

THE MYTH SELF DEPORTATION

HOW BEHAVIORAL ECONOMICS
REVEALS THE FALLACIES BEHIND
"ATTRITION THROUGH
ENFORCEMENT"

By Alexandra Filindra, Ph.D.



THE MYTH OF "SELF-DEPORTATION":

How Behavioral Economics Reveals the Fallacies behind "Attrition through Enforcement"

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Introduction

In a Republican primary debate that took place in Florida in January 2012, by promoting "selfdeportation," Mitt Romney elevated a restrictionist idea to presidential politics (Preston 2012). While the term may be experiencing new found popularity, the idea behind it has animated immigration restriction advocacy groups for many years. It is also an idea that has been the foundation of recent immigration enforcement legislation in states such as Arizona, Utah, Oklahoma, Georgia, South Carolina, Alabama, and recent legislative proposals in Mississippi, Rhode Island, and other states. The concept of "self-deportation," which is the culmination of what proponents call a strategy of "attrition through enforcement" (Kobach 2007; Krikorian 2005; Vaughan 2006), rests on a deceptively simple premise. According to its supporters, if the federal government invests more in enforcing immigration laws, and if states and localities take on additional immigration control responsibilities, and if the police, schools, employers, and state agencies check for visas, green cards, and identification documents at routine encounters with the public, the costs and risks of staying in the United States will increase substantially for undocumented immigrants. Faced with a high risk of being caught and imprisoned, "rational" undocumented residents will "give up and deport themselves" (Krikorian 2005), returning to their home countries rather than remaining in the U.S and risking capture, detention, and possible incarceration. According to Ira Mehlman, a spokesman for the Federation for American Immigration Reform (FAIR), "[undocumented immigrants] are very rational people. You have to convince people who come on their own to leave on their own. They come here to get access to jobs... If you remove those incentives, they will respond rationally and leave" (Preston 2012).

Preliminary evidence from studies conducted in states where such enforcement laws have been enacted shows that immigration restrictionists have gotten it wrong. For the most part, the immigrant population in these states has remained in place and the predicted exodus never materialized (O'Neil 2011; Orlinoff 2012; Parrado 2012; Pedroza 2011). Furthermore, there is a substantial body of research indicating that ramped up border enforcement, and the building of a border fence, have not had much of a deterrent effect either (Angelucci 2005; Carrion-Flores and Sorenson 2006; Massey and Riosmaria 2010; Roberts et al. 2011). Economic factors, rather than enforcement, have played a far more important role in reducing the rate of undocumented entry into the United States (Massey and Riosmaria 2010; Roberts et al. 2011).

This report uses important research findings from cognitive psychology and behavioral economics to explain why restrictionists have gotten it wrong and people do not behave in the "rational" way that restrictionists expect them to. FAIR and other restrictionists use a very simple understanding of human behavior which comes from classical economic theory. This model is called "expected utility theory." According to expected utility theory, when people make decisions under conditions of uncertainty, they look into the future and make a mental calculation that takes into account risks, costs, and benefits. Classical economic theory assumes that most people don't like to take very highrisk gambles. As a result, when the risks of losing go up, people will make prudent decisions that are consistent with lowering their exposure to risk. In fact, rational individuals who operate within the assumptions of expected utility theory can tolerate very little risk (Rabin and Thaler 2001).

However, experimentally developed theories in cognitive psychology and behavioral economics show that expected utility theory is wrong and people do not behave in accordance with this limited view of "rationality" (Kahneman 2011; Kahneman and Tversky 1979; Tversky and Kahneman 1991). Behavioral economics demonstrates that people's tolerance to risk is not fixed, but rather it changes depending on the situation in which we find ourselves. Psychologists have confirmed what the rest of us have known intuitively: people hate to lose a lot more than they like to win. This means that people are more likely to take on additional risk to avoid losses than they are to increase their gains. Especially when faced with "sunk costs"—that is, costs that we cannot recover humans tend to increase the risk they take on in hopes of not losing their investment (Arkes and Blumer 1985). This is not "rational" in the world of expected utility theory and immigration restrictionists. But it is what people do, from CEOs undocumented immigrants: they show increased commitment to the course of action they have started upon even if it means taking on more risk (Arkes and Blumer 1985; Kahneman 2011; Thaler and Sunstein 2009; Whyte 1986).

