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Population at Risk: Elderly Undocumented Mexican Workers

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INTRODUCTION

More than half of immigrants working illegally in the United States pay billions in federal and state income, Social Security, and Medicare taxes each year.¹ Contrary to popular opinion, undocumented workers do not qualify for and, therefore, do not burden many of the public benefit programs they help to fund.²

In the case of Social Security, the chief actuary of the Social Security Administration (SSA) estimated that in 2010 undocumented workers made a net contribution of about \$12 billion to the U.S. Social Security system using false or fraudulent social security numbers (SSNs).³ However, when they retire, because of their undocumented status in the U.S. workforce, they will not have access to the federal public benefits of retired workers and are, in fact, disqualified from receiving them.⁴ Their inability to draw benefits, and the fact that they have not fully contributed to any other retirement system, puts already low-income immigrants at risk of becoming destitute later in life.⁵ The effect of immigration status on access to benefits has a disproportionate impact on Mexicans, who have historically comprised the majority of unauthorized immigrants living in the United States.

IMMIGRATION FROM MEXICO

Mexicans constitute the largest immigrant group with the most consistent migration to the United States over time.⁶ In 2017, Mexicans made up 4.9 million of the estimated 10.5 million unauthorized immigrants in the United States.⁷ Mexico's ties to the United States date back to the early 19th century, when several land disputes caused the two countries to go to war.⁸ When the Mexican-American War (1846–1848) officially ended, more than half of Mexican territory at the time (today the American Southwest) was annexed by the United States, and Mexico relinquished its claim to Texas.⁹ Even after the end of the war, Mexico maintained close cultural and economic ties to its former territory.¹⁰ Residents of both countries continued to trade and crossed the border often to join family members and relatives.¹¹ At the turn of the 20th century, the United States began to recruit Mexican rural workers, a practice that escalated during World War I and, during World War II, formalized into a series of labor contracts later known as the Bracero Program.¹² From 1942–1964, close to 4.6 million Mexicans immigrated to the United States to fill agricultural and railroad jobs.¹³ By the time the program officially ended in 1964, border crossing had become associated with a rite of passage to manhood for young men in many parts of Mexico, and the tradition and culture of migration persisted.¹⁴ Until the SSN became



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Despite their enormous contributions to the U.S. Social Security system, they have been excluded from receiving any entitlements from the fund they paid into throughout their working years. By spending their prime years in the United States, they are among the millions of persons who may not qualify for either country's safety net program for poor, disabled, or retired workers.

linked to immigration control, Mexicans could easily obtain, as many did, a valid SSN in their name, working and earning credits like everyone else.¹⁵ Heavy U.S. investment in border patrol in the 1990s made travel between the countries more difficult and new arrivals decided to stay for longer and more consistent periods of time.¹⁶ Today, two-thirds of unauthorized immigrant adults, including Mexicans, have lived in the United States for more than a decade, forming an important part of the informal U.S. labor force and contributing significantly to U.S. federal and state public benefits programs.¹⁷

SOCIAL SECURITY TREATMENT OF UNAUTHORIZED WORKERS

Through the use of false and fraudulent documents, unauthorized workers pay payroll taxes for retirement benefits but may not later, based on their immigration status, collect benefits from Social Security, an insurance entitlement program primarily financed through a 12.4% payroll tax paid equally by employers and employees.¹⁸ As undocumented workers, their work credits may not count toward Social Security unless they later gain work authorization,¹⁹ an unlikely proposition for most of the unauthorized immigrant population.²⁰

To qualify for benefits, insured workers must be at least 62 years of age and must have paid into the system for a total of at least 40 quarters (10 years).²¹ There is no nationality requirement. Even noncitizens can become eligible for benefits and, under certain circumstances, receive payments in their home countries based on their U.S. work record.²² Totalization agreements, which the United States has signed with 30 countries, protect select nationalities from benefit gaps that result from dividing their careers between their home countries and the United States.²³ These agreements serve to eliminate dual Social Security taxation and to provide a safety net for foreign workers who qualify.²⁴ While a similar agreement was negotiated for Mexican workers during the administrations of President Vicente Fox of Mexico and George W. Bush, no agreement was ultimately signed

into law and no official reason given as to why not.²⁵ The General Accounting Office (GAO, now the Government Accountability Office), at the time, expressed its concern to Congress that the cost of such an agreement was "highly uncertain."²⁶ Indeed, the original terms left open the question of how U.S. work credits earned by undocumented workers would be treated.²⁷

When the Social Security program began making benefit payments in 1940, there were no immigration-related restrictions on noncitizens.²⁸ Early concerns regarding how the program would function did not focus on unauthorized workers, and their immigration status did not result in a blanket denial. Until 1956, noncitizens could claim and receive Social Security benefits as long as they had not been deported for certain immigration violations, and as long as they continued to reside in the United States, with broad exceptions.²⁹ The protection of the integrity of the SSN, however, eventually became a matter of national security, and unauthorized working immigrants were excluded from the system they continue to pay into.

