



# Immigration Monthly

**March 2006**

- **Should We Look For A Union Label?** by *Christopher Wendt*
  
- **The PERM Workshop**  
**San Antonio, TX**  
**June 21, 2006**  
**8:30am-5pm**

## **Should We Look For A Union Label?** *By Christopher Wendt*

Here's something nobody on either side of the immigration debate will admit: I don't really know how the current flow of undocumented workers affects US workers.

Those who argue for legalization programs or reforms which would allow greater flows of workers into the US claim that these workers are currently only filling jobs that no US worker would take anyway. Those who argue for greater enforcement and closing the borders claim that the reason US workers don't make themselves available for such jobs

is that illegal aliens and exploitative employers have driven down wages and working conditions to intolerable levels. I don't completely believe either side.

It makes no sense to me that employers would go through all of the expense of the immigration process, or the legal risks associated with hiring undocumented workers, if a ready supply of legal workers could fill their needs.

It makes no more sense to argue that the existing, well-developed system by which undocumented workers enter the US and remain, competing for jobs, does not exert downward pressure on wages. Due to the very nature of black markets however, no one can get accurate information needed to create a persuasive picture of the undocumented economy.

We are left then with anecdote and speculation, mostly influenced by the political agenda of the sources. I'll admit to two more heresies: There are unscrupulous employers who abuse the current system to the detriment of US workers. There are also businesses and industries which couldn't survive without access to imported labor.

Sadly, the current immigration system is comically incapable of telling the difference.

Immigration Monthly is a FREE monthly periodical on immigration law and policy, mailed out to over 11,500 immigration professionals. To receive a free subscription please write to [webmaster@ilw.com](mailto:webmaster@ilw.com) (specify "Immigration Monthly" in subject line) or send a mailed-in request for subscription to ILW.COM, PO Box 1830, New York, NY 10156. Interested in submitting an article for consideration in Immigration Monthly? Write to: [editor@ilw.com](mailto:editor@ilw.com). Interested in advertising in Immigration Monthly? Write to [webmaster@ilw.com](mailto:webmaster@ilw.com). Publisher: Sam Udani; Legal Editor: Michele Kim. Copyright 2006 ILW.COM, American Immigration LLC

**Patel's Library**  
**by P J. Patel**  
**&**  
**Immigration Practice**  
**by Robert C. Divine**  
**and R. Blake Chisam**

**2005-06 Editions**

**The Whole ACT-INA**

The Ninth circuit has purchased copies of The Whole ACT for every one of its courts. This unique and useful research tool contains hundreds of annotations providing a brief synopsis of the provisions referenced in any particular INA section and digests of Supreme Court decisions.

**20/22/28 CFR Plus & 8 CFR Plus**

These publication contains immigration related regulations of the Department of Labor (20 CFR), Department of State (22 CFR), Department of Justice (28 CFR), and the complete set of INS regulations (8 CFR) with an exhaustive topical.index.

**Patel's Citations**

Citations of Administrative Decisions under Immigration and Nationality Laws: This unique and incomparable research tool provides instant access to the history and current status of all I&N administrative precedents.

**Immigration Practice by Robert C. Divine and R. Blake Chisam**

Immigration Practice covers all aspects of immigration law in one volume, complete with over 3,000 footnote citations to the wide range of statutes, regulations, court and administrative cases, policy memos, operations instructions, agency interpretive letters, and internet sites that a lawyer needs for complete understanding of a particular problem. No other source merges the practical with commentary and analysis so helpfully.

Order online at [www.ilw.com/books](http://www.ilw.com/books)

Order by mail: send the order form with payment to  
ILW.COM P.O. Box 1830, New York, NY 10156

Order by Fax: 212-545-0869

Order by Phone: 212-545-0818

Questions? write to [webmaster@ilw.com](mailto:webmaster@ilw.com).

It relies on measurements (guesses, really) and quotas. We try to regulate our labor market much the same as the central planners of the USSR attempted to regulate that country's economy. We rely on speculations regarding demand to set artificial targets for supply, and make it illegal to trade freely outside the government system, making "enemies of the people" of those who try to buy or sell labor without the proper paperwork.

So what is to be done? Instead of continuing the central planning model, what if we could find a mechanism to make determinations of the level of immigration without artificial targets for supply and demand? What if that mechanism didn't require that anybody really know in advance how many workers would be needed or have an accurate picture in advance of their effect on the labor market?

What if, by the same mechanism, we could make sure that only employers who were paying a fair wage and providing agreed-upon working conditions, and who really couldn't find qualified US workers, could have access to immigrant labor? What if, by the same mechanism, we could provide training to US workers in needed fields?

