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Madame Chairwoman, members of the subcommittee, thank you for inviting me to provide historical perspective on contemporary immigration reform. My name is Stephen Pitti, and I am Professor of History and American Studies at Yale University, where I also hold a courtesy appointment in the Council of Latin American and Iberian Studies, and where I direct the undergraduate program on Ethnicity, Race, and Migration. As my students know, and as every member of this committee knows, migration to and from the United States has a long and bumpy history that is both part of our national past and intricately connected to the rest of the world. This fact has been clear since at least World War II, and it has been even more clear since the 1970s. Policymakers and others active in debating immigration reform, naturalization, guest worker programs, labor standards, and a host of other related issues nearly always depend on historical understandings which orient us towards the future. I hope today to provide some historical context for considering one of the most important pieces of U.S. legislative policy of the late-20th century, and a law with important legacies for the twenty-first century, the Immigration Reform and Control Act (IRCA) of 1986.

Signed by President Ronald Reagan on November 6, 1986, the Immigration Reform and Control Act resulted from debates about how best to control undocumented migration, how to bring undocumented residents who had lived in the United States for years “out of the shadows,” and how to anticipate and control future migrant flows. Those debates in some ways foreshadowed our own discussions of immigration in 2006 and early-2007. And, as in the more recent past, national security concerns were commonly expressed during the 1970s and 1980s as Congress debated the bills that became IRCA. Former CIA Director William Colby declared in 1978, for example, that Mexico was a greater threat to the United States than the Soviet Union; syndicated columnist Georgie Anne Geyer warned that an uncontrolled U.S.-Mexico border would lead to “our very own Lebanon right here”; and President Ronald Reagan warned on national television in 1986 that “terrorists and subversives [from Central America] are just two days’ driving time from Harlingen, Texas.”¹ As I will show, that sort of prevailing rhetoric about security and border control has consistently failed since the 1980s to address the specific economic, social, and political ties between the U.S. and its southern neighbors that encourage migrant flows.

Immigration reform efforts have been consistently hampered by a limited understanding of the entrenched causes of human mobility, and they have been guided more by fear than by meaningful attempts to address – on both sides of the border – a viable design for regulating people’s movements. In the pages that follow, I discuss IRCA within its historical context. I

consider what that landmark legislation meant for past and future migrant flows, and what global, hemispheric, and national forces shaped migration to the U.S. in the years before and after 1986. I explore the extent to which the Act deterred migration from Latin America, and how both border enforcement and amnesty shaped newly-settled populations of Mexicans in the U.S. Finally, I investigate IRCA's labor provisions to show how federal policy changed the historical experiences of immigrants and other U.S. workers during the 1970s and 1980s. These pages build upon my own work on the history of Latinos in the United States from the eighteenth century to the present, and upon the work of hundreds of other scholars who have explored migration, border enforcement, patterns of immigrant settlement, and similar topics. In the final section I suggest what IRCA's history, and the history of other landmark efforts to control Mexican migration to the United States through new border policing, suggests about future immigration policy.

The historical record shows that a response to border control that depends solely on a militarized regularization of the boundary line is doomed to fail, and that the criminalization of undocumented migrants as migrants and workers remains dangerous policy. Such approaches in fact produce new social inequalities within the United States, they undo the promises of economic and military security, and they do little to curtail the movement of people into this country. Without solutions that address the human needs behind migration and the labor relationships that create dependency in the United States on undocumented workers, a cycle of failed reforms will likely continue.

1980s Migration to the U.S. in Hemispheric Context

Mexican residents of the United States were both the primary beneficiaries of IRCA's reforms, and the primary targets of its efforts to control the international border. Immigrants had been moving across the border into this country since the 1840s, forging connections with Mexico that had no parallel in any other immigrant community in the United States.² The number of migrants from Latin America increased dramatically throughout the twentieth century, assuring that many economies and communities within the United States would be inextricably connected to Mexico and other sending countries by the early years of the Carter administration.³ Although legal quotas for Mexicans remained very low after the Hart-Cellar Act of 1965, demand for those slots remained extraordinarily high among prospective Mexican immigrants. Government-sponsored guest worker programs had sealed the linked fate of the two nations for decades, assuring that undocumented migration from Mexico would increase steadily with the conclusion of the Bracero Program (1942-1965), which had imported roughly 4.6 million Mexican temporary workers over the course of its twenty-two year life. "When the program finally ended in 1964," three leading scholars have recently argued, "the United States did not stop employing Mexican workers; it simply shifted from a de jure policy of active labor recruitment to a de facto policy of passive labor acceptance, combining modest legal immigration with massive undocumented entry."⁴

Historical patterns of economic growth and political change had helped institutionalize migration from Latin America to the U.S. for decades, but new global and regional developments

accelerated migration processes during the 1970s and 1980s. Violence played one fundamental role. From the early-1900s forward, Latin American migrants had found their way to the United States thanks to revolutionary turmoil in their home countries, and U.S. military interventions abroad shaped significant refugee populations that moved from Mexico, the Dominican Republic, Vietnam, Cuba, and other countries during the twentieth century. Violent, and at times genocidal, wars in Guatemala, El Salvador, and other Central American nations displaced millions of local residents between 1974 and 1996. As Mexico became the home of 750,000 Central American refugees during the 1980s, more than a million others made their way to Canada and the United States.⁵

