



Cato Handbook for Policymakers

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60. Immigration

Congress should

- expand current legal immigration quotas, especially for employment-based visas;
- repeal the arbitrary and restrictive cap on H1-B visas for highly skilled workers;
- create a temporary worker program for lower-skilled workers to meet long-term labor demand and reduce incentives for illegal immigration; and
- refocus border-control resources to keep criminals and terrorists out of the country.

Immigrants remain a source of economic and social vitality for the United States today as they have throughout our history, even as immigration remains politically controversial. Since the federal government began counting in 1820, more than 73 million immigrants have legally entered the United States to settle and begin new lives. During the Great Migration of the late 19th and early 20th centuries, millions of immigrants helped power America's industrial rise and populate farms in the Midwest and Great Plains. Today, immigrants continue to fill niches in our labor market, at the high and the low end of the skill spectrum, while softening the demographic effect of declining birthrates.

Demographic Effect in Perspective

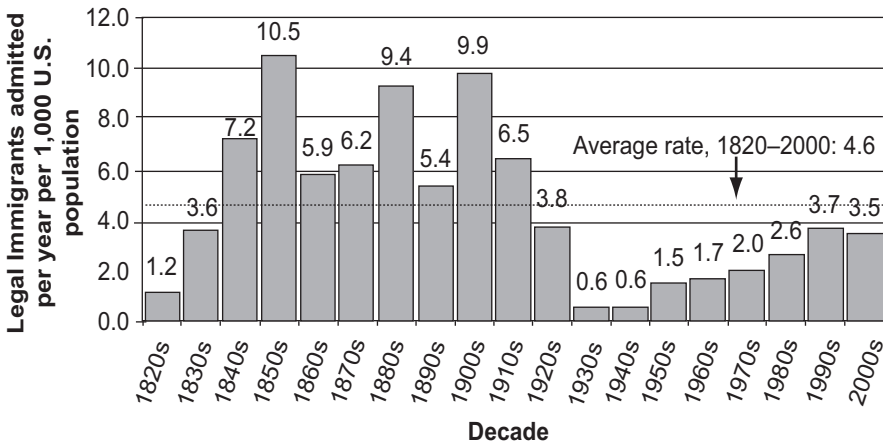
Critics complain about today's "mass immigration," but when compared with the current U.S. population of more than 300 million, today's immigration numbers are well within the norms of U.S. history. Since 2000, the United States has admitted an average of 1 million legal immigrants per year, or an immigration rate of 3.5 per year per 1,000 U.S. residents. That rate compares with an immigration rate of 9.4 to 10.5 in previous peak

decades, as shown in Figure 60.1. In fact, the current legal immigration rate is lower than that of any decade between 1830 and 1930, and is below the average rate of 4.6 during the 19th and 20th centuries. The United States could significantly expand legal immigration and still be well below the immigration rates of previous periods.

The share of the U.S. population that is foreign-born also remains below its historical peaks. According to the U.S. Census Bureau, 12.7 percent of the U.S. population was foreign-born in 2006. That number has been steadily rising since its nadir in 1970, but it is still below the peak of nearly 15 percent in 1910. In other advanced, democratic countries, such as Australia, Canada, and Switzerland, immigrants are a higher share of the population than in the United States.

Immigration has not fueled a population explosion. Instead, it has only partially offset a steep decline in the birthrate and natural growth of the U.S. population and labor force. During the 20th century, the U.S. population grew an average of 1.3 percent per year. Since 2000, the annual growth rate has slipped to just below 1 percent, the slowest rate since the Great Depression. Without immigration, the growth of the U.S. labor force would decline rapidly toward zero during the next two decades. The primary drivers of local population growth remain births and internal migration. Since 2000, 43 percent of U.S. counties have lost population.

Figure 60.1
American Immigration in Perspective



SOURCES: U.S. Census Bureau; 2007 *Yearbook of Immigration Statistics*, U.S. Office of Immigration Statistics.

Immigration allows the United States to maintain a healthy if slowing increase in the workforce. Immigration also slows the aging of the U.S. population. According to the Census Bureau, the median age of immigrants who have arrived since 2000 is 28.1 years, compared with 35.6 years for the native-born population. Immigration is helping America avoid the serious demographic problems confronting rapidly aging societies such as Russia, Italy, Japan and, soon, China.

Our Restrictive Immigration System

Immigrating legally to the United States is not easy, despite complaints about “open borders.” The United States was almost completely open to immigration from its founding until the 1920s. One of the few exceptions was the Chinese Exclusion Act of 1882, which blocked virtually all immigration from that country. In 1924, Congress imposed quotas on immigration that were designed to preserve the country’s existing racial and ethnic composition by severely limiting immigration from southern and eastern Europe. Those quotas remained in effect until 1965.

