

**Higher Education of Undocumented Immigrants: The Student Adjustment Act:
All Parts Compiled (Part 1-4)**
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Introduction

About 1.5 million undocumented aliens in the United States are children under 18 years of age. 50,000 of this 1.5 million graduate from U.S. high schools each year.¹ For many of these high school graduates, however, attending college is an unreachable goal. As a result of the Illegal Immigration Reform and Immigrant Responsibility Act signed by Clinton in 1996, illegal aliens cannot pay the in-state tuition rate, even if they have met the in-state residency requirements. Also, their undocumented status prevents them from applying for college aid. With out-of-state rates often triple the costs of the in-state tuition rates², and no other source of funding available, these students are left with few options: they can either attend community college if they can afford it, or they can work at a low-paying job with no hope of future advancement. These students spend their childhood here and move through the public education system, only to find the door of opportunity shut in their face by the time they graduate from high school. Plyler v. Doe of 1982 made it a federal mandate for the government to cover the public education (grades K-12) costs of all persons, legal and illegal (Badger). However, as of this date, no law has addressed the post-secondary school education of undocumented immigrants.

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¹ Badger cites this statistic, obtained from “a recent Wall Street Journal article”, in her paper: *Myths and realities for undocumented students attending U.S. colleges and universities*.

² Virginia Tech charges residents \$480.24 to take a three-credit class but charges out-of-state residents \$1,682.49 for the same class. The Northern Virginia Community College system charges residents \$169.69 to take a three-credit class but charges out-of-state residents \$607.41 for the same class.

The Student Adjustment Act

In 2001, legislation known as the Student Adjustment Act (SAA) was proposed. By granting illegal aliens legal status on the condition that they meet certain qualifications, the SAA helps immigrant students to attend college by allowing states to offer them in-state tuition rates if they qualify for state residency. Essentially, the Act allows undocumented immigrants the same opportunities for postsecondary education as the law currently provides lawful permanent residents. There are essentially three provisions of the SAA: states determine their own residency rules for the purposes of public tuition costs, thus repealing the provision made in the 1996 law; junior high and high school students who have lived in the U.S. for at least five years and are of “good moral character” can obtain immigration relief so they can go to college without the fear of being deported; and illegal aliens apply under the Act would be eligible for other higher education benefits such as student loans and Pell grants.³

Like many of the issues that are related to immigration, the debate surrounding the higher education of undocumented immigrants is quite controversial. Advocates of the SAA, argue that by preventing these students from reaching their full potential, the U.S. as a whole is losing out on their future economic and social contributions. The Human Rights Coalition claims that the legislation would actually benefit taxpayers: “If illegal aliens achieve legal residency status and higher education, they will make more money, pay more taxes and require fewer social services.”

On the other hand, those against the passing of the SAA argue that it would be a wasteful investment for our economy. They claim taxpayers already pay too much for

the social benefits provided to illegal aliens. Instead, this money should be used to help law-abiding citizens of this country. In addition, some view the SAA as blatantly rewarding illegal aliens for breaking the federal laws of this country, thus undermining the laws that exist to prohibit illegal immigration. As a result, the country will experience an influx of undocumented immigrants.

Choosing sides

I stand firm in my decision to support the passing of the SAA. The bill simply allows states to grant talented, academically qualified youth an opportunity to pay in-state tuition if they also meet state residency requirements. Removing this financial burden will give many deserving students the chance to fulfill their dream of going to college. In addition, it will allow American society as a whole to gain from their economic and social contributions. The SAA would provide relief to these students who, through no fault of their own, were brought here illegally by their parents and have lived in this country long enough to consider the United States their real home. While both sides of the debate have persuasive arguments, it is the empirical evidence that sways me to the supporters' side. In the section that follows, I will present the points made by those in opposition to the SAA and then counteract these with the empirical evidence that I found to be most compelling on the side of advocates.