Just as important were changing economic dynamics in the hemisphere after World War II. Transformations within the U.S. labor market -- and above all cycles of economic restructuring which depended upon immigrant labor in agriculture, construction, domestic, health care, and service work for national growth -- had served as magnets for new immigration in the decades prior to the 1970s. Migration to the United States proved critical to the economic strategies of many Latin Americans and many Latin American policymakers throughout the twentieth century. By the 1970s and 1980s, wages earned in the United States which were sent to other parts of the hemisphere had become one of the leading producers of income in many parts of the Americas -- including Mexico and the Dominican Republic.⁶ The integration of economies throughout this hemisphere, and throughout the Pacific Rim, assured that governments, neighborhoods, and households abroad would depend heavily on remittance dollars sent from the U.S. during the 1970s and 1980s.

New models of industrial growth changed the character and volume of global migrations during those same years, and the U.S.-Mexico border region captured the transformations of the era. In response to a debt crisis which plunged Mexico into a challenging period of neoliberal restructuring, creating deep economic hardships throughout that country, Mexican officials were forced by the IMF to adopt policies of austerity in the years leading up to IRCA's passage, with little thought of the consequences on international emigration. Financial institutions that dictated austerity programs have severely undercut the social welfare of Latin American polities. As a result, new migrants arriving in the U.S. during the 1990s and early-twenty first century have been less educated, and poorer, and they have come from a much broader range of countries. Given that some nations in Latin America pay as much as 50% of GDP in their debt service, the immiseration of their populations will continue to produce mass exoduses. This humanitarian crisis resulted directly from trade and financial policies designed by U.S. officials who had limited views of their long-term consequences. Income inequality within the Americas is now as high as it has ever been, making many societies inherently unstable. In this context, with the help of business leaders in Mexico and the United States, officials in both countries developed new export-processing zones which attracted capital-intensive industries devoted to "just-in-time delivery, flexible accumulation, out-sourcing, and continuous flow manufacturing." In massive industrial parks built in Tijuana, Ciudad Juárez, and other parts of Northern Mexico, companies were able to "import unfinished inputs into Mexico, assemble them into final goods, and then re-export them back to the United States paying tax only on the value added (that is, the relatively small cost of labor inputs)."⁷

Thanks to this Border Industrialization Program, the new *maquilas* (factories) which sprang up throughout the region to produce cheap consumer goods for U.S. households paid low wages to the tens of thousands of Mexican women, men, and children who were then migrating to the border region. The number of *maquiladoras* rose from 120 in 1970 to 680 in 1984, with the number of employees rising from 20,327 to 184,400 during that same period. According to one historian of the region, “In early 1985, *maquiladora* workers made about \$1.03 an hour, a sum, according to industry reports, representing a savings of \$14,520 a year per employee over hiring U.S. workers.”⁸ The expansion of export-led development -- which culminated in the North American Free Trade Agreement on January 1, 1994 -- accelerated the hardships which border Mexicans faced, even as it drew more Latin Americans to cities such as Ciudad Juárez and Tijuana in search of work. As wars raged in Central American countries to the South, poverty deepened in Mexico during this era of neoliberal reforms, assuring that “millions of Mexicans” would experience “joblessness, hardship, neglect, and growing economic marginalization” in the years leading up to IRCA’s passage.⁹

Those hardships -- often in U.S.-owned factories in Northern Mexico -- prompted growing numbers of Mexicans to search for stable employment in the United States during the 1970s and 1980s. During an era which also saw many Central Americans uprooted by war heading north, residents of the U.S. began to express growing concern about border enforcement. Cold War rhetoric about the spread of communism in Latin America bolstered calls for greater national security, and new attention to Latin American drug smuggling operations shaped new efforts to police the U.S.-Mexico boundary line. But increased border vigilance also reflected new material hardships in the United States, where many believed that immigrants threatened their own economic security. Like their neighbors in Mexico, residents of the United States faced many new labor market challenges after 1973. Unemployment rates soared and wages stagnated during these years, bringing new pressures to blue-collar workers. Government programs that had provided resources and insurance to working-class Americans were cut back considerably. “With wages falling and the government actively seeking to slow down (and eventually to reduce) some income grants to poor people,” two analysts have argued, “the negative effect of a worsening distribution of family income” was clear by 1979.¹⁰ The number of U.S. residents who fell below the poverty line soared from 23 million in 1973 to 35 million in 1983, with African American workers suffering disproportionately.¹¹ By the early-1990s, corporate downsizing, the end of the Cold War, and new computer technologies also hurt many more white collar employees in the U.S. Southwest. When, from 1990 to 1993, California lost more than 830,000 jobs, most of them related to the defense sector, economic uncertainty prompted new efforts -- particularly in the form of Proposition 187 in 1994 -- to control unauthorized border crossing and limit opportunities for undocumented residents already in the United States.¹²

The Immigration Reform and Control Act

For nearly two decades prior to IRCA’s signing, officials in the United States and Mexico had debated the economic and social problems associated with migration within these changing hemispheric, regional, and national contexts. Nine years before IRCA was signed into law, President Jimmy Carter had proposed to Congress the Alien Adjustment and Employment Act of