Most immigrants who gain legal permanent residence status (i.e., a green card) either are closely related to a legal resident in the United States or are sponsored by an employer who must demonstrate a lack of sufficient U.S. workers available for the position. A U.S. citizen can sponsor his or her foreign-born spouse, minor and adult children, brothers and sisters, and parents (if the sponsor is 21 or older). A noncitizen, permanent legal resident can sponsor only his or her spouse, minor children, and adult unmarried children. There is no sponsorship of cousins, aunts, uncles, or other such extended family. A maximum of 50,000 “diversity visas” are also offered each year to immigrants from countries that send relatively few immigrants to the United States. The United States is also open to a limited number of refugees and asylum seekers who fear persecution in their home countries.

Most visa categories are limited by strict quotas. There is no cap on immediate relatives (spouses, minor children, and parents) of U.S. citizens, but all other family preference categories are limited to a total of 226,000 visas per year. In addition, no more than 7 percent of family preference or employment visas (about 26,000) each year can be granted to immigrants from any single country. One result of the quotas is long waiting periods. Spouses of legalized permanent residents can wait as long as 4 years to gain a green card, and siblings of U.S. citizens can wait as long as 20 years. Employment-based visas are capped at 140,000 per year. Most

of those visas are set aside for professors and researchers, members of professions such as doctors, and skilled workers such as computer scientists. Only 5,000 permanent residence visas are available each year for low-skilled workers.

In addition to green cards, the U.S. government also allocates nonimmigrant visas that allow foreigners to come to the United States temporarily for study, tourism, business, and diplomacy. Foreigners entering the United States temporarily far outnumber those who are given legal permanent residency. According to the Department of Homeland Security, the United States welcomed 33.7 million temporary visitors during the 2006 fiscal year. Of those, 24.9 million came for pleasure, 5 million for business, 1.7 million for employment, and 1.2 million for study and academic exchanges.

How to Attract Talented and Skilled Workers

To maintain American leadership in the global economy, Congress should raise or abolish the cap on H1-B visas. Congress should also expand the annual quota of employment-based green cards so the most valuable workers can remain in the United States.

Immigrants have played a vital role in the success of America's free-market economy. Some of America's most successful high-tech companies—Google, eBay, Yahoo!, Sun Microsystems, and Intel—were cofounded by immigrants. A 2007 study by the Pratt School of Engineering at Duke University found that one-quarter of all engineering and technology companies launched between 1995 and 2005 had at least one key founder who was foreign-born. Those companies produced \$52 billion in sales and employed 450,000 workers in 2005. Most of the immigrant-founded companies were in the software and the innovation and/or manufacturing services sectors. The study also found that foreign nationals living in the United States were listed as inventors or coinventors on almost a quarter of the international patents filed from the United States in 2005.

American companies need to be able to compete for top talent in the world. Our producers must be able to hire the right workers with the right skills to compete in the global marketplace. The Bureau of Labor Statistics projects that the U.S. economy will add a net 1 million new jobs in computers, math, and engineering in the next decade. This expansion of demand occurs during a time when the number of native-born Americans earning degrees in those fields is woefully inadequate. Meanwhile, Canada,

Britain, Australia, and Singapore are competing for the same talent, while China and India become more attractive for returning expatriates.

The main channel for American companies to hire highly skilled foreign-born workers is the H1-B visa program. An H1-B visa allows a worker to enter the United States temporarily for a renewable period of three years. Current law maintains a cap of 65,000 such visas each year, plus another 20,000 for graduates of U.S. universities who have earned at least a master's degree. The 65,000 cap remains at the same level as when it was first imposed in 1990 despite the dramatic growth of America's high-tech sector. In recent years, requests for the visas have exceeded supply months before each fiscal year has begun. *The Economist* magazine was right to call our current H1-B cap "a policy of self-sabotage."

Restricting H1-B visas limits the ability of U.S. companies to expand their activities in the United States. If U.S. companies cannot find the skilled workers they need here at home, they will understandably look abroad to find their workforce through foreign outsourcing and offshoring. It is absurd to scold U.S. companies for hiring skilled workers abroad while denying them the ability to expand their skilled workforce at home.

Highly skilled workers generally complement rather than compete against American-born workers. H1-B workers create employment opportunities for native-born Americans by increasing research and development, production, and exports. Studies have shown that for every H1-B visa requested by an S&P 500 or technology company, the company typically adds five additional workers.

American companies do not hire H1-B workers to replace higher-paid American workers. By law, they cannot pay H1-B workers less than the market rate, and violations of the law have been rare. A competitive labor market makes it difficult for companies to underpay H1-B workers even if they could. If an H1-B worker were being underpaid by his or her current employer, another employer would have an incentive to lure him or her away from its competitor by offering a higher salary. U.S. companies also pay a premium of \$6,000 to \$10,000 in legal and other fees to hire an H1-B worker.

