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## **American Conservatives Should Adopt Libertarian Immigration Policy**

**U.S. laws can't compete with the laws of economics that drive mass illegal immigration.**

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Former Republican governor of New Mexico and Libertarian presidential candidate Gary Johnson has a vision for America fundamentally different from Donald Trump's. Perhaps the most striking difference is on immigration. Johnson's mantra of more visas and legalization lie in stark contrast to Trump's call for less immigration, a huge wall, and a "deportation force."

Johnson's support for immigration is fully consistent with libertarian principles, of course. The tragedy is that people have forgotten it is also consistent with conservative principles.

### **America's Pro-Immigration Traditions**

American conservatives can find their pro-immigration roots in the American Founding. The Declaration of Independence complained that King George III "[H]as endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither."

That dislike of immigration barriers carried over to the Constitutional Convention. As Antonin Scalia Law School professor Ilya Somin has pointed out, there is no enumerated power in the Constitution that grants Congress the power to regulate most immigration—it had to be invented by the Supreme Court a century later. Congress' Naturalization Act of 1790 did not restrict immigration at all but did place a few conditions on naturalization: Two-year residence, good moral character, and a free white person. That last provision shamefully excluded indentured servants, slaves, and former slaves but, still, there were no restrictions on who could come here.

That laissez-faire immigration attitude persisted to 1875, often with an annual flow as a percentage of America's population that dwarfs today's. That open door was shut firmly by 1924 after a series of progressive, nationalist, and eugenics-inspired laws virtually halted immigration from China, and subsequently other nations of Asia and Africa, and finally from Europe. The growing restrictions from 1875 to 1924 departed from the Founding ideology and the traditional American cultural openness to immigrants.

## **Responses to Today's Serious Conservative Critiques of Immigration**

The modern conservative critique of immigration is that immigrants are fundamentally changing American culture and society, impoverishing Americans, exposing us to unprecedented danger, and will destroy free markets and limited government. These modern opponents of immigrants are following in the footsteps of Benjamin Franklin, who complained about the German “boors” who wouldn’t assimilate, John Jay who feared that Catholic immigrants would overturn Republican government, and the Progressive-era nativists who feared inferior immigrants would never assimilate. Like their restrictionist forebears, modern anti-immigration conservatives are mistaken.

There’s never been a greater quantity of expert and timely quantitative research that shows steady immigrant assimilation. The National Academy of Science’s 2015 book “The Integration of Immigrants into American Society” is a thorough, 520-page summary of peer-reviewed literature showing that assimilation is going well. The Organisation for Economic Cooperation and Development’s “Indicators of Immigrant Integration 2015” finds successful and rapid economic and educational assimilation of immigrants in the United States, especially compared to Europe. Economist Jacob Vigdor finds that modern immigrant civic and cultural assimilation is very similar to that of early twentieth-century immigrants and “are if anything stronger now than they were a century ago.”

Regional culture differences do persist in the United States, most memorably studied in David Hackett Fischer’s “Albion’s Seed.” His book is based on the so-called Doctrine of First Effective Settlement, which is that the creation and persistence of regional cultural differences requires the near-total displacement of the local population by a foreign one, as happened in the early settlement of the United States. That should increase our confidence in American culture’s ability to assimilate immigrants as waves of them from around the world have integrated into the U.S. regional cultures where they’ve settled rather than forming their own.

American culture is what successfully assimilated multitudes of immigrants in the past. Government assimilation programs, like the Americanization Movement of a hundred years ago, produced no measurable difference and *may* have even slowed assimilation. Immigrants and their children are assimilating well into American society and culture. For conservatives, exaggerated fears over assimilation are not good arguments to limit immigration or to create a large-scale government assimilation program that will likely backfire if our experience with other government programs is any indication.

The labor market adapts well to immigration and, at worst, the vast majority of American workers either benefit or face no difference in wages. That’s true for three big reasons. First, most immigrants are either less skilled or most skilled than Americans, so there isn’t much competition. Second, because immigrants and American have different skills, many of the newcomers are actually complementary—meaning that more of them actually increase Americans’ wages. Third, immigrants buy goods and services in America, boosting demand for employers. Those three effects largely offset the potential drop in wages.