THE FOUNDATIONS OF "ATTRITION THROUGH ENFORCEMENT"

The notion of "attrition through enforcement" was developed and enthusiastically propagated by Kris Kobach (Kobach 2004, 2005, 2007), a former U.S. Department of Justice official and law professor from Kansas. For almost a decade, Kobach has argued that "credible threat of enforcement" can lead to "deterrence of lawbreaking" (2007, 156). According to Kobach, "illegal aliens are rational decision makers. If the risks of detention or involuntary removal go up, and the probability of being able to obtain unauthorized employment goes down, then at some point, the only rational decision is to return home" (2007, 156). The U.S. does not need to round up and deport all undocumented immigrants, a proposition that even Kobach views as overly costly and inhumane. Rather, by ratcheting up the probability of being caught and deported, "rational" undocumented immigrants will opt to return to their home countries at their own cost, or "self-deport."

The logic of the "attrition through enforcement" argument rests on the definition of one very tricky word: "rational." We all use the term "rational" in our daily lives and we mean all kinds of different things by it. We tend to think of "rational" as meaning "reasonable," "sound," "sensible," or even "clear" or "lucid." Dictionaries offer all these definitions of the word along with examples. However, in economic theory, which is

WHEN A JOKE BECOMES PUBLIC POLICY: "SELF-DEPORTATION" **WAS INVENTED IN A COMEDY CLUB**

Two Mexican-American comedians have claimed credit for inventing the term "selfdeportation," which has recently entered our highest political lexicon. In 1994, Lalo Alcaraz and Esteban Zul, incensed by California's Proposition 187 ballot initiative (an earlier version of today's Arizona and Alabama immigration laws), posed as conservative Latinos supporting the law. The two comedians invented "Hispanics against a Liberal Takeover" (HALTO) and a fake Latino Republican "militant self-deportationist" by the name of Daniel D. Portado. They also sent press releases to local radio and TV stations that praised the idea of establishing "self-deportation centers."

For amusing details on the prank, check out:

"The Deep Comic Roots of 'Self-Deportation,'" Robert Mackey, The New York Times (2012)

"The Real Inventor of 'Self-Deportation," This American Life, National Public Radio (2012)

the unstated basis of the restrictionists' argument, the word has a very specific meaning. Rationality in economic terms refers to how people make decisions under conditions of uncertainty or risk. In the world of classical economics, rational individuals always seek to maximize their future utility. By utility, economists mean happiness, satisfaction, or well-being, but it could also be thought of in terms of assets and belongings because having more things is expected to make people happier. When people make decisions they are expected to calculate the costs and benefits of all the options available to them, as well as the probability of each. For every decision, a rational individual calculates what the cost may be multiplied by the probability of that cost actually being incurred, and what the benefit may be multiplied by the probability of that benefit being actualized. If, in this calculation, the expected benefits exceed the expected costs, then the person will take the relevant action.

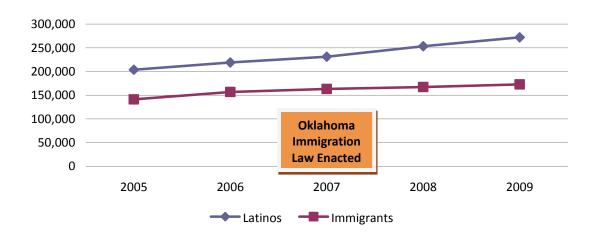
For this process to work according to expected utility theory, certain key assumptions need to be made about how people think and act. Key among these assumptions is that people typically seek to avoid risk. In the world of classical economics, people tend to be risk averse, which means that they are not likely to tolerate high-risk gambles and take the lower risk option instead (Rabin and Thaler 2001). If people cannot tolerate high risks, then it makes sense that if the state through its policies increases the likelihood that an adverse event will occur, people will seek to avoid that by altering their behavior. Furthermore, people are concerned with future costs and benefits in relation to current assets. Losses made yesterday, as painful as they may be, are of no relevance to rational individuals calculating future gains.

