



## LEGALIZING UNAUTHORIZED IMMIGRANTS IN THE WAKE OF THE COVID-19 PANDEMIC

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## Introduction

In recognition of the vital role of undocumented workers during the COVID-19 pandemic, policymakers and immigrant advocates have renewed calls to give legal status to certain unauthorized immigrants in the United States. Most of the proposals would create a pathway to U.S. citizenship for the estimated 5.5 million unauthorized immigrants who are considered “essential workers.”<sup>1</sup> Such proposals represent a stark change from the more punitive stance toward unauthorized immigrants taken by the federal government and many states since 9/11.

That said, such proposals raise the question of whether a partial legalization scheme makes economic sense. As this paper explains, on balance, it does not. A limited legalization program would confer legal status on an arbitrarily defined subgroup of immigrants in certain occupations at a point in time while leaving out others. It would create deep inequities among immigrants and stand in the way of resolving, once and for all, the problem of illegal immigration. Millions of undocumented workers would continue in their jobs, making it near impossible to hold them or their employers accountable. It would preserve the jobs magnet for future unauthorized immigration, keeping pressure on the border and setting the stage for the need for future legalization schemes. And it would further marginalize those undocumented immigrants who work in so-called nonessential jobs, amplifying their vulnerability.

To realize the full benefits of comprehensive immigration reform and deter future unauthorized immigration, a broad and inclusive legalization program is needed—not one limited to essential workers or other “deserving” immigrants—and it needs to be coupled with stricter worksite enforcement and expanded legal pathways for future workers. Otherwise, the United States will continue to grapple with a sizable marginalized workforce for the foreseeable future.

An estimated 10.5 million migrants living in the United States—about one-quarter of the foreign-born population—lack legal status.<sup>2</sup> The substantial size of the undocumented population is due to better economic opportunities for immigrants and their children here than in their origin countries. But it also reflects the long length of time since the country has had a large-scale legalization program, plus complex immigration policies that make it difficult for many immigrants to receive permanent resident status if they crossed the border illegally. The first and last mass U.S. legalization program was in 1986. Since then, most immigrants who have received permanent resident visas (“green cards”) have done so as a result of family ties. However, there are long backlogs for most family-sponsored green-card categories. And, of course, some unauthorized immigrants do not have a family member who can sponsor them for a green card. A further complication is that changes to U.S. immigration policy in 1996 require unauthorized immigrants who crossed the border illegally (rather than overstayed a visa) to return home and wait in their home country for several years before they can receive a permanent resident visa and reenter the United

States.<sup>3</sup> This has resulted in many of them choosing to stay in place and living in mixed-status families, where some members of the family may be citizens, others permanent residents, and some unauthorized immigrants. Clearly, those members of the family with legal status who would have been able to petition for those without it can no longer do so.

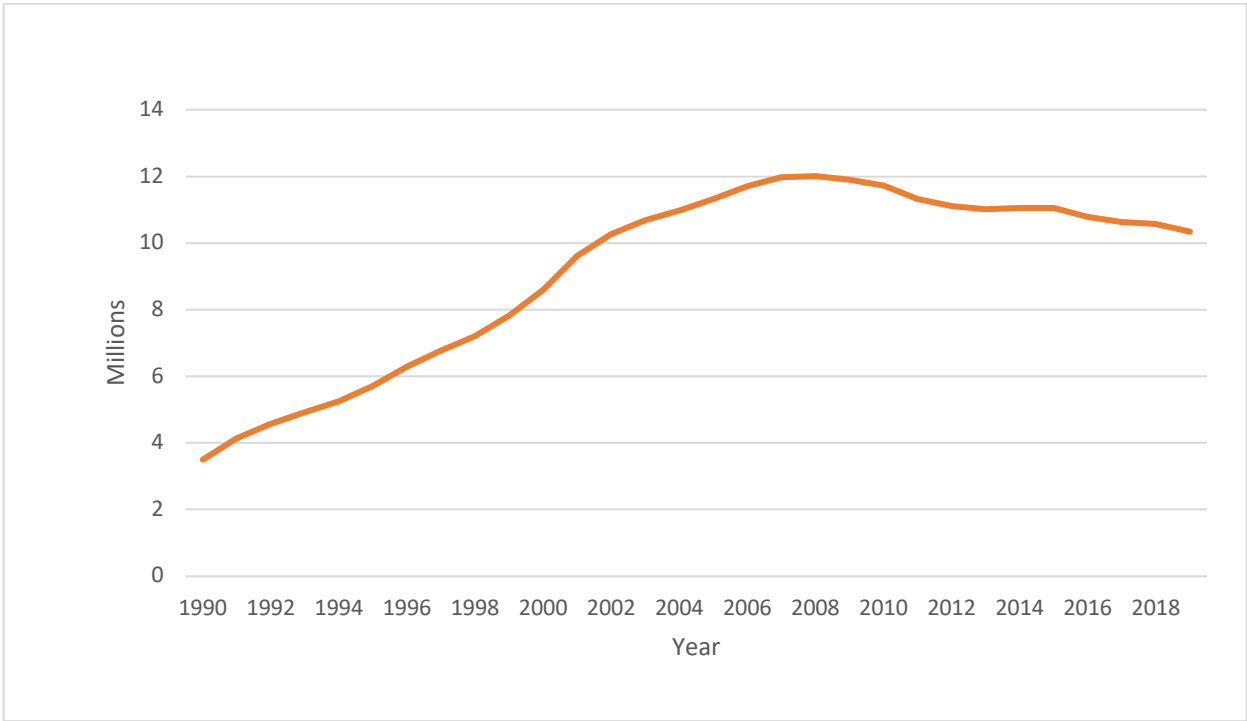
Most unauthorized immigrants work, often in low-paying jobs that could not be done remotely during the pandemic, and have been living in the country for over a decade. Many have put down deep roots in the United States, including having U.S.-born children. For some who arrived in the country as children, the United States is the only home they know. A few have even served in the military. It therefore may be tempting to view some groups of unauthorized immigrants as having earned legal status, perhaps because they are “essential” workers, childhood arrivals, or veterans. This policy paper argues that the benefits of a broad-based legalization program outweigh the costs and justify creating a program that is open to almost all unauthorized immigrants, not just a subset of them who are perceived to have earned it.

