarco Ottaviano and Giovanni Peri, “Immigration and National Wages: Clarifying the Theory and the Empirics,” *National Bureau of Economic Research* (2008).

38 See: Hannes Johannsson and Stephan Weiler, “Local Labor Market Adjustment to Immigration,” *Growth and Change* 35, no. 1 (2004) p 61–76; George J. Borjas, Richard B. Freeman, and Lawrence Katz, “Searching for the Effect of Immigration on the Labor Market”, *American Economic Review* 86 (1996) p246–251; Michael F. Williams, “Economic Impacts of Increased Mexico-U.S. Labor Mobility”, *International Trade Journal* 17 (2005). George J. Borjas, et. al. “Imperfect Substitution between Immigrants and Natives: A Reappraisal,” *National Bureau of Economic Research Working Paper* (2008).

goods, start small businesses and attract investment capital from their home countries.<sup>39</sup> These benefits help to balance the labor-cheapening effects that the supply and demand theory predicts immigration to have. But the vulnerability of undocumented immigrants in the workplace compounds the impact that the sheer numbers of immigrant workers might have on the middle class. Millions of undocumented workers live and work in fear that they will be deported back to their countries of origin. This gives employers tremendous power to deny these workers basic labor rights, as discussed above.

The disempowered status of undocumented immigrant workers harms both the middle class and the aspiring middle class in the labor market. In some cases, U.S.-born workers are effectively shut out of whole industries in which employers hire predominantly undocumented immigrants and labor standards are uniformly below legal minimums. These tend to be jobs that would pay at or just above minimum standards if undocumented immigrants were not available and that would be filled by U.S.-born workers struggling to enter the middle class. In other cases, in industries that are heavily unionized and that provide middle-class wages and benefits, competition from non-union employers who hire undocumented immigrants puts downward pressure on the wages and working conditions of middle-class workers whose employers are put at a disadvantage by complying with the law. This phenomenon of downward pressure on wages and working conditions is sometimes called “the race to the bottom.” The next section will explore the empirical evidence substantiating the existence of this race to the bottom in U.S. labor markets, including some factors that are often not captured by the mainstream economic literature.

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39 Gregory DeFreitas, “Immigration, Inequality, and Policy Alternatives”, Russell Sage Foundation (1995).

## BEHIND PART II: THREE ARGUMENTS AGAINST THE RACE TO THE BOTTOM AND WHY THEY'RE WRONG

There are three major arguments against our contention that the disempowered status of undocumented immigrants contributes to a race to the bottom in wages and working conditions, particularly for Americans trying to work their way into the middle class. We'll look at, and refute, each of them in turn. The first argument against the race to the bottom holds that immigrants only take jobs American workers would not be interested in anyway. This argument ignores the role that labor rights—especially the right to organize a union and bargain collectively—played and continue to play in transforming whole industries where jobs were once undesirable into pillars of middle-class life for millions of Americans and their families. Dirty and ill-paid jobs in steel mills became “good jobs” once unions negotiated for solid wages and working conditions. Similarly, the dishwashing jobs that are presumed to be wanted only by economically disempowered undocumented immigrants are desirable to a wider range of workers when they are decently-paid positions with benefits at unionized restaurants in New York and Las Vegas hotels. As Dean Baker of the Center for Economic and Policy Research puts it:

*There are no jobs that U.S. citizens do not want. There would be huge numbers of U.S. citizens willing to work as farm workers, custodians, restaurant kitchen staff, or other jobs frequently held by immigrants, if these jobs paid \$60,000 a year and provided benefits. The reason that U.S. citizens do not want these jobs is because the pay is low. Instead of paying higher wages, employers find it much easier to bring in foreign workers from developing countries who find these jobs very attractive relative to the options available in their own countries.<sup>40</sup>*

In other words, undocumented workers without effective labor rights aren't just filling positions U.S. citizens don't want—their powerless status enables employers to keep certain jobs so undesirable that only they will accept them. On the other hand, if undocumented immigrants themselves were empowered to exercise full rights in the workplace, their efforts to improve their own working conditions would enhance the quality of these jobs.