How does this translate in the case of undocumented immigrants? Immigration restrictionists expect that undocumented people seek to maximize their future happiness or utility and that they have a low tolerance to risk. When enforcement is intensified, undocumented immigrants are faced with a higher risk of interception, detention, and ultimately deportation. In addition to a higher likelihood of detention and deportation, undocumented people are also faced with a lower probability of finding a job because the state has introduced tighter regulation of employers. If that is the case, and undocumented immigrants fit the expected utility theory definition of "rationality," they should leave the country and seek better returns elsewhere. The pressure from additional immigration enforcement should lead immigrants to "self-deport."

THE FACTS ON THE GROUND: "ATTRITION THROUGH ENFORCEMENT" IS NOT HAPPENING

Several recent studies conducted in states such as Arizona, Oklahoma, and Alabama, where "attrition through enforcement" policies were put into place, indicate that the "exodus" anticipated by the theory has not happened (Orlinoff 2012; Parrado 2012; Pedroza 2011). Data from Oklahoma show that the state's Latino and immigrant populations continued to grow even after the enactment of immigration enforcement laws {Table 1} (Pedroza 2011). This is inconsistent with the expectations of the proponents of "self-deportation."

Table 1. Latino and Immigrant Population in Oklahoma (Source: Pedroza, 2011)



Some undocumented immigrants do leave their places of residence as a result of intensified enforcement. A study by the University of Virginia estimated that about 5,000 immigrants (both legal and undocumented), out of a total immigrant population of about 360,000, left Prince William County after it passed a restrictive immigration ordinance (Center for Survey Research University of Virginia 2009). Initial reports from Alabama also indicated that some undocumented immigrants were leaving in the days before the anti-immigrant law went into effect due to uncertainty about how the law would be enforced and fear of the likely consequences (Reyes 2012). However, within weeks, newspapers reported that immigrant families were returning to the state (Reeves 2012). As a report by the Public Policy Institute of California has underscored, when faced with intensified enforcement, undocumented immigrants will retreat further into the shadows of the informal economy, subjecting themselves to further exploitation, wage theft, and abuse (Johnson and HIII 2011). However, there is very little evidence that undocumented immigrants are actually selfdeporting and leaving the United States to return to their home countries as a result of stepped-up immigration enforcement.

What is more, a federal pilot program instituted in 2008 which offered the option of "selfdeportation" to undocumented immigrants was shut down quickly because it met with abject failure (Boroff and Planas 2012). "Operation Scheduled Departure," as federal authorities called the program, offered undocumented immigrants with outstanding deportation orders and clean criminal records the option of being deported without detention rather than risk arrest, detention, and deportation. ICE even offered to pay the cost of return to the country of origin for certain categories of eligible program participants (Wernick 2008). ICE expected the program to be a great success. According to ICE assistant Field Office Director Eduardo Preciado, success was expected because the program "gives [immigrants] an opportunity to take control of their situation. We will give them ample time to get their affairs in order and then go out on their own terms" (Holstege 2008). ICE called the new program "a compassionately conceived enforcement initiative" and declared its commitment to "providing sensible alternatives that balance the welfare of the individuals and families in question with its clear obligation to uphold the law" (U.S. Immigration and Customs Enforcement 2008). To ensure greater success, the program was announced on Univision's

news show "Al Punto" by then ICE Director Julie Myers (Raghunathan 2008). ICE spent more than \$40,000 on advertising for the program, but in the three weeks that the pilot ran, a total of 136 people called the hotline set up by ICE (Numbers USA 2008) and only eight people out of the estimated 457,000 eligible undocumented immigrants actually took the offer (American Immigration Lawyers Association 2008; The New York Times 2008).