If what the critics charge were true, we would expect U.S. companies to hire more H1-B workers in difficult times to cut costs. In fact, we've seen the opposite. During the dot-com bust earlier this decade, we saw requests for H1-B visas plunge. U.S. companies apply for an H1-B visa only when they cannot find American workers who are right for the job. By severely restricting H1-B visas, Congress is crippling the ability of U.S.-based companies to compete successfully in the high-tech global market.

Low-Skilled and Illegal Immigration

Any lasting solution to the challenge of illegal immigration must recognize the legitimate needs of American employers to hire the workers necessary to meet the demands of their customers. Reform must also uphold the rule of law and enhance our national security.

According to the most widely accepted estimates, about 12 million foreign-born people are living in the United States without authorization, and that number has been growing by 400,000 to 500,000 annually in recent years. Most illegal immigrants are low-skilled workers, and most come from Mexico and Central America. The continuing inflow of unskilled immigrants to the United States has been driven by two powerful economic and demographic trends.

On the demand side, the U.S. economy continues to create hundreds of thousands of net new jobs each year that require relatively few skills. Although the fastest-growing categories of new jobs being created in our increasingly sophisticated economy require at least some specialized skills, training, and education, jobs are also being created in lower-skilled, mostly service sectors that complement the higher-end jobs.

Meanwhile, the supply of native-born Americans who have traditionally filled such jobs continues to shrink as the typical American worker becomes older and better educated. As recently as the early 1960s, half of the adult Americans in the workforce were high school dropouts; today, fewer than 7 percent of native-born American adults are laboring without a high school diploma. A better-educated labor force is a profoundly positive development, but it also means that fewer workers are willing to claim the still-growing number of jobs in our economy that require few skills and minimal formal education.

Immigrants fill that growing gap in the labor market. Those immigrant workers enable important sectors of the U.S. economy, such as retail, construction, landscaping, restaurants, and hotels, to continue to grow and meet the needs of their customers. Because of low-skilled immigration, those sectors have been able to expand, attract investment, and create middle-class jobs in management, bookkeeping, marketing, and other areas that employ native-born Americans.

Despite those realities, our immigration system contains no legal channel for lower-skilled foreign-born workers to enter the country legally to fill the jobs that an insufficient number of Americans want. As we've seen, visa categories exist for highly skilled foreign-born workers and for close family relatives of immigrants already in the country legally. But a peace-

ful, hard-working Mexican or Central American who knows of a job in the United States for which no Americans are available has virtually no legal means of entering the United States. The result of this missing channel is wide-scale illegal immigration.

For the past 20 years, the U.S. government has pursued a policy of “enforcement only” in its effort to curb illegal immigration. Since the late 1980s, spending on border enforcement has grown exponentially. The number of Border Patrol officers grew threefold between 1986 and 2002, and doubled again during President Bush’s two terms in office. Miles of fencing have been erected through urban border areas and into the surrounding desert. Since 1986, U.S. employers have been subject to fines for knowingly hiring undocumented workers. There is no evidence that more vigorous enforcement has had any long-term effect on the number of illegal workers entering the country. (See Chapter 29, “National ID Systems,” for a critique of interior enforcement programs.)

Our current policy has perversely interrupted what had been an established circular pattern of migration from Mexico to the United States. From the mid-1960s to the mid-1980s, during a time of relatively relaxed border enforcement, an estimated 80 percent of Mexicans who entered the United States illegally eventually returned to Mexico. The federal government’s ramped-up border enforcement turned a temporary and circular flow into a permanent and growing settlement of illegal immigrants.

The most rational, cost-effective way to reduce illegal immigration is comprehensive immigration reform, including a sufficiently accommodating temporary worker program. Any real hope of reducing illegal immigration will depend on allowing enough foreign-born workers to enter the United States legally to fill the growing gap at the lower rungs of the labor ladder. Without a workable temporary visa program, workers will continue to enter the United States illegally, with all the consequences that flow from a continued influx and stock of illegal workers.

Skeptics of immigration reform point to the 1986 Immigration Reform and Control Act as evidence that reform and legalization cannot work. The 1986 act offered legal permanent resident status to 2.7 million illegal workers who had entered the country before 1982 and to certain agricultural workers, and it significantly ramped up enforcement efforts. Notably missing from the IRCA, however, was any provision to expand the opportunity for low-skilled workers to enter the country legally. The pool of illegal workers was drained temporarily by the amnesty, but it soon began to fill up again as the economic pull of the U.S. labor market overwhelmed even the stepped-up enforcement efforts.

