



Immigration Benefits The U.S., So Let's Legalize All Work

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September 16, 2013

Immigration reform, once the top priority coming out of the 2012 presidential election, has stalled. The Senate has passed legislation, but the House is badly divided.

The current system is a shambles. Legal categories and subcategories, quotas, and lotteries have created a flourishing legal industry. The immigration bureaucracy is a lower level of Dante's Hell. Foreign students are turned away from U.S. universities, highly-skilled individuals are barred from working in America, and even political refugees sometimes are denied entry.

Finally, some 11 million people live in the U.S. illegally. They invest less in America, are vulnerable to abuse, and disrupt an already incomprehensible immigration policy.

Attempting to fence off the country is no answer to anything. It would be difficult for a generally free society with extensive borders to close out the rest of the world. Worse, to be effective such controls as ID cards, citizenship checks, workplace raids, employer sanctions, and more would undermine domestic liberties.

Anyway, immigration benefits the U.S. The economic advantages are significant. Many immigrants are natural entrepreneurs, establishing companies, creating jobs, and driving innovation. Well-educated and highly-trained foreign workers are inventive and productive. Expanded work forces increase business flexibility, allowing companies to quickly respond to changing demands. Larger labor forces also encourage specialization. Labor productivity rises as companies adjust to larger work forces and invest in employees.

Immigration may depress wages for the least skilled workers. However, these are the last jobs that government should seek to protect. Moreover, the work force, like the economy, is not a fixed pie. Immigration makes a more innovative, flexible, and productive economy, leading to new and better jobs. The benefits rise over time, with an expanding economic pie.

Immigration also offers a mix of cultural benefits and challenges, complicated but manageable. Unfortunately, perverse government policies exacerbate political and sovereignty problems. For instance, affirmative action benefits immigrants whose ancestors suffered no discrimination. Bilingual education and foreign language ballots relieve pressure on immigrants to learn English. Welfare benefits and services attract putative dependents rather than incipient entrepreneurs.

While elites tend to favor increased immigration, the public is more hostile to opening America's borders. Indeed, immigration has become one of Washington's most emotional political battles. Which makes it difficult to generate the political consensus necessary for change.

To move forward Congress should separate employment from citizenship. Since the most obvious benefits of immigration are economic, legislators should expand work visas for multiple skill levels. Renewable permits should be issued to individuals; compliance could be enforced by requiring immigrants to post a bond or deposit some of their earnings in a bank account, payable upon their departure. Immigration auctions or tariffs also would be innovative alternatives.

Congress also should regularize the status of those currently in America illegally. Washington should grant residence and employment permits, renewable or permanent, to the undocumented, freeing them of the fear of deportation. They then would be more likely to invest in education and training and integrate into the larger surrounding community.

In contrast, Congress should leave debate over turning illegal aliens into fellow citizens as well as legal workers for the future. In fact, some policymakers are considering just such a compromise.

For instance, Rep. Raul Labrador (R-ID) advocated "a legal process where people know they can be here for a long period of time, renew their visas, but you don't need a pathway to citizenship." The Republican National Committee urged creation of renewable work permits without the promise of citizenship. Rep. Bob Goodlatte (R-VA), Chairman of the House Judiciary Committee, asked: "Are there options that we should consider between the extremes of mass deportation and a pathway to citizenship?"

Some immigration critics complain that this approach would reward illegal behavior. The undocumented did break the law, but to improve their and their families' lives, not to hurt others. As President Barack Obama observed: "the vast majority of these individuals aren't looking for any trouble. They're just looking to provide for their families, contribute to their communities." Indeed, their presence benefits most Americans.

Moreover, there is no reason to expect that the 11 million people in America illegally will "self-deport." Most Americans don't have the stomach to round up millions of people who have become embedded in U.S. society. Additional employment controls and sanctions would undermine domestic liberties Americans take for granted. Regularization rather than deportation is the better choice.

Immigration supporters are even more critical of compromising on citizenship. After the RNC proposal, one blogger harkened back to the slave era, writing that the immigrants' "status would be akin to the

freedman who were denied citizenship under the notorious Supreme Court decision in Dred Scott.” Cristina Jimenez of the youth organization United We Dream called the idea “un-American.” Frank Sherry of America’s Voice contended that the message to those allowed to work is that they “are not good enough to be one of us.”

None of these charges make sense. In Dred Scott the court ruled that people who had been kidnapped, transported across the ocean, and forced to reside in America were not citizens, even after living in nominally “free” states. In contrast, today’s undocumented came voluntarily without any expectation of becoming citizens. Moreover, they jumped the queue, leapfrogging those who were waiting, sometimes for years, to emigrate legally.

Certainly there is nothing “un-American” about not making those who came illegally citizens. There may be policy reasons for doing so. But a republic dedicated to the rule of law has no moral or political obligation to prefer those who violate legal process.

Nor does the issue involve being “good enough” to be a citizen. The world is filled with people who would be productive, creative, law-abiding, decent, and otherwise worthy American citizens. Not all of them can share in the benefits and responsibilities of American citizenship. Immigration policy requires making choices, imposing criteria, and establishing procedures. Those who come illegally have no greater claim to citizenship than anyone else.

Moreover, for immigrants seeking economic opportunity—which typifies the undocumented—legal residency and employment are more important than political participation. With the former two they would enjoy most of the benefits of American society. Naturalization would result in some additional “rights,” but regularization even without citizenship would dramatically improve the status of today’s illegal immigrants.