The second argument against our position that the disempowered status of undocumented immigrants is a factor in the race to the bottom for the middle class is the claim that low wages in certain jobs and industries are explainable entirely by market forces of supply and demand. This contention is predicated on the belief that there is no systematic exploitation of immigrant workers and employers do not routinely take advantage of their employees' precarious status in the country to violate their labor rights. Substantial empirical evidence of widespread abuse of undocumented workers shows this argument to be false. For example, one study examined workers in a variety of occupations whose employers learned from the Social Security Administration that their documentation was false and they were working in the country without authorization. Many of the workers surveyed reported that their employers' didn't fire them when they discovered their unauthorized status, but instead they continued to employ them while cutting their benefits or wages. Twenty-five percent of the workers said that they weren't fired until they complained about worksite conditions. Another 21 percent said their employers used their unauthorized status to fire them in retaliation for trying to organize a union.<sup>41</sup>

Similarly, a national study of day laborers at 264 hiring sites in 20 states throughout the country found that nearly half had at least one experience of not being paid for their work in the two months prior to the survey, and 44 percent were denied food, water or breaks in work. Workplace injuries were common, but most of those

40 Dean Baker, “Economic Reporting Review,” Center for Economic and Policy Research (August 29, 2005). [http://www.cepr.net/err/2005\\_08\\_29.htm](http://www.cepr.net/err/2005_08_29.htm)

41 Chirag Mehta, Nik Theodore, and Marielena Hincapié, “Social Security Administration's No-Match Letter Program: Implications for Immigration Enforcement and Workers' Rights”, Center for Urban Economic Development, University of Illinois at Chicago (2003).

who were injured received no medical care.<sup>42</sup> While not all of the day laborers in the study were undocumented, principal researcher Abel Valenzuela told the *Washington Post*, “The employers assume they’re undocumented. They assume they’re afraid to report the crime.”<sup>43</sup>

The same themes emerged in the course of a multiyear field study of workplace violations in New York City, which detected pervasive exploitation and intimidation of undocumented immigrants—and of legal residents and citizens employed in the same workplaces as immigrants. The researchers note:

*In interview after interview, we heard about the vulnerability of not having legal status, and in particular, the pervasiveness of employers’ threats exploiting that vulnerability. A legal services lawyer observed of the retail industry: ‘Since a lot of the workforce is undocumented, the bosses use a lot of intimidation techniques. They threaten to call immigration, not on the workers, but on the family members. Even when people are citizens they threaten to call immigration.’<sup>44</sup>*

The effects of this disempowerment have also been documented on a larger scale. Analyzing the wages of thousands of Mexican immigrants who were undocumented workers but later attained legal permanent residence under the Immigration Reform and Control Act of 1986, economist Francisco Rivera-Batiz found that even after controlling for factors like education, English proficiency and time of residence in the United States, both male and female workers earned significantly more money once they had legal working status.<sup>45</sup> This suggests that when formerly undocumented immigrant workers are granted enforceable legal rights, the wages they are able to earn no longer undercut others working their way into the middle class to the same extent.

A third objection to our account of a middle-class race to the bottom spurred by the disempowerment of undocumented workers stems from the fact that it is difficult to measure the concrete impact of disempowerment in the workplace on the middle class and aspiring middle class. In other words, even if the preceding arguments about immigrant disempowerment sound convincing, how do we know the middle class is really being affected? With economists sharply divided over whether the mere presence of immigrant workers drives down wages, no attempt to quantify the effect of workplace disempowerment on the labor market as a whole is likely to attain consensus. However, there are some cases where the effects of this disempowerment on the current and aspiring middle class are clearly visible. One of these is the attempt to organize a union.

Unions have historically enabled working people to attain a middle-class standard of living, and they continue to do so. By virtually any measure, union workers get a better deal in the workplace. Union workers take home \$195 more every week than non-union employees do.<sup>46</sup> In the private sector, union members are 30 percent more likely to have health care benefits, and at the median, they pay only half of the insurance premiums shelled out by their non-union counterparts. Union members are also 34 percent more likely to have an employer-sponsored retirement plan and have more opportunities to accrue paid vacation days and holidays than do non-union employees.<sup>47</sup> In short, union jobs provide good wages, health benefits and retirement security—they offer a middle-class standard of living.