Further, what if this mechanism could also serve as a watchdog, locating and reporting employers who hire unauthorized workers? What if this mechanism could do all of the above at almost no cost to the US government?

**Warning** – some of you are going to hate this idea as it is primarily based on market economics and meeting the needs of US employers, not human rights concerns. Others of you will hate this idea as it will virtually guarantee a continuing orderly flow of necessary immigrant labor. Still others are *really* going to hate this idea, as it relies on a social institution some of you have been doing your best to eliminate: the labor union.

Consider a system based on the current J-1 exchange visitor model. Currently, many private organizations have the power to issue form DS-2019. (This form allows foreign citizens to apply for a J-1 visa at a US consulate abroad).

Issuing organizations include nonprofit organizations such as AIPT, ECFMG and even AILF, who provide exchange visitors for training programs to private institutions without programs of their own. The form certifies that the individual has been reviewed, as has the potential employer, and that the program officer certifies that both meet the standards of the J-1 program. This process allows the individual to bypass the lengthy USCIS petition process and go straight to the Department of State for a visa. Programs who abuse the process can be disqualified by the DOS.

Labor unions could issue a similar document - let's call it "Labor 2019" -- to any worker, to work at any employer. Employers who need workers on the assembly line or farm could go to the union and access a ready source of labor. Unions would have the opportunity to provide the job to a US worker member, or if none were available, issue a Labor 2019 to a worker waiting abroad.

Unions could refuse to provide a worker if wages or working conditions were sub-par. Wages and working conditions, in turn, could be negotiated between the unions and the employers under the well-developed US labor laws, and voted on by the members of the unions. Unions could charge employers for the service of providing foreign employees, and use funds gained to retrain current members displaced from other industries.

If a union failed in its obligations to protect US workers by providing jobs to them first, the membership could vote the leaders out.

# The PERM Workshop

**San Antonio, TX**

**June 21, 2006 8:30am-  
5pm**

**Moderators and Speakers: Joel Stewart, Michael E. Piston and many others to be announced.**

This is an all-day, (8:30 am to 5 pm), comprehensive workshop covering every major aspect of the PERM rule and its impact on labor certification practices. The seating is limited to the first 50 registrants to give participants ample opportunity to have their critical questions answered.

**Workshop Outline:**

- 8:30 - 9am -- Registration (includes continental breakfast)
- 9 - 10:30am -- Session 1: Mechanics of PERM: Preparation & Prevailing Wage
- 10:30 - 10:45am -- 15 min. break (refreshments provided)
- 10:45 - 12:15am -- Session 2: The Recruitment Process & Strategy.
- 12:15 - 1:45pm -- Lunch Program (includes lunch and presentation)
- 1:45 - 3:15pm -- Session 3: Restrictive Requirements, Audit Proofing, and Electronic Filing
- 3:15 - 3:30pm -- 15 min. break (refreshments provided)
- 3:30 - 5pm -- Session 4: Reconsideration, Appeals to BALCA, & Federal Court Litigation

**Order online at [www.ilw.com/workshops/](http://www.ilw.com/workshops/)**

**Order by Phone: 212-545-0818**

**Questions? write to [webmaster@ilw.com](mailto:webmaster@ilw.com).**

# Four New Books! from CLINIC

**Child Status Protection Act:** A Practitioner's Guide, by Charles Wheeler of CLINIC, is an in-depth guide to all aspects of the Child Status Protection Act (CSPA). The book explains in practical terms and through hypotheticals how the CSPA applies in family-based, employment-based, DV lottery, asylum, and VAWA cases.

**Family-based Immigration:** A Practitioner's Guide, edited by Charles Wheeler, is a practical guide to all aspects of family-based immigration, including immediate relatives and the preference system, application process for permanent residence, consular processing, immigrating through marriage, grounds of inadmissibility, the affidavit of support, and other topics of concern to practitioners.

**Relief From Removal:** A Practitioner's Guide, edited by Jill Sheldon, provides a detailed description of the law, as well as strategies for defending clients in removal proceedings. Chapters cover an overview of removal proceedings, asylum, cancellation of removal, adjustment of status, NACARA, withholding of removal, and relief under the Convention Against Torture.

**Immigration Consequences Of Criminal Convictions** edited by Jill Sheldon, provides detailed information to assist legal advocates in analyzing the potential immigration consequences of criminal conduct. The manual covers the basic framework for evaluating the impact of crimes, and discusses in detail crime-based inadmissibility and deportability grounds, establishing good moral character, detention and removal issues, post conviction relief, and judicial review.

