

# UNANTICIPATED, UNINTENDED, AND UNADVISED

## THE EFFECTS OF PUBLIC POLICY ON UNAUTHORIZED IMMIGRATION

BY TOMÁS R. JIMÉNEZ AND LAURA LÓPEZ-SANDERS

**A**rizona's controversial immigration law is emblematic of a new period in American immigration history that features a ramped-up commitment to reduce illegal immigration and to establish a new "illegal class" of those who have already entered the United States. The debate about changes to immigration law is often framed as a moral, ethical, or legal issue, but the facts behind this debate are not well known and are often quite perverse.

There are four such perversities in particular that we stress. First, over the last two decades, the United States has followed policies that, contrary to their intent, have actually increased the size of the unauthorized immigrant population. In spite of the fact that lawmakers devised policies aimed at reducing the number of unauthorized immigrants, the consequences have run contrary to their intended outcome.

Second, there has been a dispersion of the immigrant population into new destinations and regions that is a direct consequence of our immigration policy, not some organic or inevitable development. Although the geographic dispersion of immigrants has a complicated set of implications, not all of which are obviously harmful to immigrants or natives, it is nonetheless

striking that such implications were largely unanticipated and unintended.

Third, the unauthorized status of large numbers of immigrants retards the formation of a well-functioning social, civic, and economic life for immigrants and host communities alike. Fourth, current immigration policies are detrimental to integration across generations. Children of immigrants, whether U.S.-born citizens or unauthorized immigrants themselves, wind up doing less well in school and face almost insurmountable barriers in completing school and successfully finding stable and secure employment. The impact of unauthorized status across generations risks creating an "illegal class" of Americans who are cut off from the American Dream. The realization of that class has profound deleterious consequences for us all.

### **Unintended Consequence #1: The Growth of the Immigrant Population**

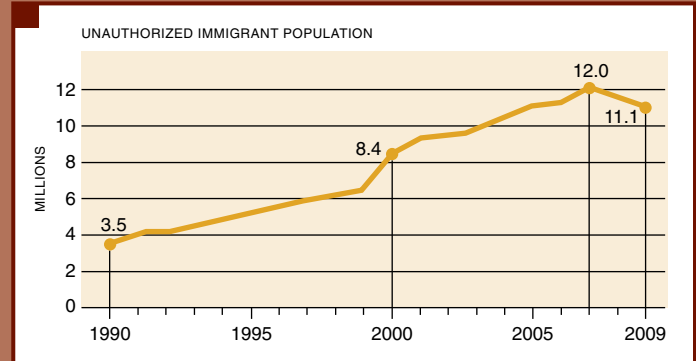
In spite of Herculean efforts to keep out clandestine migrants, U.S. immigration policies have had the unintended consequence of growing the unauthorized population. According to a recent Pew Hispanic Center report, there were an estimated 3.5 million unauthorized immigrants in the United States in 1990, comprising roughly 18 percent of the total foreign-born popula-

tion. By 2007, that number swelled to 12 million, or 30 percent of all foreign-born individuals in the United States (see Figure 1). What is surprising is that this unprecedented growth has taken place even as U.S. immigration policy has focused almost exclusively on stopping clandestine migration at the U.S.–Mexican border. Department of Homeland Security data show that, from 1996 to 2009, the number of U.S. Border Patrol agents grew from 5,878 to 18,319, while line-watch hours more than doubled, and the Border Patrol's annual budget swelled from \$568 million to \$2.7 billion. It was also during this time that the U.S. government began employing the latest in surveillance technology—unmanned watchtowers, seismic sensors, infrared cameras, unmanned aerial drones—and less sophisticated technologies, like fences and stadium lighting.