The Economic Objection

There are essentially two major objections to the SAA: an economic one and a moral one. First, we consider the economic side of the debate: The U.S. spends so much

money on illegal immigrants while this money should instead be used to better the situations of law-abiding citizens. According to Donald L. Huddle's estimates, approximately \$12 billion is spent on public service costs for illegal aliens and their children⁴. He uses the INS estimate of 4 million illegals and the actual immigrant public assistance recipient rate of 44.2% from the 1990 Census to obtain this figure. This \$12 billion is not distributed throughout the country evenly. Arizona, California, Florida, Illinois, New Jersey, New York, and Texas are the seven states with the largest concentrations of illegal immigrants (Kilgore). These seven states alone contain about three-fourths of the illegal immigrant population of the U.S. (Miller and Berna). Focusing in on one of these states, Fein and Seebach estimate that the health care, education and other benefits that are given to undocumented immigrants and their children are costing California taxpayers nearly \$3 billion a year. To give us an idea of how else this money can be spent, Wilson finds that saving just the \$1 billion we spend educating illegal immigrants in California schools would allow us to put a new computer on every 5th grader's school desk; provide pre-school services to an additional 67,000 4-year-olds; expand early Start Centers to an additional 750 sites; and provide 12.5 million tutorial and mentoring ours to at-risk youth (Fein and Seebach).

While this empirical evidence might seem convincing, it should be realized that it is taken out of context. Even though it might seem like a lot of money is being spent on illegal aliens, the fact that they also pay taxes to the United States government is not taken into consideration. Professor Julian Simon of the University of Maryland, author

⁴ These figures take into account the taxes that illegal immigrants pay. Without considering taxes, "the total of all public service costs for illegal aliens and their citizen children was calculated to be between \$19.6 and \$26.5 billion depending upon whether we apply the INS estimate of 4 million illegals or the CIS estimate of 5.4 million illegals, the latter including 550,000 citizen children." (Huddle)

of *The Economic Consequences of Immigration*, finds that undocumented immigrants pay five to 10 times more in taxes than the costs of services they use (Sharry). However, George Borjas, an immigration researcher and professor of economics at the University of California at San Diego, contends that even if immigrants pay taxes, the U.S. economy suffers an overall loss. He estimates that immigrants, legal and illegal, probably contribute about \$6 billion net income yearly to the U.S. economy, which is less than one-tenth of 1% of the \$6 trillion gross national product (GNP). While the overall net gain to the economy is an estimated \$1.5 billion, it is more than offset by the public service, education, and incarceration costs of illegal immigrants that total \$15.6 and \$20.8 billion yearly. As of 1994, this results in an overall loss for both public and private sectors of between \$14.1 and \$19.3 billion.⁵ Given these statistics, it seems ludicrous to ask American taxpayers to support the passing of the SAA, which the empirical evidence proves would pose as a drain to the economy.

There seems to be quite a discrepancy here: Simon claims that undocumented immigrants pay more than enough in taxes to cover their weight while Borjas argues the opposite. Since both are backed by convincing empirical evidence, who should we believe? The conflicting figures are most probably due to the inconsistency that exists between those who receive the tax revenue and those who pay the costs. According to a 1993 testimony by Charles Wheeler of the National Immigration Law Center before the U.S. House Subcommittee on Human Resources, about two-thirds of the tax dollars paid by immigrants—legal and undocumented—go to the federal treasury, while most of the

⁵ The \$1.5 billion estimate is derived from Borjas' findings. He estimates that if illegal immigrants constitute almost 25% of all immigrants arriving since the year 1969 (Huddle), the gross wage loss imposed by them on the native-born would be about \$28.5 billion and the gain they yield to their employers and the affluent would be about \$30 billion. Thus, the net effect is \$1.5 billion (\$30 billion - \$28.5 billion).

health, education and social service costs that are incurred are paid for by state and local governments (Fein and Seebach). Thus, the federal government receives most of the taxes paid by immigrants and shifts most of the costs to state and local governments. While newcomers pay proportionally more in taxes than they receive in services, those taxes are primarily federal; state and local governments do not benefit as much from immigrants' tax dollars. In other words, the federal government makes the policies, and the state and local governments feel the impact (Romero).