The next section provides an overview of the unauthorized immigrant population and its trends over the last three decades. The paper then explores the benefits and costs of a legalization program. The benefits are large enough that legalization should be comprehensive, not piecemeal. And finally, several additional changes should be put in place to avoid a return to mass illegal immigration in the future, including universal worksite enforcement and broader guest worker programs.

## **A Profile of Unauthorized Immigrants**

The number of unauthorized immigrants living in the United States has not grown in over a decade. As Figure 1 shows, the undocumented population swelled during the 1990s and early 2000s, peaking at about 12 million in 2007.<sup>4</sup> It then dropped during the Great Recession as dwindling job prospects in the United States led to smaller inflows and larger outflows. The subsequent slow economic recovery kept the size of the unauthorized immigrant population largely unchanged during the early 2010s. A combination of improving economic conditions in Mexico and tougher enforcement along the U.S.-Mexico border and in the U.S. interior then led to a slow but steady decline in the number of unauthorized immigrants even in the face of a strong U.S. job market prior to the start of the COVID-19 pandemic.

**Figure 1.** Estimated Unauthorized Immigrant Population, 1990–2019



Source: Warren and Warren, "Unauthorized Immigration to the United States; Warren, "In 2019, the US Undocumented Population Continued a Decade-Long Decline."

A generation ago, the typical unauthorized immigrant was a young Mexican male worker who periodically returned home and then crossed the U.S.-Mexico border illicitly again and often multiple times. Unauthorized immigrant flows were tightly linked to the U.S. business cycle.<sup>5</sup> Most unauthorized immigrants lived in California, Texas, Florida, New York, and Illinois, and they worked in agriculture, construction, and manufacturing. Their families mostly remained behind, and workers returned home to stay after they had reached a savings target or became too old to hold a physically strenuous job.

Several factors, among them changes in U.S. immigration policies and in origin-country conditions, led to a decline in circular migration and a shift toward more women and children among the undocumented population.<sup>6</sup> Increased difficulty crossing the border, the Mexican peso crisis during the mid-1990s, and legal status for (some) family members as a result of the 1986 legalization program motivated families to reunite in the United States. Unauthorized immigrants moved to parts of the United States, most notably Georgia and North Carolina, that traditionally had few unauthorized immigrants living there. Unauthorized immigrants also moved into new industries, many with year-round employment, including leisure and hospitality, landscaping, and other service sectors.

During the first two decades of the 21st century, the shares of unauthorized immigrants from Central America and Asia rose, and the share from Mexico fell. The predominant source of additions to the undocumented population shifted from people who crossed the border illegally (“entering without inspection”) to those who overstayed a visa, and the average length of stay in the country increased.<sup>7</sup> More recently, however, Mexico has again become a source of migrants, as U.S. labor demand has surged and economic conditions there have deteriorated, and public safety and security concerns have persisted. Even so, as a result of these many changes, there is no longer a typical unauthorized immigrant. Instead, the undocumented population is increasingly diverse by race/ethnicity, location, gender, age, and even education.

One characteristic that has changed little among unauthorized immigrants in recent decades is the high share of undocumented men who work. In a typical year, about 95% of working-age undocumented men are in the workforce. The main reason for this high rate is that they initially enter the country to work and send remittances. The large number of undocumented working men also reflects their relative youth and lack of access to the U.S. safety net. Undocumented men are more likely to be working than their legal or U.S.-born counterparts, and the difference is even larger when their relatively low average levels of education are taken into account.<sup>8</sup> Undocumented women, in contrast, are less likely to work than their legal or U.S.-born counterparts. The difference likely reflects cultural forces, childbearing, and concerns that working outside the home increases the risk of being caught and deported.

Unauthorized immigrant workers account for about 5% of the total U.S. workforce but a considerably higher share in some sectors. They are overrepresented in agricultural, food processing, construction, and service sector—particularly food service and hospitality—jobs. Relatively few work in the health care sector, but many home health aides and child caretakers are undocumented women.