Our main and most visible policy commitment is to stem the tide through direct monitoring of the border. The simple logic behind this annual expenditure of \$2.7 billion is that we can reduce the population of illegal U.S. immigrants by finding and deterring those who attempt to cross the border illegally. Ironically, the very border fortification designed to stop clandestine migration has had the unintended consequence of spurring growth in the unauthorized population, as the usual revolving door between migration and return migration has now been cut off and generated a new class of permanent stayers north of the border. Increased enforcement has made crossing the border more dangerous because migrants attempt to cross in remote areas of the desert and treacherous waterways in order to avoid detection. Since 1994, more than 5,000 people have died attempting the northward journey, most from environment-

FIGURE 1 Drop in Inflow of Illegal Immigrants

The number of illegal immigrants in the U.S. declined to 11.1 million in March 2009 from a peak of 12 million in March 2007. This marked the first reversal of growth in two decades.



Source: Pew Hispanic Center; Department of Homeland Security

related causes, like dehydration, heat stroke, drowning, and hypothermia. Research conducted by the Center for Comparative Immigration Studies at UC San Diego shows that the dangers of crossing clandestinely all but requires that migrants use smugglers who know the way (and who charge between \$2,500 to \$3,500 per person for these services). Rather than migrants coming to the United States for short periods of time, returning to their country of origin and repeating this migration cycle as they once did, border enforcement has thus led migrants to treat a trip to the United States as a one-way journey. The result is that

#### U.S.-Mexico border, April 16, 2009



migrants stay put, often send for family and friends, and then build their lives in the United States.

### **Unintended Consequence #2: Dispersed Immigration**

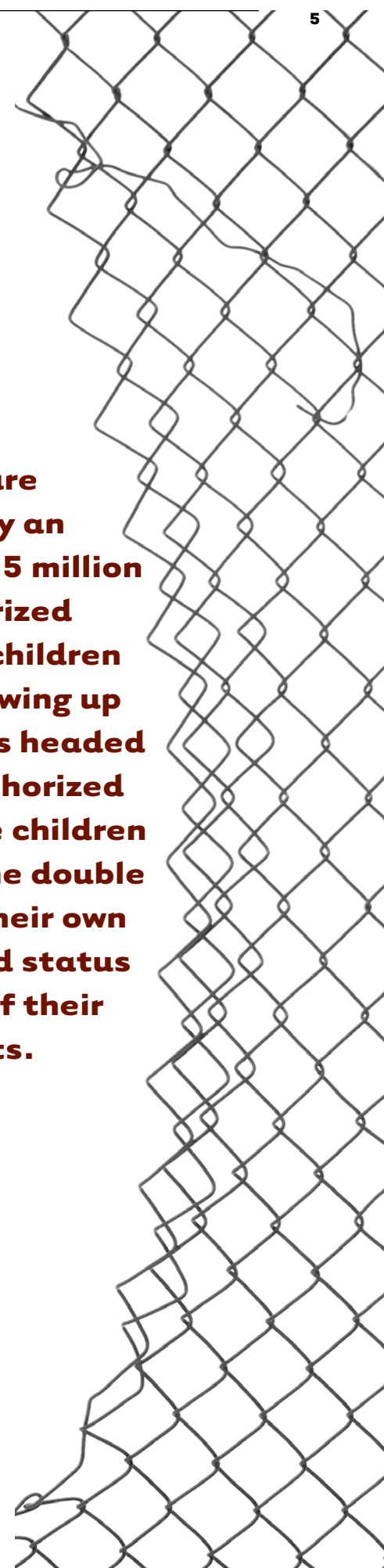
The unauthorized population has also become more dispersed throughout the United States, making immigration a truly national issue. This dispersion of immigrants to new destinations in the South and Midwest arises from a host of causes, including the massive legalization program in 1986, as well as the growing anti-immigrant climate that current policy in part precipitated. As policy spurred the growth of an unauthorized population, while also fanning the flames of an anti-immigrant climate in traditional immigrant destinations, migrants began trying their luck in other destinations across the country, where jobs were more plentiful and sentiment less hostile. Dispersion was also generated by growing labor market competition in traditional receiving destinations and the rising cost of living in those destinations.