Yet in recent years, businesses have more vigorously resisted their employees’ attempts to form unions. A review of National Labor Relations Board reports by Human Rights Watch documents a dramatic increase each decade since the 1950s in illegal reprisals against workers exercising their right to organize. As Human Rights Watch noted, “Many workers who try to form and join trade unions to bargain with their employers are spied on,

42 Abel Valenzuela Jr. et. al. “On the Corner: Day Labor in the United States,” University of California Los Angeles Center for the Study of Urban Poverty (2006).

43 Mary Beth Sheridan, “Pay Abuses Common for Day Laborers, Study Finds,” *Washington Post*, June 23, 2005.

44 Annette Bernhardt, et. al., “Unregulated Work in the Global City: Employment and Labor Law Violations in New York City,” The Brennan Center for Justice (2007) p 36. <http://www.nelp.org/page/-/EJP/Global%20City%20-%20Full.pdf>

45 Francisco L. Rivera-Batiz, “Undocumented Workers in the Labor Market: An Analysis of the Earning of Legal and Illegal Mexican Immigrants in the United States,” *Journal of Popular Economics* 12 (1999).

46 “Union Members in 2008,” Bureau of Labor Statistics (2009). <http://www.bls.gov/news.release/pdf/union2.pdf>

47 “Employee Benefits in the United States, March 2009,” Bureau of Labor Statistics (2009). <http://www.bls.gov/news.release/pdf/ebs2.pdf>

harassed, pressured, threatened, suspended, fired, deported or otherwise victimized in reprisal for their exercise of the right to freedom of association... In the United States, labor law enforcement efforts often fail to deter unlawful conduct. When the law is applied, enervating delays and weak remedies invite continued violations.<sup>48</sup> A recent study by Cornell University Labor Relations professor Kate Bronfenbrenner uncovered yet more evidence, finding that when workers try to organize a union, more than half of employers threaten to close down their facility, and one in three companies illegally fires workers for union activity.<sup>49</sup>

In the atmosphere of threats and pressures that is commonplace when employees try to unionize, undocumented workers' fear of deportation adds another dimension of intimidation. When many undocumented workers are present in an organizing campaign, Bronfenbrenner's study finds that half of companies threaten to report them to the immigration authorities.<sup>50</sup> This added barrier to unionization hurts not only the undocumented immigrants themselves but also the U.S.-born workers who are denied the benefits of a union if the organizing drive fails.

Americans feel the negative effects of the two-tiered labor market beyond their workplaces as well. The marginalized status of immigrants often manifests itself in our communities in the form of "quality of life issues"—overcrowded housing conditions, deteriorating buildings and day laborers lingering on street corners. The backlash response to these problems often involves calls for increased immigration enforcement, but simply removing immigrants would be both impractical and harmful to the middle class, for reasons discussed in Middle-Class Test Part I. On the other hand, enforcing labor rights for immigrants could solve many of these problems. With higher wages, immigrant workers could afford less crowded housing. And if the workers who are now hired as day laborers and paid off the books were instead given regular employment status to do the work they're already doing, they wouldn't be crowding on street corners.

The American middle class suffers as a result of the two-tiered labor market that is created by our current immigration laws. While researchers differ about the precise impact on wages or employment, plentiful evidence exists to support our assertion that employers exploit the threat of deportation to deny undocumented immigrants their basic labor rights. On a large scale, this phenomenon puts downward pressure on wages and working conditions across whole industries and makes unionization more difficult for legal U.S. residents. Claims by some that undocumented immigrants only take jobs that are undesirable for other workers misrepresent the incentives in play. The jobs in question are only undesirable for legal residents because they offer low pay and bad working conditions, and undocumented immigrants' willingness to accept miserable pay and dangerous conditions hinges on their lack of enforceable labor rights. Similarly, immigrants only live in overcrowded housing and solicit work on street corners because their disempowered status in the labor market has pushed them to the margins. In order for our immigration policies to promote the security and expansion of the American middle class, they must be reformed to provide equal protection of labor rights for documented and undocumented workers alike.