Table 2. Operation Scheduled Departure by the Numbers	
Cost of advertising	\$40,000
Estimate of undocumented population in the United States	11 million
Number of people eligible for the program according to ICE	457,000
(non-criminal aliens with outstanding deportation orders)	
Number of people calling the hotline over the 3 weeks life of	136
the program	
Number of people agreeing to self-deport	8

ATTRITION THROUGH ENFORCEMENT'S "RATIONALITY" PROBLEM: BEHAVIORAL ECONOMICS, OR WHY REAL PEOPLE DON'T "SELF-DEPORT"

The facts on the ground signal that there may be a serious problem with the "attrition through enforcement" theory, and that problem hinges on the issue of "rationality." The theory says that rational individuals start from a position of current assets and they assess expected (future) costs and benefits associated with possible decisions after they weigh these costs and benefits with appropriate probabilities (i.e., the likelihood that costs or benefits will actually happen). On the surface, this sounds quite plausible and it suggests that individuals possessing this kind of economic rationality may in fact self-deport in the face of higher likelihood of apprehension and stiffer penalties in the form of detention and incarceration. But is that the way real humans think and act? Unfortunately for restrictionists and those who designed Operation Scheduled Departure, it turns out that humans do not behave the way economic rationality expects (Kahneman 2011; Kahneman and Tversky 1979; Thaler and Sunstein 2009). Numerous experiments and other studies conducted by cognitive psychologists and behavioral economists show that humans follow a different—but quite predictable—set of rules when making decisions under conditions of risk. Experiments by Kahneman and Tversky, two psychologists who received the Nobel Prize in 2002, show that humans are not concerned with maximizing their assets or the happiness derived from asset maximization, but rather they seek to minimize their losses. People are loss-averse: they hate to lose a lot more than they love to win. This makes them sensitive to changes in assets rather than net asset levels. These studies have confirmed experimentally what we have always known intuitively: a person who now has a million dollars because she won \$500,000 yesterday is not at the same "utility" level as the person who has a million dollars after losing \$500,000 yesterday. They both have the same amount of money, but they certainly are not at the same level of satisfaction. In fact, the drop in satisfaction or utility from losing is much higher than the gain in satisfaction associated with winning.

Our aversion to loss influences how we deal with "sunk costs." Sunk costs—or "dead losses"—in economic theory are past investments that have already been made and cannot be recovered. In the case of immigrants, such sunk costs include the homes they have bought in the United States, along with all other property, such as cars, appliances, and furnishing, that are part of our daily lives and for which we have paid with our savings and hard-earned income. According to the Pew Hispanic Center, more than one-third of all undocumented immigrants own a home in the United States; the number climbs to 45 percent among those undocumented immigrants who have lived in the United States for more than ten years. A home is a major investment financially and emotionally for all people, not just undocumented immigrants. The recent foreclosure crisis has shown us all how terribly painful losing a home can be for any family. Most people would take a lot of risk in order to save their homes, and undocumented immigrants are no exception. Psychology tells us it is human nature to seek to protect ourselves from loss even if it requires taking on risks.

Undocumented immigrants hold jobs and receive an income which allows them to pay for the upkeep of their families and homes. These jobs are in many ways irreplaceable: in their countries of origin, these jobs do not exist or are very hard to find. The loss of a steady job can be a major setback for an undocumented immigrant, as it would be for any other individual. "Sunk costs" could also be the investments in their children's education. Many undocumented immigrants have schoolage children. Like all American parents, undocumented immigrant parents want their children to receive a good education that will enable them to succeed economically and socially in the future. Rational individuals in the world of expected utility theory completely disregard sunk costs when making decisions about the future. Yet, humans have a hard time disregarding "sunk costs" and moving on. In fact, they often continue on courses of action that are clearly suboptimal and they keep "throwing good money after bad" (Kahneman and Tversky 1979). Even people who are trained in economics and business often show commitment to a failed course of action (Arkes and Blumer 1985; Kahneman 2011; Whyte 1986). Experiments have shown that people will take very high risks, risks that under other circumstances they would view as inconceivable, in order to preserve their assets and their way of life. They take these risks because as humans they are loss averse and they seek to avoid losing what is important to them in any way they can.