1977 (S.2252/HR 9531) in which the White House laid out “a set of actions to help markedly reduce the increasing flow of undocumented aliens in this country and to regulate the presence of the millions of undocumented aliens already here.”¹³ Carter’s proposal, which became the basis for IRCA in 1986, emphasized new border enforcement, sanctions that would target employers who hired illegal workers, a restructured foreign worker (H-2) visa program to import temporary agricultural laborers, and an adjustment of legal status (“amnesty”) for undocumented residents who had long lived and worked in the United States. In March 1982 Senators Simpson (R-WY) and Mazzoli (D-KY) proposed legislation that built on the Carter Plan. While the Senate passed a version of that bill in August 1982 and again in May 1983, Hispanic Congressional Representatives such as Edward Roybal (D-NY), along with members of the Congressional Black Caucus and other legislators, blocked its passage in the House. The bill was successfully reintroduced by Senators Simpson and Rodino in 1985 in anticipation of midterm elections, and President Reagan signed it as the Immigration Reform and Control Act in November 1986.

IRCA included four major provisions. First, it allocated new resources for enforcement along the U.S.-Mexico border. Second, it offered amnesty to undocumented residents who had lived in the United States since 1982. Third, it created a Special Agricultural Worker Program (SAW) which legalized undocumented residents who had worked ninety days in U.S. agriculture. Finally, it imposed sanctions against employers who “knowingly” hired undocumented workers.

Because control of the U.S.-Mexico border was a key policy imperative during the Reagan years, IRCA allocated \$400 million in 1987 and 1988 to hire additional Border Patrol officers.¹⁴ These efforts to “control” the border built upon longstanding attempts to limit Mexican transborder migration during economic hard times. As historians have recently shown, mounted troops had patrolled the U.S.-Mexico line to prevent Chinese migrants from arriving during the early-twentieth century; tens of thousands of national guard troops were subsequently stationed along the border during the Mexican Revolution of the 1910s; U.S. Bureau of Health officials doused hundreds of thousands of Mexican border crossers in kerosene throughout the 1920s and 1930s in the name of controlling typhus and other communicable diseases; and the U.S. Border Patrol, created by Congress in 1924, deported millions of undocumented immigrants during the era of “Operation Wetback” in the early-1950s. All the while, historians now recognize, U.S. immigration agents, together with many elected officials, business leaders, and other local residents, helped to recruit undocumented Mexican workers into the United States from the 1920s forward to work in California agriculture, Chicago steel mills, Pennsylvania foundries, Mississippi cotton, and other leading industries nationwide. Cycles of repatriation and border enforcement overlapped with periodic demands by U.S. employers for ever greater number of Mexican immigrant workers throughout the twentieth century.¹⁵

The decade prior to IRCA’s passage had already witnessed many attempts to stop unauthorized border crossings. From 1978 to 1988, the number of Border Patrol officers doubled from 2580 to 5531 as federal agencies responded to new concerns about the Drug War.¹⁶ The figure for migrants apprehended had climbed dramatically from some 30,000 in 1964 to 1.7 million in 1986.¹⁷ As the enforcement budget of the INS grew by nearly two hundred percent dur-

ing the years of the Reagan Administration, the number of Border Patrol helicopters increased from two to twenty-two from 1980 to 1988; the number of INS fixed-wing airplanes patrolling the U.S.-Mexican border jumped from 28 to 46; the number of night-vision scopes used to detect border crossers increased from 59 to 344; and the INS worked closely with the U.S. Army and the U.S. Air Force to develop other new surveillance equipment. According to one scholar, “some 22 Border Patrol stations and four traffic-inspection checkpoints in the border region were either constructed, scheduled and fully funded, or at least planned and awaiting action” from 1980 to 1988.¹⁸

Efforts to “secure” the U.S.-Mexico border brought consequences in the years prior to IRCA’s passage which few U.S. policymakers seemed to anticipate. Calls to build a “Tortilla Curtain” in the late-1970s -- a high wire fence with metal blades that would discourage climbing -- brought protests among Mexican residents and among Mexican Americans in the United States. René Mascareñas, a former mayor of Ciudad Juárez, spoke for many when he declared that “I don’t like the idea of fences. We don’t live between East and West Germany. The communist wall that is there is a slap in the face to any nation that boasts of being democratic. We want greater fluidity and communication between us. We don’t want barriers; we don’t want barbed wire fence. We brag we are two neighborly countries, two friendly nations, and that this is the longest border in the world where one does not see a single soldier, a single rifle, a single bayonet, or a single affronting or discriminatory sign.”¹⁹ Perhaps most important, new efforts to enforce the boundary line during the 1970s had already proven themselves unable to stop Latin Americans from crossing into the United States without documents. Border residents soon cut holes in the “Tortilla Curtain” near San Diego and El Paso, and some 2.1 million undocumented migrants passed successfully into the United States in 1986 alone.