Because of differences in their distribution across industries and occupations, a higher share of unauthorized immigrants work in jobs deemed essential during the COVID-19 pandemic. About 74% of unauthorized immigrant workers would be considered essential workers, compared with 69% of immigrant workers as a whole and only 65% of U.S.-born workers.<sup>9</sup> One in five essential workers in the United States is an unauthorized immigrant. This share is higher in states where a larger share of the workforce is foreign born. In Texas, for example, one in four essential workers is an unauthorized immigrant.

Some unauthorized immigrants have temporary permission to live and work in the United States. Most of these migrants qualified for the Deferred Action for Childhood Arrivals (DACA) program or the Temporary Protected Status (TPS) program. DACA was created in 2012 by the Obama administration and gives temporary legal status and work permits to unauthorized immigrants who entered or were brought into the United States as children and meet certain educational requirements. TPS gives temporary legal status and work permits to immigrants from countries designated by the president as unsafe for them to return to if they are already present in the United States when TPS status is designated.

Twelve countries are currently included in TPS. As of spring 2021, over 630,000 unauthorized immigrants were participating in DACA, and 320,000 in TPS.<sup>10</sup> Another several hundred thousand unauthorized immigrants are eligible for TPS under program changes made by the Biden administration.<sup>11</sup>

Asylum seekers comprise a final group worth noting. Asylum seekers whose applications are under review are not unauthorized immigrants, at least not until their applications are denied and they then fail to leave the country. The number of migrants asking for asylum when they arrive at the border or when apprehended after crossing the border has ballooned in recent years. Many of those migrants are families or unaccompanied children seeking to escape desperate conditions in El Salvador, Guatemala, and Honduras. Under a program called the Migrant Protection Protocol (MPP), the Trump administration began denying entry to asylum seekers, requiring them instead to wait in Mexico while their asylum applications were being processed in U.S. courts. The Biden administration tried to end MPP, but it was reimposed by a court ruling.

Once in the United States, asylum applicants can remain in the country until their claim is decided, a process that can take years. After 180 days, they can apply for temporary work authorization. If their claim for asylum is approved, they receive permanent residence. Approval rates have been falling since 2012 and by fiscal year 2020 had reached 26%.<sup>12</sup> How the surge in asylum seekers will affect the size of the unauthorized immigration population is, as yet, unclear. It is likely, however, that many who are denied asylum will choose to stay without authorization, deciding that returning to their home country is a less desirable option.

Despite a large unauthorized immigrant population and seemingly abundant demand for such workers, it has been 35 years since the United States had a large-scale legalization program. The 1986 Immigration Reform and Control Act (IRCA) included two components that in total enabled nearly 2.7 million migrants to legalize their status. One component was aimed at long-term residents, and the other at farmworkers. A smaller legalization program in 1997, the Nicaraguan Adjustment and Central American Relief Act (NACARA), allowed approximately 65,500 Nicaraguans, Cubans, Salvadorans, Guatemalans, and former Soviet nationals to adjust to legal status. Repeated attempts to enact comprehensive immigration reform that would include a legalization program failed to pass Congress during the George W. Bush and Obama administrations despite growing recognition of the benefits of such a program. There is pending legislation in Congress today, including a temporary amnesty for many unauthorized immigrants as part of the Build Back Better Act, but such a provision is unlikely to survive.

## **Benefits of a Legalization Program**

The primary beneficiaries of a legalization program are the migrants who are able to legalize their status. Those immigrants typically see their earnings increase as they become more able to move to better jobs, start businesses, and earn higher returns on their education and skills. Immigrants who legalized their status under IRCA saw wage increases

in the range of 6% to 20%, with slightly bigger effects among women than men.<sup>13</sup> Earnings also increased by 3% to 4% for men likely to have legalized their status under NACARA.<sup>14</sup> Studies of TPS and DACA beneficiaries show that receiving even just temporary legal status can boost immigrants' earnings.<sup>15</sup>

Some immigrants increase their labor supply after receiving legal status. An increase in work is more likely among women than among men, perhaps because undocumented women are more reluctant to risk workplace-related apprehension and deportation.<sup>16</sup> Labor supply increased among DACA recipients once they received work permits and could access better jobs. Unfortunately, this led in some cases to DACA students dropping out of university.<sup>17</sup> The drop-out effect could be due in part to the temporary nature of DACA. Students granted only temporary legal status may opt to take advantage of the work opportunity since they do not know whether they will be able to legally work in the future. Immigrants who get permanent legal status have a greater incentive to enroll or stay in school since they will earn larger returns to education and skills for their lifetime. In the longer run, those more-educated immigrants are likely to be more productive and to earn more.

A legalization program also benefits immigrants' U.S.-born children. Increased family incomes and greater stability create long-term gains via positive educational and health impacts. Research shows that Mexican-American young adults complete more years of school, have higher reading and math test scores, have better English proficiency, and ultimately earn more if their immigrant parents were able to legalize their status.<sup>18</sup> Families with U.S. citizen children become more willing to apply for government benefits, such as Medicaid and the Supplemental Nutrition Assistance Program (SNAP), when they no longer fear revealing their mixed status.<sup>19</sup> Improvements in health and nutrition confer long-term benefits for those children and society as a whole.