## **Immigrants Aren’t Typically Welfare Queens**

Welfare is another concern but one vastly overblown. Immigrants on a green card can't access most programs until they've been here for five years. Foreigners on work visas, those on other forms of lawful residency, and illegal immigrants don't have any access except for emergency medical care. There is fraud but the myth of the immigrant welfare queen is vastly overblown.

Poor immigrants use less welfare than poor Americans. In Medicaid, non-citizen immigrant adults and children are about 25 percent *less* likely to be signed up for Medicaid than their poor native-born equivalents. When they do sign up, poor immigrant adults consume \$941 *less* on average than similar natives and typically have better health outcomes. Poor immigrant children consume \$565 fewer dollars than similar native-born children.

Immigrants have a positive long-run fiscal impact on Medicare and Social Security. From 2002 to 2009, immigrants made 14.7 percent of contributions to Medicare Part A while only consuming 7.9 percent of all expenditures, contributing a net \$13.8 billion annually to Medicare Part A. Natives took out a net \$30.9 billion more from Medicare Part A than they paid in. Among Medicare enrollees, average expenditures were \$1,465 lower for immigrants. The differences are largely the result of return migration and varying age structures between the typically older natives and younger immigrants.

Estimated impacts on the Social Security system vary widely. Based on actuarial information provided by the Social Security Administration, Stuart Anderson found that an increase in legal immigration by 33 percent would reduce the actuarial debt by 10 percent over 50 years, boosting revenues to Social Security by a present value of \$216 billion over 75 years. Interestingly, a moratorium on immigration would increase the Social Security debt by almost a third.

The taxes immigrants pay directly or indirectly by growing the economy combined with their lower consumption of government services and demographics make immigrants a fiscal wash. Basically, they come very close to covering their own government consumption or maybe even produce a slight surplus.

Immigrants are less crime-prone than Americans, despite what the mainstream media may portray. Your chance of being killed by a foreign-born terrorist on American soil since 9/11 is one in 178 *million*. By comparison, your chance of being murdered on U.S. soil by anybody over that same time period is one in 19,517. It's time to calm down and take count of the real but small foreign-born terrorist threat Americans face.

### **Immigrants Are As Leftist As Americans**

The most interesting conservative restrictionist complaint is that immigrants will overturn American political and economic institutions, impoverishing us and ruining our Republican traditions. I spend a lot of time working on and studying this issue. In a recent academic paper, we compared economic freedom scores with immigrant populations across 100 countries over 21 years. We found that the larger a country's immigrant population was in 1990, the more economic freedom increased in the same country by 2011. The immigrant's country of origin, and whether they came from a poor nation or a rich one, didn't affect the outcome.

These results held for the United States federal government but not for state governments. States with greater immigrant populations in 1990 had less economic freedom in 2011 than those with

fewer immigrants, but the difference was small. The national increase in economic freedom more than outweighed the small decrease in economic freedom in states with more immigrants.

Then there's the issue of immigrants and their children having political opinions different from those of Americans because persistent differences could change policy outcomes. To measure this, we looked at polling of immigrants and their descendants in the General Social Survey (GSS). Other surveys by ethnicity are unreliable because many descendants of Hispanic immigrants do not self-identify as Hispanic. Fortunately, the GSS allowed us to track the specific opinions of immigrants and their direct descendants so we could gain a more accurate assessment of their opinions by generation. Stunningly, they and their descendants have opinions barely different from those of native-born Americans.

Immigrants and their descendants could also vote to expand welfare benefits for themselves. Since state governments can set the benefit and spending levels for welfare programs in their own states and they also have varying levels of immigration and ethnic diversity, this was a perfect opportunity. We found that a state's population of immigrants, illegal immigrants, Hispanics, Asians, ethnic or racial diversity caused by immigration, or any combination of the above did not affect the size of welfare benefits. Larger populations of immigrants or more diversity didn't decrease welfare on the state level, but they didn't increase it either.