We know from experience that legal immigration, if allowed, will crowd out illegal immigration. In the 1950s, the Bracero program allowed Mexican workers to enter the country temporarily, typically to work on farms in the Southwest. Early in that decade, illegal immigration was widespread because the program offered an insufficient number of visas to meet the labor demands of a growing U.S. economy. Instead of merely redoubling efforts to enforce a flawed law, Congress dramatically increased the number of visas to accommodate demand. As a result, apprehensions of illegal entrants at the border soon dropped by more than 95 percent. Back then, as we can expect now, foreign-born workers rationally chose the legal path to entry when it was available. When the Bracero program was abolished in 1964, illegal immigration began an inexorable rise that continues to this day.

If the goal is to curb illegal immigration, any temporary worker program must offer enough visas to meet the legitimate demands of a growing U.S. labor market. The fact that 400,000 to 500,000 foreign-born workers join the U.S. labor force each year indicates the general magnitude of how much demand exceeds the supply of available, legal workers. A temporary worker program should offer at least that number of visas to allow the revealed demand of American employers to be met legally.

Any temporary worker program must also include complete worker mobility. The best protection for legalized workers remains the freedom to change jobs if pay or conditions are unsatisfactory. A portable visa that allows temporary workers to freely choose whom they work for with a minimum of red tape would enhance their bargaining power in the marketplace, improving their pay and working conditions.

Comprehensive reform should also offer legal status to workers already here without authorization. It would be an economic and humanitarian disaster, as well as an administrative nightmare, to round up the 12 million people already here illegally and somehow deport them to their home countries. Most have been in the country for five years or more, and 40 percent have been here for more than a decade. Their contributions to their employers and the U.S. economy should be recognized and weighed against their violation of U.S. immigration laws.

Long-standing critics of comprehensive immigration reform will brand any legalization as an “amnesty.” But amnesty means a general pardon, in particular for political offenses. Legalization would not be a pardon or amnesty because, according to the most serious proposals put forward in Congress, undocumented workers would be expected to pay fines and

back taxes. They would not be granted the automatic permanent legal status that was a core feature of the IRCA, but only temporary status to remain and work in the United States for a specified period. They would not be given any advantage over applicants currently waiting for permanent status.

Unfounded Fears of Legalization

Expanding legal immigration would not cause a flood of new immigrants, exploding welfare costs, rising crime, lower wages, or compromised security. Legalization would not mean large numbers of new immigrants but rather the replacement of illegal workers with legal workers. Any fears of “chain migration” can be addressed by limiting sponsorships to the “nuclear family” of spouses and minor children. The result would be to allow nuclear families to remain intact, while incrementally moving the U.S. immigration system from one that is primarily family based to one that is employment based.

Only a small and declining share of the American workforce competes against immigrant workers. Studies by the National Research Council and the National Bureau of Economic Research have found that immigration exerts a small negative effect on the wages of the small and declining number of Americans without a high school diploma, while delivering higher real wages to the vast majority of native-born American workers. Enabling and urging young Americans to graduate from high school will do far more to raise the earnings of American workers than barring low-skilled immigrants from the country.

To minimize the effect on taxpayers, immigrant access to welfare and other government payments should be strictly limited. Passage of the 1996 welfare reform act led to a reduction in welfare rolls even as the number of legal and illegal immigrants in the country continued to rise. A 2007 Congressional Budget Office study found that immigration reform would not cause a net loss to the federal government during the decade after its enactment. Studies in Texas, North Carolina, and other states have found a modest negative effect on state and local budgets from low-skilled immigration, but they also noted that those losses were more than offset by economic gains to state residents. Nor do immigrants increase the overall crime rate. Immigrants are actually less likely to commit crimes than native-born Americans. Crime rates have fallen by a third since the early 1990s, while the number of illegal immigrants living in the country

has doubled. Policymakers concerned about the fiscal effect of immigration should aim to wall off the welfare state, not our country.

Immigration reform would actually enhance America's border security by bringing more order to the border. Reform would greatly reduce demand for human smuggling, document fraud, and other underground criminal activities. It would encourage millions of undocumented workers to come forward to register and cooperate with law enforcement authorities. It would allow the Homeland Security Department to concentrate its apprehension efforts on violent criminals and terrorists rather than meatpackers and janitors. As Homeland Security Secretary Michael Chertoff told Congress in 2007: "A regulated channel for temporary workers would dramatically reduce the pressure on our borders, aid our economy and ease the task of our law enforcement agents inside the country. There is an inextricable link between the creation of a temporary worker program and better enforcement at the border."

Conclusion

Regulating immigration is the responsibility of the federal government. Enacting economically sound and prudent immigration reform on a national level would bring coherence to the growing patchwork of state and local law enforcement efforts aimed at curbing illegal immigration. There is no substitute for a comprehensive federal immigration system that promotes family cohesion, economic innovation, long-term growth, the rule of law, and secure borders.

Suggested Readings

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—*Prepared by Daniel Griswold*