A legalization program creates broad-based economic benefits that are widely diffused throughout the economy and ultimately manifest as increased productivity and gross domestic output (GDP). Economic efficiency increases because beneficiaries are more willing and able to move to jobs that are a better match for their skills and to areas where demand for workers is strong. Increased immigration enforcement in the interior since the mid-2000s has caused many unauthorized immigrants to move deeper into the shadows in order to avoid deportation, and the growth in the number of employers using E-Verify to check new hires' legal status has trapped some undocumented workers in their current jobs.<sup>20</sup> Increased interior enforcement has effectively clogged the wheels of the labor market. The economic gains from a legalization program now would therefore likely dwarf those of earlier programs. The Penn Wharton Budget Model projects that a large-scale legalization program would boost GDP by 0.5% by 2050.<sup>21</sup> An estimate from the Center for American Progress suggests that a large-scale legalization program would increase GDP by \$1.7 trillion over 10 years, or about 0.7% of GDP, in addition to creating over 400,000 jobs.<sup>22</sup>



Lastly, a legalization program can confer some economic gains directly to U.S. natives beyond the children of newly legalized immigrants. U.S. natives (and other immigrants) who compete with unauthorized immigrants for jobs will presumably benefit from an even playing field. The newly legalized immigrants will see their bargaining power increase, causing employers to boost wages and improve working conditions.<sup>23</sup> Tax revenue will rise as formerly undocumented workers move onto the tax rolls and as their wages rise. Immigrant access to driver's licenses, bank accounts, and consumer credit will further benefit them and their communities as they spend and invest more. Greater willingness of newly legalized immigrants to interact with law enforcement and report crimes also benefits society as a whole.

## **Costs of a Legalization Program**

A legalization program involves costs as well as the economic benefits detailed above. The two most important downsides of a legalization program are its fiscal effects and the incentive effects it creates for future unauthorized immigrants.

Although a large-scale legalization program is likely to involve higher tax revenue, it may also result in higher expenditures. Fiscal costs may rise at both the federal and state levels. The majority of undocumented workers already pay income and payroll taxes.<sup>24</sup> Nevertheless, migrants' tax payments would rise after they receive legal status as they earn more and as those who are working off the books move into the formal sector and begin paying income and payroll taxes. However, their eligibility for transfer programs would rise as well. For example, many of them would eventually become eligible for the Earned Income Tax Credit and for Medicaid or health insurance subsidies under the Affordable Care Act. As noted above, take-up of benefits for which their U.S.-born children are already eligible would increase as well. In the longer run, they would be eligible for Medicare and Social Security benefits. Policymakers concerned about the fiscal costs of a legalization program therefore might want to limit newly legalized immigrants' eligibility for transfer payments beyond the restrictions on noncitizens imposed by the 1996 welfare reform law.<sup>25</sup>

A deeper concern is that a legalization program could lead potential migrants to hope the country will grant amnesty again in the future, particularly if the program does not include tough enforcement measures. This could cause an increase in unauthorized immigration, further fueled by smugglers who misrepresent the program to prospective clients. IRCA's combination of a legalization program with increased border enforcement and penalties on businesses that knowingly employed undocumented workers did not lead to the expected drop in the unauthorized immigrant population. After a short-term lull, that population resumed growing, as workers and employers realized IRCA's employment-related provisions had little bite. As discussed in more detail below, policymakers should pay attention to the lessons of IRCA when designing another large-scale legalization program.

## The Case for a Large-Scale Legalization Program

Although unauthorized immigrants who are DACA recipients (“Dreamers”) or essential workers may be the most obvious candidates for legalization, there are a number of reasons why a broad and inclusive program is preferable to a partial effort. To fully realize the economic gains from legalization, a legalization program should include all unauthorized immigrants who have lived in the country for several years. Importantly, a legalization program is not an unqualified amnesty—recipients would need to pass a criminal background check and perhaps have to pay a fine and back taxes.

Limiting a legalization program to “deserving” immigrants, like Dreamers and essential workers, would further marginalize the rest of the unauthorized immigrant population. This risks putting downward pressure on wages and working conditions of competing U.S. workers as well. There is little reason to think it would cause ineligible immigrants to leave the country in large numbers, particularly if some members of their family received legal status. The unauthorized population resumed growing within a few years of the 1986 legalization program.<sup>26</sup>

Defining Dreamers or essential workers also requires making many arbitrary decisions: What should be the age and education cutoffs for Dreamers? Which jobs should be considered essential? When must workers have held those jobs and for how long? If a worker was laid off from an essential job, such as one in food service, when the pandemic began, would that worker qualify? Would picking crops for a week during the pandemic qualify? What documentation is adequate to prove that an unauthorized immigrant was an essential worker?<sup>27</sup> Any legalization program will require making some arbitrary decisions regarding eligibility, but the fewer such decisions, the better.

Further, if the goal is to ensure that the country has an essential workforce, limiting a legalization program to immigrants who at a certain point in time held a job deemed essential does not guarantee that they will continue to work in those jobs in the future. Immigrants have historically moved into higher-paying jobs after gaining legal status. One option might be to require that newly legalized workers remain in the same occupation for a few years. But, beyond its dubious legality, such a requirement would reduce the efficiency gains associated with a legalization program.