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48 Human Rights Watch, *Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards*, Washington, D.C. (2000) [www.hrw.org/reports/2000/uslabor/](http://www.hrw.org/reports/2000/uslabor/)

49 Kate Bronfenbrenner, "No Holds Barred: The Intensification of Employer Opposition to Organizing," Economic Policy Institute (2009).

50 *Ibid.*

## PUTTING THE TEST TO WORK: WHY GUEST WORKER PROGRAMS AND ENFORCEMENT-ONLY PROPOSALS DON'T MAKE THE MIDDLE-CLASS GRADE

As the immigration policy debate gears up once again, several broad approaches are being actively debated, including creating a guest worker program or dramatically expanding existing programs and more vigorously enforcing existing immigration law, for example, by beefing up border security or stiffening penalties for violations of immigration statutes. Although guest worker plans and enforcement-only bills are often portrayed as two ends of the spectrum on immigration policy, neither approach furthers our goal of strengthening and expanding the American middle class.

Several variations of guest worker programs have been proposed in Congress over the past few years. All aim to bring hundreds of thousands of temporary workers, recruited overseas and/or from the ranks of undocumented immigrants currently working in the U.S., into the country to work legally for participating employers for a number of years. But despite the potential benefit of legal status for currently undocumented workers, guest worker programs pose a serious threat to the middle class. Guest worker programs institutionalize a permanent two-tiered labor market, formalizing some of the workplace exploitation that already exists informally. They also ensure that a continued stream of vulnerable workers will always be available, threatening to undermine middle-class wages and working conditions much as undocumented workers do now. The more jobs that can be transformed into “temporary worker jobs,” the fewer domestic jobs will provide the wages and benefits capable of providing a middle-class standard of living.

While the best guest worker proposals promise to enforce workplace rights for guest workers, allow them to switch jobs without losing their legal status, and even mandate that guest workers only be hired at the prevailing wage for a given industry, these measures can only partially mitigate the impact of establishing a permanent place for temporary workers in our economy. No matter what protections are in place, their temporary status ensures that guest workers will always remain more vulnerable and less secure than the mainstream of American workers. Even when workers are offered a path to permanent legal status, the very existence of a guest worker program ensures that they will be replaced with another influx of disempowered temporary laborers. It is unlikely that each successive cohort of guest workers would feel sufficiently knowledgeable and empowered to exercise their workplace rights, even when they are guaranteed the same formal protections that apply to U.S. workers. And with no permanent status, guest workers have little incentive to take risks—like trying to organize a union—that are often necessary to improve wages and working conditions.

The history of guest worker programs in the United States provides a cautionary tale. From the 1940s through the early 1960s, the Bracero Program brought more than four million temporary Mexican farm and railroad workers to the United States, where workplace abuses—from substandard wages and housing to violations of workplace safety laws—were rampant, while laws intended to prevent them went largely unenforced.<sup>51</sup> Nor were the miserable working conditions limited to the braceros themselves. In areas where guest workers were concentrated, the bargaining power of all workers in similar jobs declined and wages decreased.<sup>52</sup> Evidence suggests that similar abuses may be proliferating in the small temporary worker programs currently established in the United States<sup>53</sup> although most analysts agree that these programs are currently too small to have a broad national impact on middle-class wages and working conditions.

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51 See Ernesto Garlarza, *Merchants of Labor: The Mexican Bracero Story*, McNally & Loftin (1964).

52 Linda Levine, “The Effects on U.S. Farm Workers of an Agricultural Guest Worker Program,” Congressional Research Service Report, (2006) <http://www.ilw.com/immigdaily/news/2006.0531-crs.pdf>

53 For example, see “Close to Slavery: Guestworker Programs in the United States,” Southern Poverty Law Center (2007) [http://www.splcenter.org/pdf/static/Close\\_to\\_Slavery.pdf](http://www.splcenter.org/pdf/static/Close_to_Slavery.pdf) “Beneath the Pines: The Stories of Migrant Tree Planters,” Southern Poverty Law Center, (2005) [http://www.splcenter.org/images/dynamic/main/ijp\\_beneaththepines\\_web.pdf](http://www.splcenter.org/images/dynamic/main/ijp_beneaththepines_web.pdf)