Most scholars not surprisingly agree that IRCA’s efforts to bolster border enforcement exerted at best a “mild deterrent effect” on undocumented migration after 1986. Political scientist Rosanna Perotti asserts that “IRCA does not appear to have impeded the flow of undocumented immigrants to the United States” and sociologist Susan González Baker concludes that “contemporary evidence suggests that, over the long haul, undocumented immigration persists virtually undaunted.”²⁰ But while the 1986 Act did little to deter undocumented migration, it did make subsequent unauthorized crossing far more difficult and dangerous for U.S.-bound migrants. The 1980s and 1990s in fact witnessed startling new human rights violations in the border region, and soaring death rates among prospective border crossers, as stricter enforcement of the international line changed migration patterns. Mexicans, Central Americans, and others who attempted to elude government agents during this period increasingly moved away from traditional crossing points around urban Tijuana and Ciudad Juárez into more difficult and remote regions – particularly the harsh, desert landscapes which threatened migrants with death by dehydration, exposure, or snake bite. In response to these changes, new smuggling operations based in Mexico that promised safe passage into the U.S. became billion dollar industries in the years after IRCA, and many of the migrants who paid large sums to *coyotes* faced abandonment, sexual exploitation, and other forms of violence within that informal economy.²¹

Following IRCA's logic, new enforcement policies developed during the Clinton Administration after 1992 continued to force prospective migrants into the deserts of Arizona and New Mexico, and away from traditional crossing points. They have also bolstered the power of traffickers in the border region, and encouraged smugglers and others to respond in newly violent ways. Criminal activities have exploded in the border region as a consequence of recent border blockades. According to one leading scholar of Mexican migration, "the theory underlying the strategy was that raising the cost, the physical risk, and the probability of apprehension on each entry attempt would eventually discourage the migrant and cause him (or her) to return to the location of origin. Better yet, the prospective unauthorized U.S.-bound migrant would be deterred from leaving his home community in the first place." The dangers of border crossing increased in the 1990s beyond what the 1980s had seen, with Mexican consuls reporting approximately 1700 migrant deaths from 1994 to 2001.²² During those years, Border Patrol agents have complained that Operation Gatekeeper and similar policy initiatives have made policing the border a far more deadly and dangerous assignment.

Circular Migration and Settlement

Although the threat of capture by Border Patrol agents, of violence at the hands of smugglers, and of death in the deserts did little to slow migration to the United States after 1986, IRCA did challenge Mexican migration in numerous ways, shaping what scholars have recently labeled "the great transformation" in recent immigration history. "Rather than slowing down the rate of undocumented entry," they write, "IRCA seems only to have succeeded in transforming a seasonal flow of temporary workers into a more permanent population of settled legal immigrants."²³ Reflecting on this transformation of the 1980s and 1990s, another social scientist concurs that, "By making it more costly and difficult to gain entry illegally, the US government has strengthened the incentives for permanent settlement in the United States. Thus it is entirely possible that the current strategy of border enforcement is keeping more unauthorized migrants *in* the United States than it is keeping out."²⁴

Prior to IRCA, most Mexicans who had arrived as undocumented workers in the United States during the 1970s and 1980s likely maintained hopes of returning permanently to Mexico. These hopes in fact stretched back into the mid- and late-19th century, as Mexican communities had sent temporary wage-earners into the United States since the California Gold Rush. Money earned in the United States was commonly wired to communities abroad and used to build homes, start businesses, or support family members. Those who traveled north from Mexico were often men, and many of them returned frequently to Mexico in a pattern of "circular migration" through which they remained tied to spouses, children, and other kin. Those patterns of back-and-forth movement had been solidified and strengthened by the government-sponsored guest worker programs linking the two countries during World War I, and from 1942-1964. Throughout the twentieth century these transborder connections shaped cultural developments in both Mexico and the United States.²⁵

But IRCA helped create new conditions after 1986 under which circular migrants more commonly settled permanently within the United States. Desires to do so took hold as the buildup of border surveillance equipment and Border Patrol personnel, combined with the ever

more dangerous unsanctioned crossings through deserts, in effect “trapped” many Mexicans on the U.S. side of the border. Moreover, charges of human rights violations by government agents, individual U.S. citizens, and Mexican *coyotes* received new attention among Latin American migrants and in the international press. At a 1980 Congressional hearing in which Acting INS Commissioner David Crosland discussed the discovery of an “organized brutality ring” of Border Patrol agents, he announced that “We are not satisfied that this was an isolated incident and do not believe that this one case will serve as an adequate deterrent to others whose activities are less than professional.”²⁶ “Because migrants are at greatest risk while crossing the border,” three leading scholars made clear in 1999, “a buildup of enforcement resources there perversely creates strong incentives for undocumented migrants to stay put. Rather than returning home to face another risky crossing later on, migrants rationally chose to hang onto their jobs and settle into the expatriate Mexican community.”²⁷

Amnesty

New processes of Mexican settlement during the 1980s that changed earlier patterns of circular migration of course also resulted from IRCA’s legalization (or amnesty) provisions. In 1986, many experts estimated, roughly 3.5 million undocumented Latin Americans lived in the United States. (Press reports in the mid-1970s had in fact speculated with alarm that the number might have climbed past ten million.) By 1990, some 1.7 million immigrants of many national backgrounds had taken on a new status as LAWs (Legally Authorized Workers) by demonstrating that they had lived in the United States continuously since 1982. By that same year, 1.3 million other immigrants had legalized under the SAW (Special Agricultural Workers) provisions of the 1986 Act. Both numbers, and in particular the number of SAW applicants, exceeded demographers’ earlier predictions. Of the roughly 3 million immigrants who filed successfully for amnesty in the three years following IRCA’s implementation, 2.3 million were Mexicans. Most lived in urban areas -- including 800,000 in Los Angeles County, and at least 100,000 in the metropolitan areas of Anaheim, Chicago, Houston, New York, Riverside and San Diego -- although rural California and rural Texas each saw roughly 150,000 successful applicants.²⁸