Unauthorized immigration has traditionally offered several economic advantages. For over a generation, employers have regarded unauthorized immigrants as a ready source of low-cost, low-skilled labor. Unauthorized immigrants have helped meet employers’ demand for workers willing to take jobs that require little training but cannot easily be automated and often are physically challenging and seasonal. Unauthorized immigrants have been more willing than U.S. natives to move to parts of the country where labor demand is relatively strong.<sup>28</sup> They have entered in larger numbers when the economy was booming and jobs were relatively plentiful, and some have returned home during economic downturns. In doing so, they have helped smooth business-cycle fluctuations.

Legalizing the unauthorized immigrant population reduces some of these economic advantages, particularly if combined with measures to stem the population's future growth. However, increased immigration enforcement over the last two decades has already mitigated many of these advantages. The intensified enforcement of the U.S.-Mexico border has made it more expensive and riskier to cross, reducing the responsiveness of unauthorized immigrant inflows to changes in U.S. economic conditions. The difficulty of reentering the country has reduced return migration during economic downturns. Increased interior enforcement has made some unauthorized immigrants hunker down and become less willing or able to move jobs and areas, weakening their traditional role as labor market arbitragers. A large-scale legalization program would unlock those workers' potential and boost their contributions to the U.S. economy.

### **Other Key Components of a Large-Scale Legalization Program**

The U.S. experience after IRCA shows that a one-time legalization program, even a large-scale one, alone will not lead to long-term reductions in unauthorized immigration. Minimizing future unauthorized immigration requires addressing its fundamental causes: employer demand for workers to fill low-skilled jobs, and inadequate legal avenues for less-educated immigrants to enter and remain in the country.

To succeed in reducing unauthorized immigration, a legalization program should be combined with increased worksite enforcement. The movement of newly legalized migrants into better jobs creates an incentive for more workers to cross the border or overstay a visa to fill the now-vacant jobs.<sup>29</sup> Upward wage pressure due to legalization further encourages unauthorized immigration.

The IRCA tried to weaken the jobs magnet that attracts many unauthorized immigrants by requiring new hires to show employers documents proving their employment eligibility. However, workers and employers quickly learned that fraudulent documents would suffice. The federal government then created E-Verify to check the validity of those documents but did not mandate that employers use it. In most states that did, the unauthorized immigration population fell.<sup>30</sup> Increased worksite enforcement therefore should include a requirement that all employers use E-Verify to check workers' employment eligibility, with sizable penalties for noncompliance. Photo matching with official records in the E-Verify database is necessary to combat identity fraud.

Policymakers should also expand temporary foreign worker programs in order to reduce dislocations for employers that have come to depend on having a ready source of undocumented workers and for consumers who buy the goods and services those workers produce. The United States has two main temporary foreign worker programs for less-skilled jobs: the H-2A program for agricultural jobs and the H-2B program for

nonagricultural jobs. While the H-2A program is uncapped, the H-2B program is capped at 66,000 visas per fiscal year. Further, the visas can only be used for workers who will hold temporary or seasonal jobs, not year-round jobs. As newly legalized workers move out of low-level, year-round jobs in the construction and leisure and hospitality sectors, among others, employers will need workers to fill those positions.

Some argue that temporary foreign worker programs for less-skilled jobs should not be expanded in order to increase wage pressures at the bottom end of the labor market and create job opportunities that would be desirable to U.S.-born workers.<sup>31</sup> Although higher wages might entice more U.S.-born workers to fill those jobs, there is typically a ceiling to how much employers will pay, and then they cut jobs. Higher wages also mean higher prices for all consumers, which often hits low-income households the hardest. Further, many of those jobs would still remain hard to fill: they are arduous, in undesirable locations, have little room for career advancement, or are temporary. Some industries that cannot hire move their jobs overseas, as illustrated by the exodus of fruit and vegetable production to Mexico and other countries.

There is also a large and growing mismatch between the qualifications of most U.S.-born workers and the jobs that unauthorized immigrants and workers with H-2A and H-2B visas typically fill. The share of the U.S.-born working-age population that has not completed high school has been falling for decades, and the ongoing drop in U.S. birth rates presages fewer teenaged workers for years to come. A wave of early retirements during the pandemic has further exacerbated this mismatch.

Long after the pandemic ends, workers will still be needed to take less-skilled jobs that cannot be automated or offshored. The pandemic revealed the essential nature of many of those jobs, from home health care aides to construction laborers to meatpackers and poultry processors. Immigration is an obvious way to fill some of those jobs. Immigration also helps slow population aging and ease the strain on government budgets posed by pay-as-you-go programs and the falling ratio of workers to retirees. It is better to create legal ways for foreign-born workers to enter rather than to rely on unauthorized immigration to fill labor market gaps.

## **Conclusion**

The COVID-19 pandemic highlighted the importance of unauthorized immigrant workers, first in working in front-line jobs where they were exposed to COVID-19 infection and then in helping fill gaps during the recovery as job vacancies soared amid labor shortages. While the pandemic shone a spotlight on these workers, the U.S. labor market has depended on unauthorized immigrants for decades. About 5% of the labor force is undocumented, a share that is much higher in certain industries and occupations.