One reason more immigration doesn't lead to bigger government, or at least grow government more rapidly, is that open immigration laws make native voters oppose welfare because they believe immigrants will be the primary beneficiaries. As Paul Krugman aptly observed, "Absent those [immigration] restrictions, there would have been many claims, justified or not, about people flocking to America to take advantage of [New Deal] welfare programs." The late Cornell University labor historian and immigration restrictionist Vernon M. Briggs Jr. echoed Krugman when he wrote, "This era [of immigration restrictions] witnessed the enactment of the most progressive worker and family legislation the nation has ever adopted."

In other words, Roosevelt's New Deal and LBJ's Great Society programs could only have been created because immigration was so heavily restricted, thus removing the most effective political argument against expanding welfare. Those programs wouldn't have been politically possible to create in an era of mass immigration. That could be a very good political reason for conservatives to embrace ethnic, religious, and racial diversity as another means to achieve economic policy goals.

### **The Immigration Act of 1965 Was Not an Anti-GOP Conspiracy**

Those are my responses to the serious conservative criticisms of immigration. Still, there are some popular but unserious criticisms that are quasi-conspiratorial—a big change from William F. Buckley's measured conservatism. A prominent one by conservative columnist Ann Coulter is that Ted Kennedy's Immigration Act of 1965 was a nefarious plot to destroy the Republican Party by importing Democratic voters.

That act removed the last national origin quotas previously set according to racial and ethnic theories developed during the Progressive and nationalist-inspired eugenics movement. In

reality, the 1965 act was popular and bipartisan with a greater percentage of House Republican votes than those from House Democrats.

The most serious charge against the 1965 act is that achieved its ethnic rebalancing by expanding family-based immigration over the high level that existed since the 1920s. In reality, Latin American immigration was already increasing under the older pre-1965 system but it and, especially, Asian immigration accelerated. Few, with the notable exception of the bill's opponent Democratic Sen. John McClellan of Arkansas, expected the 1965 act to open up immigration to Asia and Latin America as much as it actually did.

Even the ethnic lobbies didn't expect it to open so much. The Japanese American Citizens League supported the Act, writing "[I]n actual operation immigration will still be controlled by the now discredited national origins system and the general pattern that exists today will continue for many years to come." The family-based immigration system was seen as a way to preserve European immigration, not expand it to non-Europeans.

Ohio Democratic Rep. Michael Feighan, an opponent of the Immigration Act of 1965 because it would allow in more immigrants from outside of Europe, provides the best example of restrictionist unintended consequences. He thought ethnic central planning instituted by the earlier 1920s immigration laws could be preserved through expanded family preferences. As his thinking went, most immigrants in America at the time had family members in Europe so if they could only sponsor other family members then only Europeans will dominate the flow.

The anti-1965-act lobby led by the Daughters of the American Revolution and the American Legion supported Feighan's stealth strategy to maintain the European ethnic mix of immigrants. Coulter and other critics of the 1965 act should be more upset at these immigration restrictionists for unintentionally opening America's immigration system to the rest of the world rather than at Ted Kennedy for carrying out a near-impossible-to-predict, decades-long plan to subvert the GOP. For once, the law of unintended consequences worked in America's favor.

How did the family-based immigration system expand opportunities to Asians and Latin Americans? It works like a chain. For instance, an initial immigrant who comes legally can eventually sponsor his or her spouse, children, and siblings. Those family members can then eventually sponsor other family members and spouses, who can in turn sponsor their family members and siblings. In this way, the family-based system mushroomed in a way unanticipated by its chief immigration restrictionist architects.

### **Expanding Enforcement Is Not the Way to End Illegal Immigration**

The 1965 act followed on the end of the Bracero Program, the last large-scale guest worker visa program for lower-skilled workers that allowed in almost five million farm workers on a temporary basis from the early 1940s until 1964. The Bracero Program was severely flawed but it allowed Mexicans to move back and forth legally. When Congress failed to renew it in 1964, that legal and regulated flow became illegal and unregulated. More than 50 years later and after several amnesties and huge increases in immigration enforcement, the population of illegal immigrants is between 11 and 12 million.