Once this diffusion began, it became self-generating. Pioneering migrants quickly established social networks that now channel migrants directly from sending countries to new receiving destinations. In 1990, 66 percent of immigrants lived in the traditional gateway states of New York, California, Texas, Florida, and Illinois, while 34 percent resided in all other states. By 2005, the proportion residing in traditional states shrunk to 60 percent, while 40 percent were living in the nontraditional states. The shift in the dispersion of the foreign born across the United States is most pronounced among Mexican immigrants. Census data show that 87 percent of all Mexican immigrants settled in traditional immigrant states, primarily in California and Texas, in 1990. By 2005, the proportion dropped to 70 percent. Although Mexican immigrants continued to migrate to traditional states, they now form sizable populations in states like Nevada, Washington, Georgia, Colorado, and North Carolina. And as we show below, this also means a diffusion and expansion of problems associated with successfully incorporating these new immigrants.

### **Unintended Consequence #3: Living in the Shadows**

With immigration now a national phenomenon, both immigrants and the various communities in which they settle struggle to find ways to achieve successful integration. It is a common refrain that unauthorized immigrants are “living in the shadows.” The evidence suggests that the ramped-up commitment to enforcing an illegal status casts a long and dark shadow over integration efforts for both newcomer populations and their host communities.

The effect of this ever-present illegal label is nicely revealed through ethnographic research. One of us, López-Sanders, spent more than a year conducting participant observation research and interviews in the Greenville-Spartanburg-Anderson (GSA) region of South Carolina. In documenting the daily experiences of primarily unauthorized immigrants, López-Sanders found



**There are currently an estimated 1.5 million unauthorized immigrant children who are growing up in households headed by an unauthorized parent. These children experience the double penalty of their own unauthorized status and that of their parents.**





Source: www.flickr.com/photos/voves/138556236/

#### Chicago Immigration Protest May 1, 2006

that the unauthorized status of immigrants created much distrust, often a palpable fear, of host communities and their institutions. This fear and distrust were part of immigrants' everyday lives. They lived, for example, under the constant threat of factory raids by Immigration and Customs Enforcement, as well as assaults in private and public places that are more frequent than most Americans probably realize. Even the most mundane activities, like leaving the house to run an errand, became anxiety-generating. This anxiety shows up in all manner of small ways. López-Sanders observed, for example, immigrants constantly looking over their shoulders at work or in confined public places. It also shows up in more fundamental ways. Out of fear of being deported, some immigrants locked themselves in their homes and missed out on opportunities, such as attending church or English classes, that could have generated new social ties, assisted them in their jobs, and helped them build an active civic life.

The creation of a starkly defined illegal class cuts two ways. It not only generates fear and distrust among immigrants, but it also encourages harsh treatment of immigrants by natives, especially those in positions of power relative to immigrants. In her interviews with Latino immigrants, López-Sanders found that police response was perceived as slow when crimes were reported against Latinos, whereas police response was rapid and consistent when Latinos were assumed to be the offender rather

than victim. Among the 200 (primarily unauthorized) immigrants López-Sanders interviewed, more than a third reported having been stopped at least once by the police while driving, seemingly without any reason. When López-Sanders accompanied unauthorized immigrants to court to contest driving fines, she observed harried court interpreters urging immigrants, more so than non-immigrants, to "just pay and leave." Likewise, impatient judges asked them to "get to the point" and demanded "less talk." In other settings, such as the Department of Motor Vehicles, health clinics, and even schools, immigrants likewise felt excluded or mistreated rather than assisted.

The tenor of native-immigrant relations appears to have changed fundamentally as a result of September 11 and, to a lesser extent, the immigrant-rights marches of 2006. Before September 11, immigrants reported feeling respected and part of their communities, with many giving examples of buying a house, opening a bank account, or enrolling their children in school without receiving much scrutiny or special attention. After September 11, a fault line appeared. Immigrants felt constantly scrutinized, so much so that many immigrants reported avoiding formal institutions whenever they could. The immigrant marches of 2006, which brought hundreds of immigrants into the streets in South Carolina, ratcheted up anti-immigrant sentiment even more. After those marches, immigrants reported that their immigration status was more frequently challenged in

workplaces and government offices, while Latinos with anglicized last names often had to show proof of citizenship.