Well-meaning immigrant advocates have seized on the pandemic to argue for legalizing workers in essential jobs. But limiting legalization to an arbitrarily defined subgroup of undocumented immigrants does not go far enough to solve the problem of illegal

immigration. Only a comprehensive immigration reform with universal worksite enforcement and expanded legal pathways for foreign workers can offer a chance at breaking the cycle. In the long run, the benefits of such a plan will outweigh the costs. Passing immigration reform is very difficult. Although there is general public support for giving legal status to qualified undocumented immigrants,<sup>32</sup> the government faces a credibility problem. Piecemeal efforts have failed in the past. Even wholesale legalization, like in the 1986 IRCA, did not succeed in mitigating unauthorized migration because other pieces were not in place, like effective worksite enforcement. Given past mishaps, the prospect of illegal immigration continuing in the future is hurting policymakers' ability to help immigrants today.<sup>33</sup>

The U.S. economy is growing at a rapid clip but faces looming demographic realities that include the retirement of the baby boomers, a falling birth rate, and the continued aging of the workforce. Low-skilled workers in particular are increasingly hard to come by, yet jobs for them persist. Automation is limited in its capacity to efficiently replace many frontline workers. Policies that support labor force productivity and growth, and hence economic growth, will likely need to include provisions for a broad legalization and legal pathways for foreign workers of all skill levels.

## Endnotes

<sup>1</sup> See Donald Kerwin et al., *US Foreign-Born Essential Workers by Status and State, and the Global Pandemic*, Center for Migration Studies, May 2020, <https://cmsny.org/publications/us-essential-workers/> for estimates of the number of unauthorized immigrants who are essential workers. Essential workers are those who hold jobs in essential critical infrastructure categories as designated by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (DHS CISA) in 2020.

<sup>2</sup> See Mark Hugo Lopez, Jeffrey Passel, and D'Vera Cohn, "Key Facts About the Changing U.S. Unauthorized Immigrant Population," Pew Research Center, April 13 2021, <https://www.pewresearch.org/fact-tank/2021/04/13/key-facts-about-the-changing-u-s-unauthorized-immigrant-population/> and Robert Warren, "In 2019, the US Undocumented Population Continued a Decade-Long Decline and the Foreign-Born Population Neared Zero Growth," *Journal on Migration and Human Security* 9, no. 1 (April 2021): 31–43, <https://doi.org/10.1177/2331502421993746> for recent estimates. Estimates of the unauthorized immigrant population typically include certain groups that have conditional temporary legal status, such as Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS) program participants.

<sup>3</sup> Unauthorized immigrants, as well as all applicants for some categories of family-sponsored visas, must return to their origin country as part of process of applying for legal permanent residence. The 1996 Illegal Immigration Reform and Immigrant Responsibility Act barred migrants who had been living in the U.S. illegally from reentering the country for three or 10 years, depending on how long they lived in the U.S. without legal status. Migrants facing this reentry bar often choose to remain in the U.S. illegally rather than return home for years. Estimates suggest that over 10% of unauthorized immigrants live with a relative—most often a U.S. citizen or permanent resident spouse or a U.S. citizen adult child—who could sponsor them for permanent residence (see Donald Kerwin and Robert Warren, "Putting Americans First: A Statistical Case for Encouraging Rather than Impeding and Devaluing US Citizenship," *Journal on Migration and Human Security* 7, no. 4 (December 2019): 108–122, <https://doi.org/10.1177/2331502419894286>).

<sup>4</sup> Warren, "In 2019, the US Undocumented Population Continued a Decade-Long Decline and the Foreign-Born Population Neared Zero Growth," 31–43; Robert Warren and John Robert Warren, "Unauthorized Immigration to the United States: Annual Estimates and Components of Change, by State, 1990 to 2010," *International Migration Review* 47, no. 2 (July 2018): 296–329, <https://doi.org/10.1111/imre.12022>.

<sup>5</sup> See Gordon H. Hanson and Antonio Spilimbergo, "Illegal Immigration, Border Enforcement, and Relative Wages: Evidence from Apprehensions at the U.S.-Mexico Border," *American Economic Review* 89, No. 5 (December 1999): 1337–1357, <https://doi.org/10.1257/aer.89.5.1337>; Gordon H. Hanson and Craig McIntosh, "The Demography of Mexican Migration to the United States," *American Economic Review* 99, no. 2 (May 2009): 22–27, <https://doi.org/10.1257/aer.99.2.22>; Pia M. Orrenius and Madeline Zavodny, "Unauthorized Mexican Workers in the United States: Recent Inflows and Possible Future Scenarios - Working Paper 436," Center for Global Development,

September 12, 2016, <https://www.cgdev.org/publication/unauthorized-mexican-workers-united-states-inflows>.

<sup>6</sup> Douglas S. Massey, “Immigration Policy Mismatches and Counterproductive Outcomes: Unauthorized Migration to the U.S. in Two Eras,” *Comparative Migration Studies* 8, no. 21 (2020): 1–27, <https://doi.org/10.1186/s40878-020-00181-6>.