What does behavioral economics tell us about "self-deportation"? Starting with the assumption that undocumented immigrants think and behave like the rest of us, let's think about the decision to seek "self-deportation." In essence, the government offers undocumented immigrants a choice much like the one described above: take the certain loss of "self-deportation" or take the gamble that stepped up enforcement will identify you, detain you, incarcerate you, and deport you some time in the future. Why is "self-deportation" associated with losses and sunk costs? As Table 3 illustrates, undocumented immigrants have already invested a lot in living in the United States. Their sunk costs have accumulated for years, beginning with the sacrifices they made preparing to come to the U.S. They had to raise money for the trip, pay fees to be transported across the border, take substantial risks on the way to the U.S., and generally invest emotionally and financially in the migration experience. The majority of undocumented immigrants have deep roots in the United States. Many have lived here for more than 10 years. They have U.S.-born children, and extended families of mixed status. A large number of undocumented immigrants own homes, property, and businesses. They have jobs, business associates, clients. They have friends in church, school, or local associations. Many have invested thousands of hard-earned dollars in attorney fees trying to change their immigration status. In addition, returning migrants will have to absorb the cost of the return trip and also face the probability that no jobs will be available in the home country- the reason for the migration in the first place.

Table 3. Immigrant "sunk costs" by the numbers: what they would lose by "self-deporting"	
Number of undocumented immigrants in the United States	11,000,000
Percent of undocumented immigrants who own a home in the United States	35%
Percent of undocumented immigrants who have lived in the U.S. for more than 10 years	45%
and who own a home	
Number of undocumented immigrants who have a job in the U.S.	8,300,000
Median annual income of undocumented immigrant households	\$35,000
U.Scitizen babies born in undocumented families every year (2008 estimates)	340,000
Percent of all U.Sborn babies that have undocumented parents	8%
Number U.Sraised children of undocumented parentage	5,100,000
Percent of all children of undocumented parentage who are U.S. citizens	79%
Percent of undocumented immigrants living in mixed-status families	45%
Percent of undocumented immigrants who are parents to U.Scitizen children	37%
Percent of all U.S. school-age children who are of undocumented parentage	6.8%

Passels, Jeffrey and D'Vera Cohn (2009) A Portrait of Unauthorized Immigrants in the United States. Washington, DC: Pew Hispanic Center (April 14, 2009).

All of these tangible and non-tangible resources are added to the "certain loss" pile when an undocumented immigrant is faced with the decision of whether to stay and risk being caught in a random traffic stop, or "self-deport." The deeper the ties to the United States, the higher the "certain loss" pile gets. And the higher the "certain loss" pile gets, the greater the risk an immigrant is willing to assume in order to stay in the United States and not lose all the things for which she has worked for years. According to the findings from the experiments cited earlier, for an undocumented immigrant to be willing to accept the certain loss associated with "self-deportation," there should be a 70 percent or higher chance of being apprehended by law enforcement in the course of daily life. Since undocumented immigrants can and do devise strategies to avoid interactions with the police (for example, they take public transportation rather than drive, or they avoid reporting crimes taking place in their neighborhood—even ones to which they themselves fall victim—out of fear of being detected and detained), the likelihood that state and local police enforcement of immigration law will lead to a large number of "self-deportations" is practically zero. Operation "Scheduled Departure" proved the true limitations of the "self-deportation" idea.

Conclusion

Restrictionists have argued that "attrition through enforcement" will work because "rational" individuals will choose to "self-deport" rather than stay and face the increased risk of being caught by the police, detained, and deported. In addition to being inhumane and costly, this theory is founded on an erroneous understanding of human behavior which assumes that individuals disregard "sunk costs" and other losses when making decisions about the future. Behavioral economics and cognitive psychology have long demonstrated that humans do not behave the way economic rationality requires. They care about losses and are willing to take on substantial risk in hopes of avoiding or limiting such losses. This tells us that the most likely consequence of an enforcement-based immigration policy will be that undocumented immigrant families will retreat further into the shadows and take on additional costs associated with social and economic marginalization, discrimination, and exploitation. Laws such as those of Arizona and Alabama will not bring "attrition" and "self-deportation." They will lead to the development of a racialized, marginalized caste of people with no rights—a shameful development for a country that prides itself on its democratic and inclusive institutions.

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