Guest worker programs most obviously run afoul of Part II of the middle-class test due to their inherent inadequacy in strengthening immigrants' rights in the workplace. But guest workers also fall short in connection with Part I of the test—bolstering immigrants' economic contributions. Although guest worker programs are designed to address the immediate labor demands of the economy, guest workers' temporary status undermines their potential economic contribution over the long term. Because they are temporary, guest workers have less incentive (and less time) to gain skills on the job, become proficient in English, and become more productive employees. After a few years, they cycle out of the nation's workforce rather than moving up the job ladder and increasing their income, which would have resulted in more tax revenue and increased consumption. In addition, temporary workers have less of a stake in the future of their communities and are less likely to make long-term investments by starting a business or buying a home.<sup>54</sup>

Regardless of the shortcomings of guest worker programs, the status quo—characterized by a profound mismatch between the laws on the books and the reality of an economy that relies on the labor of undocumented workers—should not be maintained. Nor can the situation be improved by more vigorous enforcement of a set of laws that is fundamentally at odds with our economy. Such “enforcement-only” proposals are unlikely to succeed in eliminating all undocumented immigrants from the country, and would endanger the middle class by both reducing immigrants' economic contributions to middle-class prosperity (Part I of the test) and driving immigrants further underground, making them more vulnerable to workplace exploitation that undermines middle-class wages and working conditions (Part II of the test). What's more, as we argue below, “enforcement only” proposals are both ineffective and costly to middle-class taxpayers.

Of course, the idea of enforcement itself is not the problem. Enforcement of immigration laws is an important aspect of any progressive immigration reform package. Once we have intelligent and workable laws put in place that respond to our nation's economic needs, those laws should be properly enforced. An immigration policy that does nothing but more stringently enforce the existing laws, however, does not address our nation's true problems regarding immigration because it does not address the way our laws are mismatched with the reality of undocumented immigrants' integration into the U.S. economy. A focus on enforcement alone would cost middle-class Americans billions of tax-payer dollars and would not achieve its stated goal of decreasing illegal immigration. Furthermore, increased enforcement measures will continue to push undocumented immigrants into the shadows because as enforcement efforts increase, so does the fear in immigrant communities of coming into contact with law enforcement or any government agency. This type of one-track focus would only stymie our efforts to achieve our national security goals because our government needs to know who is living within our borders.

The history of U.S. border security policy illustrates the failure of enforcement-only policy, as well as the high costs to middle-class taxpayers. Beginning in the late 1980s and early 1990s, the U.S. began a policy of increased enforcement along the U.S.-Mexico border. This initiative included increasing border patrol agents, the construction of a double-high 14-foot fence along certain sectors of the border, and the installation of sensors and other high-tech security equipment. The Immigration and Naturalization (INS) budget allocated to border enforcement saw a dramatic increase between 1980 and 1995, rising by 700 percent.<sup>55</sup> Between 1993 and 2005, annual spending on border security tripled from \$480 million to \$1.4 billion.<sup>56</sup> It is clear that this increase in enforcement has not been successful in its goals since the number of undocumented immigrants living in this country nearly tripled between 1992 and 2005 despite such an increase in enforcement efforts.<sup>57</sup>

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54 Walter A. Ewing, “More Than A “Temporary” Fix: The Role of Permanent Immigration in Comprehensive Reform,” *Immigration Policy In Focus*, Vol. 5, Issue 1 (January 2006).

55 Belinda I. Reyes, Hans P. Johnson and Richard von Swearingen, “Holding the Line? The Effect of the Recent Border Build-up on Unauthorized Immigration,” *Public Policy Institute of California* (2002) [http://www.ppica.org/content/pubs/report/R\\_702BRR.pdf](http://www.ppica.org/content/pubs/report/R_702BRR.pdf)

56 Daniel González and Susan Carroll, “Siege on Border: Costly Fortifications Fail to Deter Immigrant Flow,” *The Arizona Republic*, (June 19, 2005) <http://www.azcentral.com/arizonarepublic/news/articles/0619border19.html>