<sup>7</sup> Massey, “Immigration Policy Mismatches and Counterproductive Outcomes,” 1–27.

<sup>8</sup> George Borjas, “The Labor Supply of Undocumented Immigrants,” *Labour Economics* 46 (June 2017): 1–13, <https://doi.org/10.1016/j.labeco.2017.02.004>.

<sup>9</sup> Kerwin et al., “US Foreign-Born Essential Workers by Status and State, and the Global Pandemic.”

<sup>10</sup> See Andorra Bruno, *Deferred Action for Childhood Arrivals (DACA): By the Numbers*, Congressional Research Service Report R47664, April 14, 2021 for DACA participants and Jill H. Wilson, *Temporary Protected Status and Deferred Enforced Departure*, Congressional Research Service Report RS20844, May 28, 2021, for TPS participants.

<sup>11</sup> Wilson, *Temporary Protected Status and Deferred Enforced Departure*.

<sup>12</sup> See “Asylum Denial Rates Continue to Climb,” TRAC Reports, October 28, 2020, <https://trac.syr.edu/immigration/reports/630/>.

<sup>13</sup> Catalina Amuedo-Dorantes, Cynthia Bansak, and Steven Raphael, “Gender Differences in the Labor Market: Impact of IRCA,” *American Economic Review* 97, no. 2 (May 2007): 412–416, <https://doi.org/10.1257/aer.97.2.412>; Silvia H. Barcellos, “Legalization and the Economic Status of Immigrants,” RAND Working Paper No. WR-754, RAND Corporation, <https://doi.org/10.2139/ssrn.1604230>; Sherrie A. Kossoudji and Deborah A. Cobb-Clark, “Coming out of the Shadows: Learning about Legal Status and Wages from the Legalized Population,” *Journal of Labor Economics* 20, no. 3 (2002): 598–628, <http://dx.doi.org/10.1086/339611>; Fernando Lozano and Todd Sorensen, “The Labor Market Value to Legal Status,” Institute of Labor Economics Discussion Paper 5492, February 2011, <http://ftp.iza.org/dp5492.pdf>; Francisco L. Rivera-Batiz, “Undocumented Workers in the Labor Market: An Analysis of the Earnings of Legal and Illegal Mexican Immigrants in the United States,” *Journal of Population Economics* 12 (February 1999): 91–116, <https://doi.org/10.1007/s001480050092>.

<sup>14</sup> Neeraj Kaushal, “Amnesty Programs and the Labor Market Outcomes of Undocumented Workers,” *Journal of Human Resources* 41 (2006): 631–647, <https://doi.org/10.3368/jhr.XLI.3.631>.

<sup>15</sup> Pia M. Orrenius and Madeline Zavodny, “The Impact of Temporary Protected Status on Immigrants’ Labor Market Outcomes,” *American Economic Review* 105, no. 5 (May 2015): 576–580, <https://doi.org/10.1257/aer.p20151109>; Nolan G. Pope, “The Effects of DACamentation: The Impact of Deferred Action for Childhood Arrivals on Unauthorized Immigrants” *Journal of Public Economics* 143 (November 2016): 98–114, <https://doi.org/10.1016/j.jpubeco.2016.08.014>.

<sup>16</sup> See Orrenius and Zavodny, “The Impact of Temporary Protected Status on Immigrants’ Labor Market Outcomes”; Ying Pan, “The Impact of Legal Status on Immigrants’ Earnings and Human Capital: Evidence from the IRCA 1986,” *Journal of Labor Research* 33 (February 2012): 119–142, <https://doi.org/10.1007/s12122-012-9134-0>.

<sup>17</sup> Amy Hsin and Francesc Ortega, “The Effects of Deferred Action for Childhood Arrivals on the Educational Outcomes of Undocumented Students,” *Demography* 55, no. 4 (June 2018): 1487–1506, <https://doi.org/10.1007/s13524-018-0691-6>.

<sup>18</sup> Frank D. Bean et al., “The Educational Legacy of Unauthorized Migration: Comparisons Across U.S.-Immigrant Groups in How Parents’ Status Affects Their Offspring,” *International Migration Review* 45, no. 2 (July 2018): 348–385, <https://doi.org/10.1111/j.1747-7379.2011.00851.x>.

<sup>19</sup> Tara Watson, “Inside the Refrigerator: Immigration Enforcement and Chilling in Immigrant Medicaid Participation,” *American Economic Journal: Economic Policy* 6, no. 3 (August 2014): 313–338, <https://doi.org/10.1257/pol.6.3.313>, finds that increased enforcement reduces the willingness of mixed-status families to take up Medicaid.

<sup>20</sup> Pia Orrenius, Madeline Zavodny, and Emily Gutierrez, “Do State Employment Eligibility Verification Laws Affect Job Turnover?,” *Contemporary Economic Policy* 36, no. 2 (August 2017): 394–409, <https://doi.org/10.1111/coep.12251>.

<sup>21</sup> See “Demographic and Economic Effects of President Biden’s Proposal to Legalize Immigrants,” Penn Wharton Budget Model, <https://budgetmodel.wharton.upenn.edu/issues/2021/3/31/demographic-and-economic-effects-of-president-bidens-legalization-proposal>.