Many undocumented immigrants who received amnesty in the late-1980s subsequently worked to bring their families to the United States. But in part because most were not able to bring spouses and children through formal, legal routes, undocumented migration increased dramatically by the early-1990s. Family members in Mexico of newly-legalized U.S. residents risked the dangerous international border to join kin in the United States. These new migrants were more often women, and they were more often young. In the aftermath of IRCA, many families struggled to reunite their children and teenagers still living in Mexico with parents and grandparents who had moved to the United States in search of work during the 1970s and 1980s.²⁹

Such efforts at family reunification during the late-1980s and throughout the 1990s not only testified to the love that connected migrants to family members still resident in home countries, they also carried with them certain logics of regional history. In the nineteenth century, Mexican families living on either side of the Rio Grande River had crossed back and forth regularly between Mexico and the United States to attend church, social gatherings, weddings, and

funerals. Throughout the twentieth century, friends and family members sought kin who already resided in distant places -- New York, South Dakota, Minnesota, Iowa, Georgia, North Carolina -- where they had found work and established prior residency. That “chain migration” had formed the basis for emerging Mexican and other Latino neighborhoods throughout the United States by the 1960s and 1970s, and it had bolstered many regional economies in the United States for decades. Letters, telegrams, postcards, telephone calls, and other forms of communication had allowed Mexicans in those places to remain active in the lives of friends and family members who remained in their home country. By the 1970s and 1980s, many female migrants were becoming “transnational mothers” -- continuing at a distance to care for their own children who remained with grandparents or aunts in Mexico, even as they served as domestic workers or nannies in U.S. households in growing numbers.³⁰

Efforts to settle permanently in the United States after 1986 also continued other long-term trends among Mexican immigrants. Those who pursued amnesty joined a growing and diverse U.S. Latino population that had long expressed commitments to U.S. citizenship, and that already included a significant middle and upper class. The Congressional Representatives who supported the legalization of undocumented residents no doubt understood that Mexican Americans -- both those born in the United States and those naturalized in the twentieth century -- had long proven their commitment to Americanizing in the United States, and to enriching U.S. society by their presence. Many Latinos had fought in the U.S. Armed Forces throughout the twentieth century -- including more than 500,000 in World War II -- and Latino military personnel who were U.S. citizens commonly claimed immigrant parents, and often immigrant siblings. In the aftermath of World War II, many politicians in the late-twentieth century understood, Latino political movements in favor of active civic participation became far more vibrant. New generations of activists -- some of them veterans, many of them not -- pushed new immigrants during the 1950s and 1960s to apply for full membership in the United States. These efforts shaped numerous organizing campaigns in states like New York, Arizona, Texas, New Mexico, California, and Illinois during the postwar period that forced local registrars to enroll Latino voters, that demanded citizenship exams in Spanish as required by law, and that enabled residents to become first-class members of U.S. society.³¹

Work

Postwar civil rights efforts which aimed at full U.S. citizenship shaped Mexican American voters by the 1960s and 1970s, and they helped launch a number of prominent Mexican Americans into elected national and state positions by the early-1980s, some of whom proved critical to IRCA and its aftermath. The ten members of the Congressional Hispanic Caucus who held House seats from 1980 to 1988 revealed varying opinions on Mexican immigration and other topics, but most pushed hard for liberal amnesty provisions that would assist undocumented residents as workers, and most opposed the employer sanction provisions of those bills as potentially discriminatory in American workplaces. In doing so, they joined allies in the Congressional Black Caucus and other Representatives to critique IRCA’s potentially negative effects on working people throughout the United States.

These Congressional representatives and others understood that the 1986 Act was as much a labor bill as an immigration reform. The Immigration Reform and Control Act passed in an era that saw many apparent attacks on collective bargaining rights, and growing concerns among labor leaders that the National Labor Relations Board and other federal labor protections had been turned against them. Scholars have recently noted that IRCA “included two tools to combat national origin and citizenship discrimination against the foreign born. First, IRCA required employers to verify every worker’s employment eligibility, limiting the possibility that employers would ask only foreign-looking or foreign-sounding applicants for documents. Second, IRCA created within the Justice Department an Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) to investigate charges of national origin and citizenship status discrimination.” Employer sanctions were, along with border enforcement, the critical “control” features of the Immigration Reform and Control Act, and the policymakers who supported this provision stressed that IRCA would protect U.S. jobs for U.S. legal residents while deterring further undocumented labor migration from Mexico.³²