Indeed, many of those here illegally appear to prefer legality over citizenship. Only 40 percent of those eligible for citizenship under the 1986 legislation naturalized. Two-thirds of the 5.4 million Mexican immigrants eligible for citizenship have not done so.

Newly legalized residents who desired to become citizens could apply for citizenship under existing rules. Indeed, Rep. Goodlatte proposed granting illegal aliens provisional legal status, after which they could use existing law to apply for a green card and ultimately citizenship, but “none of those would be special ways that have been made available only to people who have come here illegally.”

My Cato Institute colleague Alex Nowrasteh proposed creating two paths to permanent legal status, one a relatively simple process for gaining a work permit without an opportunity for citizenship, the other a more complex procedure allowing eventual citizenship. This, explained Nowrasteh, would “allow the unauthorized immigrants themselves to choose the type of legal status they wish to have,” while allowing government to adjust requirements to meet policy ends.

Yet the editors of Bloomberg news complain that “Legalization with no chance of citizenship would create an official second class.” Others talk of a permanent “underclass.” Actually, that’s the case

today. Legalizing the undocumented and improving their economic opportunities would empower them. They chose to come to America knowing they would be second class in every way—political, economic, and social. Regularizing their status would resolve the latter two issues.

In fact, the newly legalized would resemble expatriate workers around the world. Foreign workers and residents make up about one-fifth of Switzerland's population. Often thought of as an insular society, Switzerland actually is cosmopolitan. It can freely welcome so many foreigners because it does not offer citizenship alongside employment.

The European Union allows free movement of labor throughout the continent unrelated to political rights. This process has become more controversial as the EU has expanded eastward to poorer states—Bulgaria and Romania, for instance. Nevertheless, concerns focus on competition with native workers, not development of a permanent underclass. Analyst Will Wilkinson cited the EU's "great practical and moral triumph: the dramatic expansion of European mobility rights and the inspiring integration of the continent's labor markets."

Several Persian Gulf States host numbers of foreign workers several times as large as native populations. This is not a great model for America—essentially Gulf citizens are on oil welfare and contract out most work to others. However, these nations capture the economic benefits of foreign workers without transforming their political systems, expanding their welfare programs, or creating underclass populations.

At the same time, those allowed to work but not rule are better off than those not allowed to work or rule. Some legal immigrants in America advocate this approach for those who came illegally. For instance, 24-year-old Mark Khazanovich, who emigrated from Russia with his family, told The World radio show: "If I was living in a terrible country, I would much rather have the option of living in America and not vote, than not live in America."

Congress also should address the issue of "birthright" citizenship. The 14th Amendment proclaims: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States." Today everyone born in America, even to non-citizen parents merely visiting the U.S., become citizens.

The amendment was drafted to constitutionalize the citizenship of the freedmen after the Civil War, not set immigration policy. As Wilkinson explained, "Birthright citizenship made sense for a frontier country with open borders, newly freed slaves, and a small, remote bureaucracy. But the time seems ripe to consider alternatives."

There is no policy reason to automatically grant citizenship to the children of foreigners in America legally but with no significant connection to the country (such as tourists, businessmen, and diplomats) or to the children of those here illegally (irrespective of the latter's connection). The exact parameters of the constitutional mandate have not been established. Arguably those in America illegally are not subject to national jurisdiction, and therefore should not be covered. Congress should consider

legislation or, if necessary, a constitutional amendment, to restrict birthright citizenship (for instance, to the children of those here legally) or eliminate it entirely.

America's simple test for citizenship offers obvious benefits, but only 33 of roughly 200 countries tie citizenship to birthplace. The only other developed nation to do so is Canada. Australia, France, Great Britain, Ireland, Malta, New Zealand, and Portugal all have abandoned birthright citizenship.

Blogger Kevin Drum complained that changing citizenship rules would create "a large, permanent class of resentful noncitizens is something nobody should be pining for." However, many of those granted birthright citizenship won't live in America as youths since their parents were merely visiting or temporarily stationed here.

Children of illegal immigrants usually stay, but they would benefit along with their parents from legalizing their status. Resentment is far more likely in response to impaired educational opportunities, poor job prospects, and arbitrary threats of deportation than to an inability to vote and run for office.

Blogger Timothy Lee worried that eliminating birthright citizenship would "permanently reduce the political clout of the immigrant community" and thereby hinder the cause of immigration reform. However, that's no argument for granting political rights to anyone born on American territory, irrespective of their parents' legal status or connection to America. Citizenship should be determined by more than temporary political convenience.

Of course, pushing legislation without citizenship and challenging birthright citizenship might cost political support from some reform advocates. Consultant Nicholas Montalto argued "It will likely be impossible to reach a deal on comprehensive immigration reform with either the Senate or the House minority without such a well-defined path to citizenship." Sen. Marco Rubio (R-FL) said: "it must be clear from the outset that there is a pathway to citizenship." However, those advocating on behalf of the undocumented could not easily oppose a measure to legalize and empower the undocumented. Bloomberg's editors acknowledged that "legislation would be difficult for Democrats to resist" if a path for citizenship was provided for at least some currently illegal aliens.

Americans would greatly benefit from expanded immigration. However, enacting the right sort of reform remains politically difficult. Congress should allow more people to live and work legally in America. But put off the contentious argument over who should be welcomed as fellow citizens.