In the 1980s, Congress introduced measures to control undocumented migration by restricting the means by which immigrants could obtain SSNs and work in the United States.³⁰ Rather than reduce illegal migration, however, workers found new ways to prove work authorization and identity, including the use of false or fraudulent SSNs and other documents. As these were largely ignored by their employers, both employee and employer continued to pay billions more in Social Security taxes. Laws enacted in 1996 and 2004 ultimately blocked Social Security payments to: (i) immigrants unlawfully present in the United States; and (ii) immigrants working without a work-authorized SSN.³¹ Today's SSA Earnings Suspense File, created to collect Social Security earnings reports from filers whose names do not match a valid SSN, withholds over \$1 trillion in uncredited wages, mostly from illegitimate work dating as far back as 1937.³² Their exclusion from Social Security has not prevented undocumented workers from contributing, and their surplus contributions continue to subsidize a U.S. retirement system of which they are not a part.

ECONOMIC INSECURITY IN OLD AGE

According to the Hispanic Wealth survey on “Retirement Expectations of Mexican Immigrants,” conducted in Mexico’s consulates across the United States in April 2016, undocumented Mexicans will have trouble meeting the financial demands of old age because they will not be able to withdraw from their Social Security contributions, have lower lifetime earnings than documented workers, and are unlikely to have had access to employer-sponsored retirement plans.³³ Their old-age planning is complicated by a mistaken belief that because they pay Social Security taxes they will have access to Social Security. The Hispanic Wealth survey found that more than 50% of undocumented Mexican workers believed incorrectly that they would be able to draw out their benefits based on their work history in the United States.³⁴ At the same time, because they have worked as undocumented immigrants in the United States, their work history and contributions to the U.S. Social Security system do not count toward their Mexican pension. When they reach 62, those with sufficient work records in the United States may begin applying for Social Security.³⁵ If they never gained legal status in the United States, they will likely receive a rejection letter from the SSA stating first that their application for retirement benefits has been approved and the monthly benefit rate, and then the applicable law preventing them from receiving it.

In interviews conducted by the author with retirement-age workers at their homes in the State of Jalisco in early 2019, former migrants reported difficulty finding steady jobs due to age discrimination in Mexico, where over 90% of posted job openings exclude persons over 35.³⁶ Working doing odds and ends found through friends and family contacts usually were insufficient to cover living expenses. Lack of adequate protection through government social programs further exposed ill and disabled workers to an even more vulnerable situation. In Mexico, where retirement is mostly a family affair, former migrants interviewed by the author reported that they

could not rely on consistent financial support from immediate family members who remain behind in the United States. Unlike intact families, older returnees with mixed-status families become estranged from their spouses, children, and siblings. As they age and their need for support increases, they will have fewer family visits and less social involvement with their family members, important factors affecting their happiness and well-being as older persons. Their challenges as older migrants are intensified by limited access to retirement income and the restricted physical and emotional care of family members.

CONCLUSION

Some 4.9 million undocumented Mexicans living in the United States will, without social or government intervention, suffer from high rates of old-age poverty and declining quality of life. Despite their enormous contributions to the U.S. Social Security system, they have been excluded from receiving any entitlements from the fund they paid into throughout their working years. By spending their prime years in the United States, they are among the millions of persons who may not qualify for either country’s safety net program for poor, disabled, or retired workers. In their retirement years, many of them may face near nonexistent social benefits based on their exclusion from Social Security and limited access to family support.³⁷ As increasing numbers of out-of-country undocumented workers plan to return home for retirement, Mexico must brace itself for a possible elderly poverty crisis.³⁸

This brief recommends that the distinct situation of aging Mexican migrant workers be given consideration and priority in public policy debates and that protection mechanisms be immediately implemented to ensure their well-being as older persons and persons entitled to social protection under human rights laws. It further recommends that Mexico actively invest in policy intervention strategies to protect its out-of-country workers and to assist them in preparing for a difficult retirement.

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