Critics of the Simpson-Rodino, Simpson-Mazzoli, and IRCA bills countered that employer sanctions would in fact do little to deter migration, that they would fail to protect local jobs for U.S. citizens, and that they would instead prove discriminatory to many U.S. workers, particularly those perceived to be “foreigners.” When Representative Peter Rodino had first introduced employer sanction legislation in the early-1970s, Edward I. Koch (D-NY) rose on the House floor to speak out against the bill: “I am thinking of my 78-year old father who is working in a department store in midtown Manhattan at this moment,” he told his colleagues. “He came here when he was 14 years old. He is a citizen. He still retains his accent from the old country. I would not want him singled out from the other employees in his department, most of them probably American born, and asked to sign a special form. He and others like him should not be made to feel they are second class citizens.”³³ By the early-1980s, Los Angeles Democratic Mexican American Congressman Henry Roybal, who had founded the Hispanic Congress, helped lead the Congressional opposition, while New Mexico’s newly-elected Representative Bill Richardson more optimistically pushed for anti-discriminatory safeguards that would provide some protection to Latino workers. Groups such as the American Friends Service Committee (AFSC), the National Council of Churches, and the American Jewish Committee also went on record opposing employer sanctions out of concern for workplace rights. Members of the Reagan Administration expressed private concerns prior to the passage of IRCA that employer sanctions would lead to discrimination against “foreign-looking or -sounding Americans.”³⁴

As those groups predicted, IRCA indeed brought many negative consequences for workers in the United States -- both documented and undocumented, both immigrant and native-born. Discrimination in employment proved a serious problem in the early years of the Act’s implementation. Despite the threat of harsh penalties against employers, and new money allocated to the U.S. Department of Labor to expand workplace inspections, the Government Accounting Office (GAO) reported in 1990 that 19% of employers interviewed had admitted to engaging in some form of discriminatory treatment on the basis of national origin or citizenship since 1986.³⁵ New criminal activities also developed in response to IRCA, as undocumented immigrants seeking work who did not qualify for amnesty created a booming market for fake identity cards. In September 1991, agents of the Immigration and Naturalization Service broke a Los Angeles

counterfeiting ring that may have supplied fake documents to one million residents.³⁶ Concern about document fraud inevitably led to new calls in the late-1980s and early-1990s for a national ID system -- calls which even the administration of Ronald Reagan had worried in advance would imperil civil liberties.³⁷

As evidence of workplace discrimination against Latinos and other non-white workers mounted after 1986, Congressional Representatives such as Edward Roybal, Edward Kennedy (D-MA), and Orrin Hatch (R-UT) joined community groups in calling for a repeal of IRCA's employer sanctions provisions. While those Congressional critics understandably focused on the ways in which IRCA had shaped new patterns of discriminatory hiring in agriculture, construction, and other industries, subsequent historical and social scientific research has shown additional ways in which IRCA's employer sanctions provisions in fact changed the work experience for many U.S. residents after 1986.

Above all, IRCA's threat of employer sanctions led many industries -- particularly agriculture, textiles, and construction -- to create new subcontracting arrangements by which employers took less direct responsibility for hiring. "Under subcontracting arrangements," a researcher explains, "a U.S. citizen or resident alien contractually agrees to provide an employer with a specific number of workers for a certain period to undertake a defined task at a fixed rate of pay per worker. Neither the subcontractor nor the workers are technically employees of the firm or person entering the contract, so the employer avoids IRCA's burdensome paperwork requirements and escapes liability under the law." As employers sidestepped IRCA regulations in this way, both immigrant and native-born workers in sectors dominated by immigrants experienced declines in real wages after 1986. Subcontractors received a portion of each payroll, and employees in turn saw their paychecks shrink after 1986. Subcontracting arrangements became more common for many workers -- including the U.S.-born -- throughout the U.S. economy following the passage of IRCA, a development which "contributed to the creation of an underground labor market that has put new downward pressure on the wages of Mexican immigrants and the native-born Americans who compete with them."³⁸

Future historians may see only one fundamental labor benefit emerging from IRCA. While employer sanctions had no detectable effect on deterring subsequent undocumented migration from Latin America, and while IRCA provisions created new difficulties for many American workers and made border crossing far more deadly, the Act's conferral of amnesty did improve working conditions for some. Those who established their legal residency at times felt emboldened to lobby on their own behalf with employers and other groups in the U.S. without fear of deportation. Bringing undocumented immigrants "out of the shadows," to use a phrase now common in the twenty-first century, enabled them to bargain more freely with their employers without fear of deportation. According to one researcher, "IRCA-legalized aliens evinced changes in awareness regarding their rights in the workplace. An immigration program director in San Jose noted that legalized aliens were making inquiries about union jobs.... As one respondent noted, 'They're no longer looking over their shoulders for the INS van.'"³⁹

Summary and Conclusions

The preceding discussion of the history of IRCA, of Mexican immigration before and after its passage, and of the effects of that Act on border safety and U.S. working conditions suggests the following conclusions:

- First, policymakers and others who discuss immigration reform in the twenty-first century must carefully consider the long and institutionalized history of back-and-forth migration between the United States and Mexico since the mid-nineteenth century.
- Second, policymakers who stress the fundamental importance of border enforcement must reckon with the fact that past enforcement policies have rarely, if ever, stopped undocumented migration. In fact, military rhetoric about controlling the international boundary line has far more often substituted for real discussion of the causes and consequences of immigration, and it has allowed policymakers to escape a difficult reckoning with the labor exploitation and new social conflicts that have emerged since the 1980s.
- Third, elected officials must consider the effects of employer sanctions and other immigration policies on the broader American workforce, not just on immigrant workers. Efforts to limit undocumented immigrants' access to U.S. jobs through employer sanctions in the past contributed to the downward trend in U.S. earnings during the 1980s and 1990s. Employer sanctions also led to new subcontracting arrangements between employers and employees in many sectors, arrangements that deteriorated both wages and working conditions for immigrants and the U.S. born.
- Fourth, policymakers who draft immigration policies must be concerned about human rights at the U.S.-Mexico border, above all for the sake of migrants and other residents of that region, but also out of concern for the reputation of the United States in the world.
- Fifth, elected officials who consider new approaches to immigration must actively recall past immigrants' positive contributions to the United States -- particularly the contributions which Latino immigrants and their children have made to the national and international economy, to the Armed Forces, to schools and universities, and to the arts. Latino immigrants, like other immigrant groups in the past and present, have contributed in many fundamental ways to this nation as first-class citizens for more than a hundred years.

In considering these points, I suggest, the history of Latin American migration to the United States makes clear that problems related to international migration require international

approaches that go far beyond military solutions. Policymakers must wrestle hard with the fact that both circular migration and permanent settlement have long connected our two neighboring countries; that Mexico and the United States share deep histories of back-and-forth movement, and of economic development, dating to the nineteenth century; that labor conditions in the United States have often depended upon protecting the rights of immigrant workers; and that immigrants from Latin America have set down permanent roots in the U.S. for more than a century in order to contribute to American society. Above all, perhaps, policymakers in the United States need now to engage in meaningful hemispheric dialogue about the causes and consequences of regional migrations in the recent past.

With this history in mind, it seems abundantly clear that enforcement-only approaches to migration in the twenty-first century will fail to stop Latin Americans from moving into the United States; they will instead run the risk of creating new and more horrifying human rights tragedies in the U.S.-Mexico border region. This history also teaches us that, just as past U.S. immigration policies such as IRCA transformed the nature of work in the United States, policymakers must now take great care in anticipating how immigration reforms will transform jobs, workplaces, and economies throughout the hemisphere. As in the past, failure to do so will likely deteriorate conditions for large numbers of workers on both sides of the U.S.-Mexico border, and they may prove disastrous to both immigrant and U.S.-born employees in the United States.

On this final point let me warn this subcommittee about the consistent – overwhelmingly consistent – failures of past guest worker programs in the United States and most other countries of the world to protect workers' rights. If we are in fact committed to finding present-day lessons in the past, we must pay attention to this: The last large-scale guest worker program signed between the U.S. and Mexico between 1942 and 1964 was deeply flawed. Many of the “braceros” who arrived under that international agreement experienced tremendous hardships and became known by the years of the John F. Kennedy administration as “the slaves we rent.” Churches, citizens groups, labor organizations, and politicians from both political parties came then to understand that guest workers had driven down wages for domestic workers in the United States, and that they had lived with low wages and deteriorating working conditions of their own that could not be tolerated within American society.

With this history in mind, I remain convinced that any future guest worker program signed with Mexico must allow migrants to join organizations in the United States without risk of penalty; it must allow migrants to leave employers who do not comply with the terms of the program without great difficulty; and it must require both close governmental and non-governmental monitoring of working conditions – by private organizations, unions, churches, and other groups – to investigate the operations of the program. Finally, because North America's last large-scale contract labor program led to massive layoffs of U.S. domestic workers and a documented decline in the fortunes of the native-born, new efforts to import temporary guest workers must be informed by past abuses, and they must be committed to workers' rights and high labor standards in the United States and Mexico.

Thank you for the opportunity to speak before this subcommittee.

Notes

¹William Langewiesche, "The Border," *Atlantic Monthly*, May 1992, 68.

²Sister M. Colette Standart, "The Sonora Migration to California, 1848–1856: A Study in Prejudice," *Southern California Quarterly* 58 (1976): 337–57; Stephen J. Pitti, *The Devil in Silicon Valley: Northern California, Race, and Mexican Americans* (Princeton, N.J.: Princeton University Press, 2003).

³Lawrence A. Cardoso, *Mexican Emigration to the United States, 1897–1931* (Tucson: University of Arizona Press, 1980); George J. Sánchez, *Becoming Mexican American: Ethnicity, Culture, and Identity in Chicano Los Angeles, 1900–1945* (New York: Oxford University Press, 1993).

⁴Christine Marie Sierra, "In Search of National Power: Chicanos Working the System on Immigration Reform, 1976–1986," in *Chicano Politics and Society in the Late-Twentieth Century*, ed. David Montejano (Austin: University of Texas Press, 1999), 132.

⁵María Cristina García, *Seeking Refuge: Central American Migration to Mexico, the United States, and Canada* (Berkeley: University of California Press, 2006), 9.

⁶Ramona Hernández, *The Mobility of Workers Under Advanced Capitalism: Dominican Migration to the United States* (New York: Columbia University Press, 2002).

⁷Jorge Durand, Douglas S. Massey, and Emilio A. Parrado, "The New Era of Mexican Migration to the United States," *Journal of American History*, September 1999, 520.

⁸Oscar J. Martínez, *Troublesome Border* (Tucson: University of Arizona Press, 1988), 128.