57 Jeffrey S. Passel, “Estimates of the Size and Characteristics of the Unauthorized Migrant Population in the U.S.,” *Pew Hispanic Center*, (2006): p8, <http://pewhispanic.org/files/reports/61.pdf>

Studies have shown that this new border security effort did not increase the odds of getting caught while crossing over, but merely channeled this migration through more hazardous and remote regions of the border.<sup>58</sup> Following the implementation of these new measures in the mid 1990s, the likelihood of apprehension fell from the 20 to 30 percent range down to a record low of just 5 percent in 2002.<sup>59</sup> Furthermore, because migrants began to cross in more remote regions, the cost to taxpayers of a single apprehension shot up to \$1,700 in 2002 from only \$300 in 1992.<sup>60</sup> More recent studies by the Mexican Migration and Field Research Training Program at UC-San Diego found an apprehension rate between 24 and 47 percent, but also discovered that the vast majority of would-be border crossers—between 92 and 98 percent—eventually succeeded in entering the United States even if it took several attempts.<sup>61</sup> After the San Diego “triple-fencing” was put in place, apprehensions in that immediate area did fall. However, during that period, apprehensions in the Tucson sector to the east of the fencing increased by 342 percent.<sup>62</sup> Increased enforcement in one area just moves the flow into other less-patrolled and more remote regions.

To make matters worse, there has been a tenfold increase in deaths on the Texas and Arizona portions of the border between 1993 and 2004.<sup>63</sup> In 2005, the 473 migrant deaths at the border marked an all-time high.<sup>64</sup> Knowledge of the danger that lies ahead generally has no effect on prospective migrants in their decision to attempt to cross the border. A study that interviewed prospective migrants from sending communities in Mexico found that most were very knowledgeable about the dangers of crossing the border. Three-quarters were knowledgeable about border enforcement operations, two-thirds believed it was more difficult to elude the border patrol than previously, eight out of ten believed crossing was more dangerous than it used to be, and many knew people who had died on the journey. The author of the study concluded that this knowledge about the dangers related to illegal border crossing has no effect on a potential migrants’ propensity to migrate.<sup>65</sup>

Since the border is 2,000 miles long, attempting to seal it would be impractical and would also be prohibitively expensive. The non-partisan Congressional Research Service estimated that a border fence, like the one mandated by the Secure Fence Act that was signed into law in 2006, would cost more than \$60 billion to build and maintain over 25 years.<sup>66</sup>

Finally, enforcement at the borders does not address the fact that 45 percent of all undocumented immigrants currently here entered legally, through our ports of entry, and then subsequently overstayed their visas.<sup>67</sup> An increased security presence on our border will also not address the nearly 12 million people who are already living without legal status within our borders.

While we should pursue further attempts to enforce our immigration laws intelligently, in order to approach reforming our country’s immigration system, we must focus on addressing the true roots of our nation’s immigration problem—which are economic.

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58 Douglas S. Massey, “Backfire at the Border: Why Enforcement Without Legalization Cannot Stop Illegal Immigration,” Trade Policy Analysis No. 29, The Cato Institute, 2005. <http://www.freetrade.org/pubs/pas/tpa-029es.html>

59 Ibid.

60 Ibid.

61 Wayne A. Cornelius, et. al. “Controlling Unauthorized Immigration from Mexico: The Failure of ‘Prevention through Deterrence’ and the Need for Comprehensive Reform,” Immigration Policy Center (2008).

62 Jason Ackleson, “Fencing in Failure: Effective Border Control is not Achieved by Building More Fences,” Immigration Policy in Focus, Volume 4, Issue 2 (April 2005).

63 Migration Policy Institute, “Evaluating Enhanced US Border Enforcement,” Migration Information Source (May 2004), <http://www.migrationinformation.org/feature/display.cfm?ID=223>

64 Migration Policy Institute, “The U.S.-Mexico Border,” Migration Information Source (June 2006) <http://www.migrationinformation.org/USFocus/display.cfm?ID=407>

65 Ibid.

66 Blas Nunez-Neto and Stephen Vina, “Border Security: Barriers Along the U.S.-Mexico Border,” Congressional Research Service (December 2006) <http://www.fas.org/sgp/crs/homesec/RL33659.pdf>

