

Immigration Policy Making at State and Local Levels: Social Scientific Analysis, Human Values, and Practical Engagement

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Wave of state and local legislation and other actions concerning immigrants since 2005

Comprehensive Oklahoma legislation, required employe verification in Arizona (includes private sector employe etc.

Examples discussed shortly for Texas.

U.S. courts have generally held that immigration falls under Federal jurisdiction, although complex variety of rulings.

→many initiatives may not prove to be legally sustainable but I cannot render legal opinion.

Still, real insight in focus on state and local domain as vital immigration.

→Immigrant settlement and inclusion set within local communities and largely governed by state and local rules

Main focus of recent state and local initiatives to stop/restrict activities, rights, and privileges for unauthorized (undocumented, unlawful, illegal) persons.

--> legal phrasing usually “persons unlawfully prese

This appears to offer a “defensible” reason for pushing these restrictions.

But limiting the numbers and life chances of immigrants as a whole is closely associated agenda

e.g., national level reductions or restrictions on legal immigrant visa numbers.

But, accept at face value the topic of state and local involve with unauthorized residents.

There is a real issue here:

Are not legally authorized

But are present and involved with local society.

Key concept: Incorporation

taken from Leo Chavez, Shadowed Lives

Specifically, raising the topic of incorporation

(1) points out that over time, immigrants become included in local society, whatever their legal status;

(2) points out different kinds of involvement/inclusion; and

(3) points out the dilemmas surrounding the real world situation of people who are both inside and outside our local economies, communities, and legal systems.

Following Chavez, people who are unauthorized residents:

Become incorporated

(1) Economically--become more skilled, more permanent workers; gain relationships of productivity and trust with employers; or found their own businesses;

(2) Socially--make personal relationship and commitments in the new society; having children born or raised in U.S. is particularly strong force of social incorporation;

(3) Culturally--influences of U.S. culture, on everyone but strongest on children;

(4) Personally--changing identities & sense of involvement with local U.S. communities, such as church, public safety, health promotion, etc.

(5) Chavez does not include, but I would add that there ever is political incorporation--may not be able to vote, but may be active in issues like use of local parks (e.g., soccer league), community policing, parent-teacher associations, and so fo

**The challenge is mismatch between legal incorporation
(not legally authorized)**

**and other types of incorporation into state and local comm
that happen anyway, with time & activity:**

economic

social

cultural

political

personal

**→in state and local laws and ordinances, how are we to
address this incorporation/non-incorporation mismatch?**

Restrictive state legislation as an effort to make incorporation match legal status:

Examples from current Texas bills (submitted to 81st TX Legislature) (used for illustration purposes and with no implication of advocacy for or against specific legislation):

(1) Economic incorporation

HB 48, 128, 622, SB 357, and HB 266 (part)

propose state-mandated use of federal employment eligibility databases to prevent unauthorized immigrants from employment and business and professional licenses.

(2) Cultural incorporation

HB 262 all school districts & special charter schools collect & report information on student and parent citizenship and immigration status

--> U.S. Supreme Court, Plyler v. Doe--cannot deprive children of access to public K-12 education

--> but can make situation as imposing and scary as possible to families

Impact on cultural incorporation through children and schools as a main way that cultural inclusion takes place.

(3) Social incorporation

HB 404, HB 261, SB 358, HB 266 (part)

Pressure local law enforcement agencies to identify and turn over unauthorized people to federal authorities

--> as opposed to selective choices by local law enforce: turn over more serious criminals but not identify immigration status, hold, and turnover non-criminal and minor violators

Impacts incorporation into who can be protected by and safely interact with the umbrella of public safety

--> e.g., Major Cities Chiefs of Police position available on internet

Impacts trust/distrust of local police officers-- building up or tearing down social relations in communities

(3) Social incorporation, continued

HB 266 (part)

Restrict all public benefits to citizens and authorized immigrants, with a very few exceptions (e.g., emergency health care)

The reality is that almost all benefits are already restricted in this manner, e.g., health insurance benefits (SCHIP [children], Medicaid, Medicare) are already so restricted. A very few benefits do not have a legality test, such as prenatal care.

(4) Personal incorporation

HB 49 Personal presence in the U.S. as a state crime-

- Criminal trespass for being in any public or private property in unauthorized status;**
- Warrantless arrest for this violation, if check status federal authorities.**

HB 256 Birth certificates must record citizenship and immigration status of both parents;

- Birth certificates only given to U.S. citizen children;**
- Redefines U.S. citizenship of born children as one c or legal resident of U.S.;**
- Otherwise, get a “temporary report of alien birth”**

Debatable in terms of Constitution, and thus may not be sustainable in courts:

14th Amendment of U.S. Constitution:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”

(5) Although involvement in local affairs (political incorporation) is not addressed in this legislation, a number of measures likely will alienate immigrants (especially unauthorized) from work with schools, police, public and clinical health authorities, et

Reasons for such bills pushing back against incorporation

(1) People do not have the right (do not deserve, it is unjust) to be as incorporated in society as legally authorized

--> moral issue: do we accumulate rights and obligations in communities as we become more involved and incorporated in them?

Is incorporation an achievement in society, or an absolute, all or nothing proposition?

--> practical issue: what do you do about gradual but implacable incorporation processes with people who are living in communities and state?

(2) These measures are disincentives to unauthorized continuing to reside in our communities and states. The idea is that take away the rewards to remain in state, then people will leave.

What do we know about the incentives for unauthorized residence?

Study with two of four sites in Texas: Houston and El Paso indicates that essentially no one comes to U.S. without authorization in order to obtain public services and benefits.

Main reasons to come to U.S. are employment and join families.

(Berk, M.L., Schur, C.L., Chavez, L.R., Frankel, M., “Health Care Use Among Undocumented Latino Immigrants,” HealthAffairs July/August 2000, pp.51-

Barriers to employment, by this logic, may be effective disincentive.

But not clear evidence that it will be--rather, these disincentive assumptions are taken on faith.

The other possibility is that barriers to state and local incorporation will just make continuing unauthorized population more marginalized & exploited. E.g., formal employment verification may drive people into work for cash, black market, greater reliance on covert subcontractors

Issues of denial of public permission to incorporate:

Non-attendance at school

Parental non-involvement

Lack of pre-natal care; costly post-natal care

Lack of involvement in health outreach

Fear of police; failure to report crimes and suspicious persons to police, especially domestic violence and dangerous criminals within immigrant communities (e.g., drug traffickers)

Hidden housing & poor quality housing conditions

Fundamental dilemma of inevitable incorporation

Incorporation happens over time because of powerful human forces (relations with employers, families, children, friends, neighbors.

So, what are the conditions under which incorporation will take place?

Our choice:

**Exploited/marginalized incorporation
or
Integrated/accepted incorporation**

Our public policy decisions will shape this future question in fundamental ways for our communities, for Texas, and for the nation.