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Porous Borders and Guest Workers:

**Reactions to "The Fair and Secure
Immigration Reform" Proposal**

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On January 7, 2004 President George W. Bush announced that he would ask Congress to pass an immigration reform measure that was described as "The Fair and Secure Immigration Reform" bill. The announcement came as plans were being developed for a March 6 meeting with his Mexican counterpart, President Vicente Fox, over border security, immigration control, revisions to NAFTA, and discussions about the creation of a Central American free trade zone. The announcement also came at a time when the presidential election season was beginning to heat up, and when public opinion polls suggested that it was too early to tell whether economic issues, particularly those associated with the jobless recovery that had resulted in the loss of over 3 million jobs during the Bush presidency, or war and security would be paramount in the minds of voters. The Bush administration was playing a delicate balancing act, attempting to craft a bill that would garner needed votes from vital constituencies, or at least not alienate them, which included both pro-immigration and anti-immigration elements.

In the words of the White House website (www.whitehouse.gov) the Fair and Secure Immigration Reform bill calls for the implementation of "a new temporary worker program to match willing foreign workers with willing U.S. employers where no Americans can be found to fill the jobs. The program would be open to new foreign workers and to the undocumented men and women currently employed in the U.S. This new program would allow workers who currently hold jobs to come out of hiding and participate in America's economy while not encouraging further illegal behavior." The announced goals of the reform were threefold: to create a more prosperous American economy, to enhance homeland security, and to construct a more compassionate system than the existing one.

The website goes on to describe five principles that presumably underpin the plan. The first reflects the administration's effort to frame virtually all of their policy initiatives in light of 9/11 and the political message that this administration has made the nation more secure since that tragedy. Thus, the first principle involves "protecting the homeland by controlling our borders." Second, the measure is intended to bolster the American economy by matching foreign workers to specific employers in an efficient and timely manner. Third, reiterating the campaign theme of "compassionate conservatism" when he first ran for President, the measure is intended to promote compassion by preventing exploitation (it should be noted that the proposal is evasive about how this would be accomplished) and allowing the temporary worker to travel back-and-forth between the U.S. and their country of origin. Fourth, the plan is designed to provide incentives for the temporary workers to return to their homelands after their work period has ended.

In this regard, the plan calls for a three-year period of temporary worker status, with the possibility of renewal for an additional three-year period, after which time the worker would be expected to leave the U.S. Finally, the bill was intended to protect the rights of legal immigrants. What this meant was that the transformation of undocumented workers to documented ones would not place them in the queue for citizenship. This was not,

the administration insisted, an amnesty program, for if it was it would in effect reward past illegal behavior and encourage such conduct in the future.

Specific provisions of the proposed legislation called for requiring that employers "make every reasonable effort to find an American to fill a job before extending job offers to foreigners." Employers who violate existing workplace laws pertaining to the hiring of illegal workers would confront increased governmental enforcement of those laws. It should be noted that the plan does not call for increased penalties, simply increased enforcement of existing penalties. An incentive to return home-only one is identified. It is based on what is described as an effort on the part of the U.S. government to forge agreements with immigrant exporting countries that would allow temporary workers to receive credit in their nation's retirement systems and to promote the establishment of tax-preferred savings accounts that workers can collect once they return home.

The proposal does not rule out the possibility that some of the temporary workers might be able to seek U.S. citizenship, but does state that a temporary worker card does not put the individual on the path to a green card, which is needed if a person is going to be permitted five years later to apply for citizenship. There is a studied ambiguity about this aspect of the plan. Without specifying who would be eligible and under what conditions, the website stresses two features of what is touted as a "fair and meaningful citizenship process." The first stresses a point made earlier, namely that formerly undocumented workers will be placed at the end of the waiting list. Second, without providing detail, it appears that new candidates for citizenship will have an additional hurdle added to the process insofar as they will have an "obligation to learn the facts and ideals that have shaped America's history." One feature of the plan not mentioned in this list, but addressed in a section dealing with frequently asked questions concerned the family members of temporary workers. Family members would be able to receive temporary visas if the worker is able to indicate that he or she can financially support them.

The Bush administration's 2004 proposal falls into a line of similar initiatives during the past two decades. It is framed in a way that seeks to avoid alienating either of the Republican Party's key constituencies: anti-immigration forces and business interests intent on having a steady supply of immigrant labor. There is some thought that this legislation will not be pushed aggressively between now and the presidential election in November. Indeed, some think that it is already dead on arrival. Opposition to the plan emerged quickly. A review of some of the criticisms is instructive, for it highlights the political fault lines within American society and speaks to the limits to enacting significant changes in current immigration law (Kivisto 2003).