<sup>22</sup> Giovanni Peri and Reem Zaiour, *Citizenship for Undocumented Immigrants Would Boost U.S. Economic Growth*, Center for American Progress, June 14, 2021, <https://www.americanprogress.org/issues/immigration/reports/2021/06/14/500433/citizenship-undocumented-immigrants-boost-u-s-economic-growth/>.

<sup>23</sup> However, this is somewhat balanced out by increased competition for other jobs as newly legalized immigrants move across sectors and areas. Nonetheless, competition at the very bottom of the labor market would likely ease, benefitting the lowest-paid U.S. workers. Gains to these workers are a transfer from business owners, so the effects are distributional rather than an increase in GDP.

<sup>24</sup> The Internal Revenue Service reported that almost 4.4 million tax returns were filed with an ITIN for 2015 and totaled \$23.6 billion paid in taxes (<https://www.taxpayeradvocate.irs.gov/reports/2015-annual-report-to-congress/full-report/>). The Social Security Administration estimated that it received \$13 million in payroll tax contributions from unauthorized immigrants and their employers in 2010 (<https://www.everycrsreport.com/reports/IF10820.html>). For a longer discussion, see Hunter Hallman, “How do Undocumented Immigrants Pay Federal Taxes? An Explainer,” Bipartisan Policy Center, March 28, 2018, <https://bipartisanpolicy.org/blog/how-do-undocumented-immigrants-pay-federal-taxes-an-explainer/>.



<sup>25</sup> The 1996 Personal Responsibility and Work Opportunity Reconciliation Act restricted most immigrants' eligibility for means-tested programs until they become naturalized citizens. States can opt to make noncitizens eligible for some programs at their own expense.

<sup>26</sup> Pia Orrenius and Madeline Zavodny, "Do Amnesty Programs Reduce Undocumented Immigration? Evidence from ICRA," *Demography* 40, No. 3 (August 2003): 437–450, <https://doi.org/10.1353/dem.2003.0028>.

<sup>27</sup> Allegations of widespread document fraud by employers and migrants plagued the Special Agricultural Worker (SAW) program, which enabled over 1 million migrants to gain legal status as part of the 1986 IRCA program. Up to 200,000 SAW applications were believed to be fraudulent. (See John F. Shaw, "Reported Fraud in the Implementation of IRCA: A Government Response," *In Defense of the Alien* 12 (1989): 16–19, <http://www.jstor.org/stable/23143046>.)

<sup>28</sup> See, for example, Brian Cadena and Brian Kovac, "Immigrants Equilibrate Local Labor Markets: Evidence from the Great Recession," *American Economic Journal: Applied Economics* 8, no. 1 (January 2016): 257–290, <https://doi.org/10.1257/app.20140095>.

<sup>29</sup> The U.S. experience after the 1986 legalization program offers a compelling example: more agricultural employers continued to rely on new unauthorized immigrant labor than paid higher wages or improved working conditions in order to retain newly legalized workers or shifted to less labor-intensive crops (see Philip L. Martin, "Good Intentions Gone Awry: IRCA and U.S. Agriculture," *Annals of the American Academy of Political and Social Science* 534, no. 1 (1994): 44–57, <https://doi.org/10.1177%2F0002716294534001004>). Slightly over one-third of U.S.-hired crop farmworkers are estimated to be undocumented (see <https://migration.ucdavis.edu/rmn/blog/post/?id=2643>).

<sup>30</sup> Sarah Bohn, Magnus Lofstrom, and Steven Raphael, "Did the 2007 Legal Arizona Workers Act Reduce the State's Unauthorized Immigrant Population?," *Review of Economics and Statistics* 96, no. 2 (May 2014): 258–269, [https://doi.org/10.1162/REST\\_a\\_00429](https://doi.org/10.1162/REST_a_00429); Pia Orrenius and Madeline Zavodny, *Digital Enforcement: Effects of E-Verify on Unauthorized Immigrant Employment and Population*, Federal Reserve Bank of Dallas, 2017.

<sup>31</sup> See, for example, Daniel Costa, "Temporary Migrant Workers or Immigrants? The Question for U.S. Labor Migration," *RSF: The Russell Sage Foundation Journal of the Social Sciences* 6, no. 3 (November 2020): 18–44, <https://doi.org/10.7758/RSF.2020.6.3.02>.

<sup>32</sup> See "Most Americans Are Critical of Government's Handling of Situation at U.S.-Mexico Border," Pew Research Center, May 3, 2021, <https://www.pewresearch.org/politics/2021/05/03/most-americans-are-critical-of-governments-handling-of-situation-at-u-s-mexico-border/>.

<sup>33</sup> For a discussion of potential legislative options, see Tony Payan and Pamela Lizette Cruz. 2021. *Pathways to Immigration: Prioritizing the Undocumented Population Residing in the United States*. Issue brief no. 08.30.21. Rice University's Baker Institute for Public Policy, Houston, Texas, <https://www.bakerinstitute.org/research/pathways-immigration-prioritizing-undocumented-population-residing-united-states/>.