The Catholic Legal Immigration Network (CLINIC) employs about 600 attorneys and paralegals in over 250 offices and represents more than 100,000 immigrants each year. This large volume of cases gives CLINIC a broad perspective that has resulted in CLINIC's developing tried-and-true methods of handling many types of immigration matters. ILW.COM is transforming CLINIC's internal training manuals into book form to enable immigration practitioners to learn from CLINIC's experience and knowledge and make available CLINIC's expertise to law firms serving immigrant communities.

**Order online at [www.ilw.com/books](http://www.ilw.com/books)**

**Order by mail: send the order form with payment to  
ILW.COM P.O. Box 1830, New York, NY 10156**

**Order by Fax: 212-545-0869**

**Order by Phone: 212-545-0818**

**Questions? write to [webmaster@ilw.com](mailto:webmaster@ilw.com).**

Unions who were unresponsive to employers' needs would be vulnerable to competition from other unions. Employers who couldn't stomach having a union shop would be free to use the existing immigration system, or forego temporary immigrant labor. However, they would be forced to provide wages and working conditions sufficient to attract US workers.

To protect their own interests, unions would keep a close watch on employers exploiting undocumented workers and would be eager to assist by reporting abuses to relevant government agencies. Unions who abused the system could have the privilege of issuing the Labor 2019 taken away, as well as being subject to other civil and criminal remedies.

In addition, this mechanism could help protect temporary workers and their families from exploitation by others, not just by employers. Unions could provide information and assist members through the immigration process, either by employing in-house counsel or helping members find competent outside representation, reducing workers' vulnerability to "*notarios*."

It would be vital to pair this temporary immigration process to a green card program, perhaps by allowing unions to sponsor members for legal permanent residence after a certain number of qualifying quarters of employment.

This essay puts forward an idea which is admittedly far from perfect. It is beyond my abilities and experience to think through every aspect of the proposal. There are surely drawbacks I have missed, but I hope there are also benefits I haven't seen. My goal is to spark debate so that radically different ways of governing immigration will at least be considered.

So much of the current immigration reform

debate fails to question the failed premise upon which our current policy is based: that an essentially economic phenomenon, employment-based immigration, can be effectively controlled by a political process.

Let's have the courage to admit to ourselves what the USSR acknowledged over a decade ago: central planning is doomed to failure. Let's find a way to give existing, powerful, self-interested actors (such as employers and labor unions) the authority to act. They can turn the current black market into a *real* market with transparency, accountability, and flexibility.

*Opinions expressed are personal and do not represent the views of Mayo Clinic in any way.*

---

#### **About the Author**

**Christopher Wendt** practices immigration law as in-house counsel to Mayo Clinic.

# THE PERM BOOK

**Editor: Joel Stewart**

Contains Over **Nine Hundred Pages** Of Information:

- A section-by-section interpretation of the PERM rule by Joel Stewart and his commentary on the rule
- A box-by-box discussion of Form 9089 by Joel Stewart, including a handy checklist for filing a PERM case
- Articles by many noted practitioners on specific topics arising from the PERM rule
- Essential reference materials: 14 documents
- Additional CD-ROM reference materials: Over 100 megabytes, over 1,400 files

Includes one free issue of PQ: The PERM Quarterly.

## PQ The PERM Quarterly

PQ: The PERM Quarterly is a quarterly periodical designed to help practitioners stay on the top of the latest in PERM. Each printed issue will feature the latest developments in PERM with analysis from leading practitioners. We expect it to be the definitive source for information and strategy on all PERM-related issues.

To stay on the top of the latest in PERM throughout the year, subscribe to PQ: The PERM Quarterly.