Organizations that are advocates for immigrant labor, such as the National Employment Law Project (www.nelp.org) contend that the plan focuses on the needs of employers and not workers, defining it as a contemporary version of the bracero program. NELP is equally critical of the Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act proposed by conservative Republican Congressman Charles Norwood that is pitched as part of homeland security measures, but which is seen by this organization as an attempt to get state and local police authorities involved in enforcing immigration laws, something they do not do at the present time. NELP is more sympathetic to a bipartisan reform bill offered by Democratic Senate leader Tom Daschle and Republican Senator Charles Hagel.

The National Network for Immigrant and Refugee Rights (www.nnirr.org) echoed the reaction of NEPL, accusing the President of peddling "false hopes," designed to insure that there is a large pool of cheap labor to perform 3D jobs. It is described as no more than a guestworker program intended to benefit certain categories of employers. The fact that the plan would be overseen by the Department of Homeland Security is faulted because this newly created cabinet level department established in the aftermath of 9/11 is not seen as an agency particularly concerned with protecting individual rights. The bureaucratic location of this proposal, in other words, raises concerns about whether the President is being sincere about his oft-stated desire to be a "compassionate conservative."

Faith-based groups, particularly mainline Protestant and Roman Catholic, voiced similar concerns. Some groups working with immigrants expressed skepticism about whether the plan would actually address the human rights problem associated with human trafficking, particularly along the Mexican-U.S. border. The American Friends Service Committee (www.afsc.org) argued that the proposals offered by the administration plan "fall well short of the evolving demands of international law and the ethics of global justice." Moreover, it links the plan to both NAFTA and the proposed Free Trade Area of the Americas (FTAA), which are depicted as "causes of upheaval and cruelty." The Mennonite Central Committee declared that the current immigration system is broken and the President's plan will do nothing to fix it. The Catholic Legal Immigration Network faults the plan for not having a provision for permanent residency. These are typical reactions on the part of liberal religious organizations. To my knowledge, fundamentalist church bodies have not taken a stand on this particular matter, perhaps reflecting the fact that immigration is not a front-burner issue for them, and their front-burner issues (particularly at the moment abortion and gay marriage) are preoccupying them.

What about organized labor? John Sweeney (www.aflcio.org), speaking as the head of the largest labor organization in the U.S., the AFL-CIO took a position similar to that of liberal religious denominations. In stark contrast to the position of organized labor as recently as a quarter of a century ago, he stressed worker solidarity by stating that the Bush administration's plan "is a hollow promise for hardworking, undocumented workers, people seeking to immigrate to the U.S. and American workers alike. It creates a permanent underclass of workers who are unable to fully participate in democracy. The plan deepens the potential for abuse and exploitation of these workers, while undermining wages and labor protections for all workers." Sweeney's criticism was echoed by United Farm Workers of America President Arturo Rodriguez (the organization is an affiliate of the AFL-CIO), who criticized the proposal for its failure to offer a "path for hardworking immigrants to earn a green card" (www.ufw.org). Similarly, the Farmworker Justice Fund found the proposal to be "ill-conceived."

What about the organizational voices of various ethnic groups? Among Asian immigrants one can find both the Asian Pacific American Labor Alliance and the National Asian Pacific American Legal Consortium expressing disappointment over the plan. The National Federation of Filipino American Associations described its reservations and its preference for two bipartisan bills currently working their way through Congress, the AgJobs bill which would permit 500,000 undocumented agricultural workers already in the U.S. to become legal residents and the Dream Act, which allows the children of undocumented workers to be eligible for in-state college tuition costs and would be able to pursue a path to citizenship. The National Korean American Service and Education Con-

sortium concluded that the administration's plan "fails to address the legitimate concerns of immigrant communities" and will result in the legalization of "a system of cheap and exploitable labor."

Within the Latino community, which will be most impacted by the proposed legislation, there was evidence of a division. The oldest Mexican-centered Latino organization in the U.S. is the League of United Latin American Citizens (LULAC). The organization's president was in the audience at the White House when President Bush made his January 7 announcement. The Mexican American Legal Defense and Educational Fund viewed the plan as "a step in the right direction," but voiced concern that Mexicans were not receiving their due share of permanent residency green cards. Both of these groups represent the established Mexican American community, which has often been ambivalent about more recent immigrants, particularly the undocumented, because they are sometimes seen as a competitive threat in the labor market.

On the other hand, the National Council of La Raza was highly critical of the Bush plan for reasons little different from the other critics cited above. In addition, they accused the administration of playing election-year politics, offering a plan that appears in some ways on the surface to be generous in order to appeal to Latino voters—who may play a significant electoral role in certain key states, including California, Texas, and Florida.

As would be expected, certain business interests were the most enthusiastic supporters of this guestworker plan. This was certainly the case with agricultural growers and with corporations that employ substantial numbers of immigrant workers, particularly those in the food and apparel industries. Perhaps the largest example is Tyson's Foods, where a substantial majority of workers at the corporation's meat processing plants are immigrants. It has long been seen as a major employer of undocumented workers, though the company denies that they hire illegals purposely. Not surprisingly, these are business interests that have given generously to the Bush campaign treasury. They seek substantial numbers of workers at the low-skilled end of the spectrum, and given a general strategy of preventing unionization of such workers to occur, the idea of a temporary guestworker program is unusually attractive, for such workers are perceived to be generally compliant. Since their work permits are dependent upon employers stating there is a need for their services, it is unlikely that they would engage in confrontational tactics concerning wages, benefits, or work conditions.