#### Unintended Consequence #4: Holding Back the Second Generation

It is not just the immigrants themselves who were affected by this ramped-up interest in legal status. New evidence shows that their children are also affected, both because their parents are less successfully integrated and cannot easily assist their children, and because the children themselves must focus energy, attention, and effort on assisting their parents. According to a 2007 Merage Foundation report on Los Angeles immigrants, U.S.-born Mexican Americans with unauthorized fathers were 25 percent more likely to drop out of high school, 70 percent less likely to graduate from college, 13 percent less likely to prefer English at home, and had earnings 30 percent lower than those whose fathers became authorized. Another study by UC Irvine sociologists shows that U.S.-born Mexican adults whose parents came without authorization (and remained unauthorized) achieved more than a full year less schooling than those whose parents were authorized.

The number of children affected in this way is significant. According to a recent Pew Hispanic Center report, almost half of all unauthorized immigrant households are couples with children, and the overwhelming majority of their children—73 percent—are U.S. citizens. The number of U.S.-born children with at least one illegal immigrant parent grew to 4 million in 2008 from 2.7 million in 2003, a 48 percent increase. Although these children are U.S. citizens by birth, hence giving them greater opportunity for mobility (as compared to their parents), most will nonetheless suffer setbacks because of their parents' legal status. Sociologists Jody Agius-Vallejo and Jennifer Lee show that Mexican American second-generation professionals devote considerable resources to helping their unauthorized parents cope with the vagaries of healthcare, the job market, and housing.

It is far worse for children of unauthorized immigrants who are themselves unauthorized. There are currently an estimated 1.5 million unauthorized immigrant children who are growing up in households headed by an unauthorized parent. These children experience the double penalty of their own unauthorized status and that of their parents. Federal law allows these children to attend public schools through high school, and an estimated 65,000 graduate from high school each year. Beyond high school, the path to upward mobility is daunting, as only ten states offer in-state tuition to unauthorized immigrant students, and there is little, if any, government financial aid for these students. Without the ability to work legally, and with the full burden of college tuition, it is difficult for this new second generation to experience the success that past second-generation immigrants have achieved. This dead end of mobility translates into a host of negative societal consequences: lost human capital and productivity, a lower tax base, and decreased social

well-being, all of which could have been avoided through more successful and efficient incorporation.

#### Where Do We Go from Here?

There is good reason to believe that present-day authorized immigrants will, like immigrants of the past, successfully find their way in U.S. society and integrate into America's social, economic, and political life. The same trajectory is less likely for the descendants of the many immigrants, in particular those from Latin America, who have started their march along the path of integration with precarious legal status. They undertake this march under a dark shadow of illegality, and this shadow looms over their children as well. As Congress and the White House consider whether and how to move forward with an overhaul of U.S. immigration laws, they would do well to bear in mind that immigration policy not only determines who is allowed to immigrate and under what circumstances. These laws also inevitably define the terms of reception, especially when those laws create a subordinate illegal class. This label will necessarily affect how incorporation plays out. Because immigration law works mainly to underline an illegal status, our long-standing commitment to successfully incorporating immigrants and their children is facing its harshest challenge yet.

The practical implications of the foregoing are simple. Most obviously, we should pass the DREAM (Development, Relief, and Education for Alien Minors) Act, which would legalize the status of individuals who, at a young age, were brought to the United States without authorization by their parents. Moreover, if we truly want to realize our heritage as an immigrant society, we should further create a pathway to legal status for unauthorized immigrants, an outcome that the majority of Americans want.<sup>1</sup> Yet we appear to be on a path that promotes laws that sharply delineate an illegal class, in spite of evidence showing that these laws only exacerbate the "problem" that they are set up to "solve." Worse yet, the current policy renders incorporation more difficult and less likely, an outcome that serves neither natives nor immigrants. If policies should be evaluated by their consequences, then the case for doing things differently is overwhelming.

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*Laura López-Sanders is a Ph.D. candidate in sociology at Stanford University. Her dissertation draws on participant observation data that she gathered while working in primarily immigrant jobs and living in immigrant neighborhoods. She is examining Latino integration and its impact on race and ethnic relations in new immigrant destinations.*

1. USA Today/Gallup Poll, May 1-2, 2010; GfK Roper Public Affairs and Media Poll, May 7-11, 2010.