**Order online at [www.ilw.com/books](http://www.ilw.com/books)**

**Order by mail: send the order form with payment to  
ILW.COM P.O. Box 1830, New York, NY 10156**

**Order by Fax: 212-545-0869**

**Order by Phone: 212-545-0818**

**Questions? write to [webmaster@ilw.com](mailto:webmaster@ilw.com).**

# Classifieds

## Credential Evaluation Service

### 3-Year Degree from India (Pakistan, etc.) evaluated for I-140 and TN Visas as “single source” educational evaluation

Career Consulting International (CCI) [www.DegreePeople.com](http://www.DegreePeople.com) evaluates the 3-Year degree as equivalent to the US Bachelor's degree, using a course by course, expanded report converting contact hours as well as an expert opinion letter, backing up the evaluation. The Indian 3-Year Bachelor's Degree is materially identical to the UK 3-Year Bachelor's Degree because the English set up the Indian higher education system when they occupied India. The UK 3-Year Bachelor's degree is always accepted by USCIS (INS) as equivalent to the US Bachelor's degree. The Indian degree has not been accepted. Until now. By properly and thoroughly evaluating the degree, Career Consulting International is successful having the Indian degree accepted. This is crucial when applying for the I-140 and TN Visa which does not allow for the combination of degrees or combining a degree with work experience. It must be a SINGLE SOURCE degree equivalency for the I-140. The 3-Year Degree must be equivalent to a US bachelor's degree. Combinations will not be accepted. For sample evaluation and expert letters, see [www.3YearDegree.com](http://www.3YearDegree.com). Let CCI provide you with a free initial consultation. Contact Sheila Danzig, CCI Director, at 1-800-771-4723 or [sheila@danzig.com](mailto:sheila@danzig.com).

## Offshore Services For Law Firms

Quantum Technology, Inc. offers a wide range of back-office & clerical support services to immigration attorneys in NIV and IVs, including managing checklists, form completion, drafting cover/employer letters, consular processing assistance, follow-up/correspondence with clients. Our services cover document generation, data entry, accounts, scheduling/calendering, clerical & archival. We enable law firms to cut cost effectively and securely outsource law firm back office processes, and focus on increasing earning, growth and servicing their clients. Convenient billing options are available. Quantum is a sister company to Adnet Advertising Agency. For more info, contact Johaina Mumtaz at [Johaina@quantum-usa.com](mailto:Johaina@quantum-usa.com) or call 212 406-3503 ext 224.

To place an ad here, email: [webmaster@ilw.com](mailto:webmaster@ilw.com). 11,500+ immigration professionals read Immigration Monthly.

# Order Form

Item	Price	US\$
The PERM Workshop – San Antonio, TX – June 21, 2006 – 8:30pm-5pm	\$499 each	_____
THE PERM BOOK - Editor: Joel Stewart	\$499 each	_____
PQ: The PERM Quarterly: one year subscription (4 issues)	\$199 each	_____
Child Status Protection Act by Charles Wheeler	\$199 each	_____
Family-based Immigration: A Practitioner's Guide - Editor: Charles Wheeler	\$199 each	_____
Relief From Removal: A Practitioner's Guide – Editor: Jill Sheldon	\$199 each	_____
Immigration Consequences Of Criminal Convictions – Editor: Jill Sheldon	\$199 each	_____
The Nurse Immigration Book - Editor: William A. Stock	\$499 each	_____
Immigration Practice 2005-2006 Edition by Robert C. Divine and R. Blake Chisam	\$225 each	_____
The Whole Act 2005-2006 Edition by P.J. Patel	\$199 each	_____
20/22/28 CFR Plus 2005-2006 Edition by P.J. Patel	\$99 each	_____
8CFR Plus 2005-2006 Edition by P.J. Patel	\$99 each	_____
Patel's Citations 2005-2006 Edition by P.J. Patel	\$199 each	_____
Patel's Immigration Law Library 2005-2006 Edition by P.J. Patel (Includes 20/22/28 CFR Plus, 8 CFR Plus, The Whole Act & Patel's Citations)	\$499 each	_____
	Order Total	_____

Please check one:

- Check enclosed (Payable to ILW.COM)  
 Credit Card (American Express/Visa/Master Card/Discover)

Name on the card: \_\_\_\_\_

Card No. \_\_\_\_\_

Exp. Date \_\_\_\_\_ (MM/YY)

Billing Address \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Card Holder's Signature \_\_\_\_\_

Phone \_\_\_\_\_

E-mail address \_\_\_\_\_

Provide shipping address if different than above \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Order online at [www.ilw.com/books](http://www.ilw.com/books) and [www.ilw.com/workshops](http://www.ilw.com/workshops)

To order by mail, send this order form with payment to

ILW.COM

P.O. Box 1830, New York, NY 10156

Order by Phone: 212-545-0818    Order by Fax: 212-545-0869

For orders outside the continental US, to order by Email or if you have any questions please write to [webmaster@ilw.com](mailto:webmaster@ilw.com).



# Immigration Monthly

March 2006

- **Should We Look For A Union Label?** by *Christopher Wendt*
- **The PERM Workshop, San Antonio, TX – June 21, 2006 8:30am-5pm.**



**Immigration  
Monthly**

**ISSN 1557-1394**

**ILW.COM  
P. O. Box 1830  
New York, NY 10156**