Even if there are negative economic effects to be had from allowing illegal aliens to pay in-state tuition prices, these effects will be minimal. According to Sharry, those residing in the United States illegally represent only 1.25 percent of the population. In California, where the debate is especially heated, the undocumented immigrants comprise only 4 percent of the state population. Of this 4 percent, far less than one percent of undocumented persons in California are enrolled in its public community colleges (Romero cites Chang). This is a particularly telling statistic because California is one of the largest havens for undocumented immigration, thus proving the group that would avail from the SAA is small.

The Moral Objection

Now we turn to the other major objection to the SAA: the moral side of the debate. Critics argue that allowing illegal immigrants to pay in-state tuition prices would send the message that the U.S. rewards law-breakers, rather than condones them. Laws that exist specifically to prohibit illegal entry into the country would be undermined and illegal immigration will increase as a result. While not much evidence exists that proves most

undocumented immigration is driven by a desire to obtain a free public education, a case can still be made. Toderó states that because migrants are risk averse and because there is a great uncertainty attached to the probability of employment, employment outcomes carry a lot of weight in one's decision to immigrate.⁶ Since attending college increases one's chances of landing a job, it can be argued that foreigners would view the implementation of SAA as a factor that would increase their probability of employment, which would thus encourage them to immigrate to the United States.

If the SAA does indeed encourage illegal immigration, a dire economic situation could result. After taking into account projected emigration and death rates of 1.5% and .5%, respectively, the Carrying Capacity Network projects the stock of illegal settlers to increase by an average of 300,000 per year based on 1997 estimates of the Immigration and Naturalization Service (Huddle). Using estimates of illegal alien stocks of 4 to 5.4 million and growth by 300,000 yearly, we find that the net costs of public assistance for illegal immigrants and the U.S. workers they displace will be between \$207 and \$280 billion in 1994 dollars for the decade 1995-2004 (Huddle). With such a huge number of illegal immigrants in this country already, it seems unlikely that U.S. citizens would support a legislation that could potentially worsen the economic situation.

In response to those who contend that allowing illegal aliens to pay in-state tuition rates would encourage more illegal immigration to take place, Romero points out that it is highly unlikely that many, if any, undocumented persons closely scrutinize the immigration code before deciding whether to cross the border. It is more likely that they were aware of their undocumented status, but chose to enter the country anyway. It is also unlikely that illegal immigrants who are already in this country will voluntarily leave

⁶ <http://www.nber.org/books/global/chiswick-hatton3-21-02.pdf>

the United States or turn themselves into the INS; many of these individuals consider themselves as American rather than foreign (Romero).

The issue of job displacement that illegal immigration usually poses does not appear to be so grave either. Borjas finds that if the immigrant population were to increase by 10 percent, the earnings of white native-born workers are reduced by only 0.2 percent, while the earnings of black native-born workers increase by 0.2 percent.⁷ Furthermore, those who fear that the implementation of the SAA will result in a surplus of low-paying jobs should calm themselves by taking a look at the numbers. The percentage of eligible college-bound undocumented workers is quite small, thereby not depleting the labor pool as greatly as some might suspect. In California, the number of undocumented students in public community colleges totals “far less than one percent...” (Romero). Even with such depletion, there will likely be more adults who will replace the few college-bound children of the prior migration wave through both lawful and undocumented entry into the United States (Romero).