Immigration restrictionists respond to illegal immigration in non-conservative ways that grow the power of the government and restrict the liberty of American citizens.

In 2015 the Border Patrol was more than five times as big as it was in 1995. In 1954, the average Border Patrol officer apprehended 953 illegal immigrants. In 2015, that number dipped to 17, as more officers are chasing fewer illegal immigrants. They set up road checkpoints 100 miles inland that are ineffective at apprehending illegal immigrants but guaranteed to harass American citizens, often depriving them of their Fourth Amendment rights.

The most infamous checkpoint is in the Arizona town of Arivaca, 11 miles from the Mexican border. Residents of this small town have been protesting it for years, and numerous alleged Border Patrol rights violations have escalated to the point of a federal lawsuit. Many local residents are so upset that they are running their own surveillance operation to monitor the Border Patrol. In 2008, 4 percent of Border Patrol agents were assigned to such checkpoints but apprehended a mere 2 percent of illegal immigrants detained in that year. That's a poor showing, even for government work.

E-Verify is an electronic employment eligibility verification system run by the Department of Homeland Security (DHS) intended to weed unauthorized immigrants out of the labor market. It's supposed to work like this: Bosses take identity information from their new hires and run it through a government database online. The database then says the worker is eligible to work, ineligible to work, or more information is required. Supposedly, illegal immigrants will not be allowed to work while Americans will not be flagged as illegal. In reality, neither happens.

A small percentage of legal American workers, mainly legal immigrants, are flagged by E-Verify as illegal, which prompts the question: How many Americans should be denied a job for the sake of E-Verify? Worryingly, E-Verify can form the basis of a national identity program that could be used as a basis for constructing a national gun registry or databases of other lawful activities. After all, the Social Security number originally designed to link an individual American to his or her government benefits has now been expanded to many hundreds of other interactions. The same will happen with E-Verify if it isn't stopped.

Adding insult to economic and privacy injury, E-Verify is ineffective at halting illegal immigration. Most illegal immigrants—54 percent, according to one survey—are able to fool E-Verify and get work authorization. The states of Arizona, Alabama, Mississippi, and South Carolina have mandated E-Verify for all Americans and immigrants who are hired. The E-Verify mandate in those states demanded that 100 of new hires be run through the system, but only 53 percent actually were. Enforcing immigration laws is hard even in states that support it. In Arizona, wages for illegal immigrants have barely fallen as a result of E-Verify, thus having almost no effect on the wage magnet that attracts them in the first place.

### **The Laws of Economics at Odds With the Laws of America**

All of those criticisms ignore the biggest one: Conservatives really don't want to live in a country where each new worker has to ask permission before getting a new job. Uncritical support of expanding an already bloated immigration enforcement bureaucracy drives the growth

in government while obsession with technology “fixes” like E-Verify depend on a faith in state efficiency divorced from all reality.

One of the best characteristics of conservatism is its acceptance of human nature and the laws of economics as unchangeable through government legislation. Laws restricting immigration have failed as the laws of economics drive immigrants here and compel Americans to hire them.

The most important aspect of a conservative law-and-order mentality is that the laws must be just. A Rutgers University law professor once remarked that our immigration laws are “second only to the Internal Revenue Code in complexity.” It’s worse than that. There is essentially no legal way for lower-skilled immigrants to come here and work unless they’re closely related to an American. If you want people to respect the immigration laws, then the first order of business is to make them respectable. Spending billions more on border security will only paint some very expensive lipstick on a legal pig.

Every concern about immigrants ruining American life, our prosperity, or overturning our culture and institutions are as old as this country. Each time those concerns have turned out to be wrong. The chance that they are correct now after being incorrect for centuries is very low. The current behavior of immigrants and their steady assimilation into the American way is the modern continuation of America’s centuries-old tale of immigration.

A legal means for workers of all skill levels to work, live, and eventually become citizens will return our immigration system to its traditional roots, crush the black market, restore law and order, and grow the economy at little cost. Even better, it’s the conservative thing to do.

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