At the same time, the most aggressive anti-immigrant organizations in the country are also part of the Republican Party's political base. Thus, Republican legislators in some key immigrant-receiving states have recently sponsored a variety of anti-immigrant measures. This includes Save Our State in California and Protect Arizona Now, which is supported by over 80% of registered Republican voters in that state. A measure currently being considered in Colorado would add to the list of services already denied to undocumented immigrants by barring such immigrants from immunizations and library cards. Conservatives supporting these measures are critical of any effort that would allow taxpayer dollars to support undocumented immigrants in any way. In contrast to liberals, who see the Bush plan as unfair to immigrants, this constituency sees it as unduly generous.

Given this constellation of constituencies and the ideological predilections of the Bush administration, it is perhaps not surprising that its immigration reform plan has taken

the form that it has. What is perhaps most significant about it is that it is primarily a type of contract labor that is designed principally with unskilled immigrants from Mexico and Central America in mind. As such, it bears an uncanny resemblance to the Bracero Program that functioned to supply employers with unskilled labor for specified periods of time between 1942 and 1964. The Bracero Program was intended to offer a tap on/tap off approach to immigrant labor needs on the part of U.S. employers. Temporary workers who were ineligible for citizenship meant that there was no need to worry about assimilating these newcomers. Problems arose when these "guests" were "asked" to return home and refused. Thus, during the recession of the early 1950s, the Immigration and Naturalization Service engaged in draconian round-ups of those who had overstayed their contracts-in a now infamous campaign known as Operation Wetback. The Bracero Program came under increasing attack during the early 1960s, as spokespersons for the temporary workers increasingly posed their plight in terms of a campaign for fundamental civil rights-rights that were associated with citizenship.

In this light, the Bush administration would at first glance appear to be simply repeating history. But history doesn't really repeat itself. For one thing, immigrants today have considerably more organized support-particularly from faith-based organizations, civil rights groups, and organized labor-than their earlier historical counterparts. Of particular significance is the turn-about of organized labor. Once a voice of immigration restriction, it has become increasingly sympathetic to immigrants, whom labor sees as potential new recruits rather than as enemies. Secondly, the U.S. operates in a world of transnational organizations that have increasingly shaped the discourse about fundamental human rights. Thus, the U.S. cannot operate in a vacuum, however unilateralist the current administration would like to be. A third and related difference is that the nations of origin of many immigrants groups have become increasingly involved in the lives of their emigrants, and many have endorsed dual citizenship as a mechanism for permitting immigrants to be political transnationals.

Mexico recently passed legislation that makes dual citizenship possible. At the same time, both the federal and state governments in Mexico have sponsored transnational immigrant organizations. For example, in western Illinois the governor of the Mexican state of Guanajato has actively supported the establishment of locally-based organizations that are designed to address the needs of immigrants while simultaneously encouraging them to remain connected to Mexico in general and to their hometowns and villages in particular. All of these serve to circumscribe the extent to which the new arrivals can be exploited with impunity and remain fundamentally powerless in the process.

At the same time, it is important to remember that these immigrants are labor migrants, or to borrow the words of immigration historian John Bodnar (1985), "children of capitalism." They are caught up in the global capitalist system; their mobility is to large extent predicated on that system. The movement of workers in the global economy has been decidedly from the underdeveloped nations of the South to the developed industrial nations of the North.

In the case of the U.S., it just happens to be the case that the North and South share a 2,000 mile long common border that runs from the Pacific Ocean to the Gulf of Mexico. Anti-immigration forces have converged with those promoting security concerns as the paramount issue in seeking to create a fortress America mentality. A reflection of this

can be seen in part in the form of long miles of fencing separating the U.S. from Mexico and a border patrol of 10,000.

Despite such efforts, the border is and will remain porous. None of the several previous revisions to the 1965 act have changed that fact. And certainly if the Bush administration plan became law, neither would it. Indeed, this plan fits into a larger picture that Douglas Massey and his associates (2002) have appropriated called a policy of "smoke and mirrors." Nearly four decades after the legislation that enabled mass immigration to resume, the U.S. continues to receive substantial numbers of newcomers, as permanent residents, under the provisions of various employment and student visas, and as undocumented immigrants. This is the case despite the opposition of a majority of the public to the current rate of immigration. Free marketers and cultural cosmopolitans continue to be the most influential forces shaping American immigration. Thus, at least for the immediate future, we can expect immigration to continue, with the various efforts aimed at containing, controlling, and structuring the flow of immigrants amounting to tinkering with a structure that in fundamental ways is not being seriously challenged.

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