67 “Modes of Entry for the Unauthorized Migrant Population,” Pew Hispanic Center (May 2006) <http://pewhispanic.org/files/factsheets/19.pdf>

## CONCLUSION: IMMIGRATION POLICY AND BEYOND

An immigration policy that serves the fundamental interests of middle-class Americans must take two realities into account: immigrants' economic contributions make them indispensable to our nation's middle class, and, at the same time, a lack of effective rights in the workplace for undocumented immigrants undermines the ability of all working people in America to secure and maintain jobs that provide a middle-class standard of living. Immigration will cease to threaten the current and aspiring middle class when everyone participating in the American workforce can exercise their rights—from reporting workplace health and safety violations, to demanding proper overtime pay, to joining a union organizing drive—without the fear of deportation or detention. We argue that a guest worker program can never sufficiently alleviate this fear because the temporary nature of guest workers means they will always be more vulnerable than the mainstream of American workers.

Nothing less than permanent legal residence for current undocumented immigrant workers can promote the secure status necessary to ensure an even playing field. Legalization would also enable undocumented workers to maximize their economic contributions to the nation. A legalization plan could include such requirements as a criminal background check, payment of any back taxes, proficiency in English, and the imposition of a fine for having violated civil immigration statutes, but it's important that the process not be so burdensome that many immigrants find it impossible to regularize their status and a large population of undocumented workers persists. It is in the interests of the middle class that the underground economy be brought into line with the rule of law as expeditiously as possible.

Our policies on new immigrants going forward must respond to the same set of concerns about the needs of the economy and the ability of American workers to achieve and hold onto a middle-class standard of living. The economy's future immigration needs should be met by an increase in the number of permanent legal residents admitted, not a guest worker program. If we do not increase the means of legal entry for workers to come here in the future, we will only encourage future immigrants to come here illegally as they are drawn to jobs and to their families. Over the years, this would produce the same exploitable workforce that threatens the middle class today. At the same time, a policy of open borders would not serve the middle class—at some point the sheer oversupply of labor would put downward pressure on wages. Visas should be available based on an ongoing analysis that takes into account the current needs of our economy, demographic shifts and our unemployment rate.

Once our immigration laws are harmonized with the demands of the U.S. economy, eliminating the current backlogs and underground populations, effective enforcement of immigration law will become more feasible. Nevertheless, an immigration policy designed to serve the needs of the U.S. economy and the American middle class may still leave millions of workers throughout the world anxious—even desperate—to immigrate to the United States. Although greater numbers of permanent resident visas will relieve some pressure, they may not eliminate it entirely.

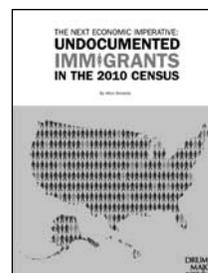
At this point, the nation's immigration policy intersects with the other types of policies the U.S. pursues in the world, particularly our trade policy. While we cannot explore this concept in great detail here, the U.S. should negotiate trade agreements that promote the ability of would-be migrants to achieve a decent standard of living in their home countries. Raising standards abroad would not only relieve immigration pressure on the U.S., but also reduce the extent to which international economic competition threatens to undercut the American middle class. The principles applied here to immigration policy might fruitfully be applied to trade policy as well: international commerce produces economic growth and middle-class prosperity, yet at the same time competition from desperate workers in poor countries threatens to undermine wages and workplace standards for the American middle class. This would suggest that including labor and workplace rights in our trade agreements would benefit the current and aspiring middle class in this country. But that's a topic for another paper.

We hope that *this* paper will prove valuable for policymakers as they seek to evaluate how immigration policy proposals will impact their constituents and advocate for an immigration policy that will truly help to strengthen and expand the American middle class.

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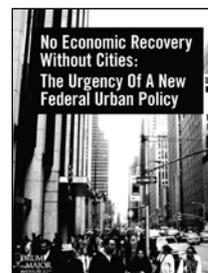
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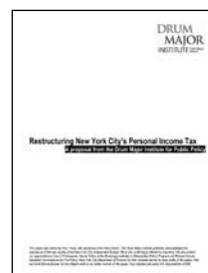
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