⁹Jorge Durand, Douglas S. Massey, and Emilio A. Parrado, "The New Era of Mexican Migration to the United States," *Journal of American History*, September 1999, 520.

¹⁰Benet Harrison and Barry Bluestone, *The Great U-Turn: Corporate Restructuring and the Polarizing of America* (New York: Basic Books, 1988), 135.

¹¹William Julius Wilson, *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy* (Chicago: University of Chicago Press, 1987).

¹²Mike Davis, "The Social Origins of the Referendum," *NACLA Report on the Americas* 29, no. 3 (1995): 24–28.

¹³Sierra, "In Search of National Power," 132.

¹⁴Julie A. Phillips and Douglas S. Massey, "The New Labor Market: Immigrants and Wages After IRCA," *Demography* 36, no. 2 (May 1999): 234.

¹⁵Alexandra Minna Stern, *Eugenic Nation: Faults and Frontiers of Better Breeding in Modern America* (Berkeley: University of California Press, 2005); David Montejano, *Anglos and Mexicans in the Making of Texas, 1836–1986* (Austin: University of Texas Press, 1987); Paul S. Taylor, *Mexican Labor in the United States: Valley of the North Platte, Colorado* (Berkeley: University of California Press, 1929); Paul S. Taylor, *A Spanish-Mexican Peasant Community, Arandas in Jalisco, Mexico* (Berkeley: University of California Press, 1933); Francisco Balderrama, *In Defense of La Raza: The Los Angeles Mexican Consulate and the Mexican Community* (Tucson: University of Arizona Press, 1982); Kitty Calavita, *Inside the State: The Bracero Program, Immigration, and the I.N.S.* (New York: Routledge Press, 1992); Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004).

¹⁶David Montejano, "On the Future of Anglo-Mexican Relations in the United States," in *Chicano Politics and Society in the Late Twentieth Century*, ed. David Montejano (Austin: University of Texas Press, 1999), 248.

- ¹⁷Douglas S. Massey, Singer, and Audrey, "New Estimates of Undocumented Mexican Migration and the Probability of Apprehension," *Demography* 32 (1995): 203–11.
- ¹⁸Timothy J. Dunn, *The Militarization of the U.S.-Mexico Border, 1978–1992: Low-Intensity Conflict Doctrine Comes Home* (Austin: CMAS Books, Center for Mexican American Studies, 1996), 43–45.
- ¹⁹Martínez, *Troublesome Border*, 134.
- ²⁰Rosanna Perotti, "Employer Sanctions and the Limits of Negotiation," *Annals of the American Academy of Political and Social Science* 534 (July 1994): 34–35; Susan González Baker, "The 'Amnesty' Aftermath: Current Policy Issues Stemming from the Legalization Programs of the 1986 Immigration Reform and Control Act," *International Migration Review* 31, no. 1 (Spring 1997): 6.
- ²¹For a discussion of human smuggling see Philip Martin and Mark Miller, "Smuggling and Trafficking: A Conference Report," *International Migration Review* 34, no. 3 (Fall 2000): 969–75.
- ²²Wayne A. Cornelius, "Death at the Border: Efficacy and Unintended Consequences of US Immigration Control Policy," *Population and Development Review* 27, no. 4 (December 2001): 668.
- ²³Durand, Massey, and Parrado, "The New Era of Mexican Migration to the United States," 522.
- ²⁴Cornelius, "Death at the Border," 669.
- ²⁵David R. Maciel and María Herrera-Sobek, eds., *Culture Across Borders: Mexican Immigration and Popular Culture* (Tucson: University of Arizona Press, 1998).
- ²⁶Dunn, *Militarization of the U.S.-Mexico Border*, 40.
- ²⁷Durand, Massey, and Parrado, "The New Era of Mexican Migration to the United States," 524.
- ²⁸Phillips and Massey, "New Labor Market," 233.
- ²⁹Durand, Massey, and Parrado, "The New Era of Mexican Migration to the United States," 527.
- ³⁰Pierrette Hondagneu-Sotelo and Ernestine Avila, "'I'm Here, but I'm There': The Meanings of Latina Transnational Motherhood," *Gender and Society* 11, no. 5 (October 1997): 548–57.
- ³¹Stephen J. Pitti, *The Devil in Silicon Valley: Northern California, Race, and Mexican Americans* (Princeton, N.J.: Princeton University Press, 2003).
- ³²Katherine M. Donato, Jorge Durand, and Douglas S. Massey, "Stemming the Tide? Assessing the Deterrent Effects of the Immigration Reform and Control Act," *Demography* 29, no. 2 (May 1992): 36.
- ³³Perotti, "Employer Sanctions and the Limits of Negotiation," 732.
- ³⁴Nicholas Laham, *Ronald Reagan and the Politics of Immigration Reform* (Westport, CT: Praeger, 2000), 116.
- ³⁵Phillips and Massey, "New Labor Market," 233–34.
- ³⁶Donato, Durand, and Massey, "Stemming the Tide?" 36.
- ³⁷Laham, *Ronald Reagan and the Politics of Immigration Reform*.
- ³⁸Phillips and Massey, "New Labor Market."
- ³⁹González Baker, "The 'Amnesty' Aftermath," 21.

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