In order to consider the implications that the SAA might have on future illegal entry into the country, the situation of how the majority of illegal aliens come to be must first be addressed. There is a common misconception that most immigrants enter the country illegally when in fact the opposite is true. A total of 31 states had fewer than 10,000 undocumented immigrants. To put this figure in perspective, eight of eleven newcomers to the United States each year enter legally. The question that subsequently comes to mind is: how is the net flow of illegal aliens in the order of 200,000 to 300,000 persons

⁷ disclaimer: This type of study is still in its infancy. Many more empirical studies of this type are required before these results can form the basis for informed policymaking. Nevertheless, the few studies that do exist, using different data and methodologies, cannot find any evidence of sizable negative impacts. And this finding, in light of the discussions that dominate the literature, is quite a surprise. (Pozo—Borjas)

per year (Borjas)? Most enter the country legally with tourist or student visas and lose their legal status by remaining beyond the expiration date (Borjas). Also, to dispel further misconception, early 50% of the 300,000 immigrants who settle in the United States illegally each year do not sneak across the U.S.-Mexico border (Barbour).

Even if the SAA is implemented as a federal law, critics argue that the positive effects felt by society would not be worth the costs. Bratsberg cites Chiswick's findings that the effect of an additional year of education on earnings is lower for foreign-born men than for native-born men (1978). Furthermore, even if illegal immigrants get an opportunity to work in a job that will earn them higher wages, Bucci and Tenorio believe that discrimination in the workplace will prevent them from working to their full potential. To counteract these views, Borjas offers further evidence that denying illegal aliens a fair chance at higher education would be detrimental to society. He finds that if immigrants lack the skills that employers demand and find it difficult to adapt, immigration may "significantly increase the costs associated with income maintenance programs as well as exacerbate the ethnic wage differentials already in existence in the host country."

Concluding Statement

While both sides of the debate have persuasive support, I find the evidence presented in Sharry's paper, *Illegal Immigrants Are Not An Economic Burden*, the most compelling. Because illegal aliens are highly protective of their personal information in an effort to steer clear of the federal government, it is difficult to obtain accurate data on them. As a result, much of the evidence that does exist with respect to illegal immigrants is derived through the use of different methods, thus creating an inconsistent pool of data. What I

liked about Sharry's paper was the fact that he mentioned the misconceptions that are often associated with illegal aliens. The empirical support for this argument comes from the Immigration and Naturalization Service, a reliable government source whose evidence does not require "tweaking".

The passing of the Student Adjustment Act will give undocumented aliens, many of whom were brought into this country by their parents and thus became "illegal aliens" through no fault of their own, equal opportunity to higher education. It makes sense for the United States to harness an untapped source of labor that is already familiar with the U.S. education system. However, like Romero, I too believe that in order for the SAA to be successful, education must be considered a formal form of employment. Without this formal recognition, illegal aliens with college degrees will continue to take on menial jobs due to employers' fear of getting sanctioned for knowingly hiring an illegal alien. If education is formally recognized as work (based on the theory that one serves as a valuable economic contributor to American society), illegal aliens will have their status legalized and they will be able to compete for jobs for which they have been trained.

As of this date, Texas and California have passed the SAA legislation instituting in-state tuition for undocumented students (Szelenyi). While this offers hope for the future passage of SAA in other states, it should also be noted that there are definitely hurdles to be faced along the way. For example, after September 11, 2001, CUNY abandoned a 12-year policy of treating unlawful immigrants as resident for tuition purposes and reverted to charging out-of-state tuition to these students. It was only in June of 2002, that new legislation was passed by the New York State Assembly allowing some illegal immigrants to pay in-state tuition at both CUNY and SUNY (Szelenyi).

Also, the passing of the Student Adjustment Act has just been denied in the state of Virginia (Kilgore). It will be some time before the Student Adjustment Act is passed as a federal law. In the meantime, we should try to learn more about the economic and social implications of this legislation. With the SAA currently being tried out in California and Texas, studies that try to measure how much better off (if at all) an illegal alien is with a college degree should be conducted. As for the issue of illegal immigration at large, we should continue our efforts to control the numbers through traditional forms of regulation, such as at airports and at borders. We should not punish those have made their lives here.

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