
Fixing Immigration

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THE IMMIGRATION debate has been the subject of a prime-time address by President Bush, sparked demonstrations in the streets of several major cities, and last year played a key role in a number of congressional races. It is constantly on the lips of pundits and political commentators, and is already a factor in the presidential race as well. It has occasionally turned ugly, with accusations of racism on one side and anti-Americanism on the other, leaving many policymakers uncertain where to turn or exactly how to allay what they sense as growing public unease.

The debate has been especially divisive within the Republican party. Congressman Tom Tancredo of Colorado has launched a presidential run on a platform of tight border control and opposition to any form of amnesty for illegal aliens, whom he calls “a scourge that threatens the very future of our nation.” The President, meanwhile, is pushing in essentially the opposite direction, campaigning to “normalize” the status of illegal immigrants who have lived in America for years and proposing a temporary-worker program to allow more foreigners to come here legally. The nation’s immigration policy, Bush has asserted, must take heed of “the

reality that there are many people on the other side of our border who will do anything to come to America to work and build a better life.”

All of this makes for fascinating political theater. But as a debate about immigration it leaves a great deal to be desired. The heated arguments have had to do almost entirely not with America’s immigration system per se but with the estimated half-million people who enter the United States illegally each year, mostly by crossing the wide-open Mexican border. Around 12 million such illegal immigrants already reside in the United States—a number so large that almost any means of dealing with them, from deportation to amnesty and everything in between, offers profound challenges of principle, prudence, and practice.

Congressman James Sensenbrenner of Wisconsin, a leader in the effort to curtail illegal immigration, expressed a common sentiment last year when he bemoaned the confusion of legal with illegal immigration. The debate, he insisted, is about the latter, not the former. Not everyone agrees. Some restrictionists have argued that legal and illegal immigration are inextricably linked. The Washington-based Center for Immigration Studies, for instance, has called them “two sides of the same coin,” and Congressman Tancredo matches his vehemence about protecting America’s borders with a proposal to cut legal immigration to 250,000 people annually. Patrick Buchanan, another vociferous opponent of illegal immigration, has said

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much the same thing. On the other side, many who argue for amnesty or other means of accommodating illegal immigrants also favor less restrictive legal immigration in the future.

They are all wrong. Legal and illegal immigration are *not* two sides of the same coin. Neither, however, does illegal immigration, worrisome though it is, constitute our main problem. That problem resides in our actual immigration policies—our means of selecting, processing, welcoming, and integrating those who come to our shores openly and legally.

The sorry state of legal immigration to America is no small matter. It involves far more people, and far more momentous questions, than the challenge of illegal immigrants. Only by thinking through those questions can we find our way to something better than a choice between nativism and naiveté.

MOST FOREIGNERS who enter this country legally are not immigrants but visitors, tourists, or business travelers. A large number of others are on the margins of the definition of immigrant: workers granted permission to live here for a limited time and even bring their families. In 2005, more than 1.5 million people, or three times the number who entered the nation illegally, entered as such legal “temporary workers” and their families.

Temporary labor visas vary in length and associated conditions, but only one category of work visa, the “specialty occupation” or so-called H-1B visa granted to scientists and engineers or other highly educated skilled workers, permits the recipient to apply for a more permanent immigrant status when the visa expires. All other work-visa holders are required to leave when their term ends—though of course not all do.

Actual immigrant status—accorded to an individual granted permission to move to the United States and remain here, potentially to become a full-fledged citizen—generally takes the form first of legal permanent residency, often called the “green card.” Legal permanent residents are allowed to live and work in the United States without a time limit. They may own property, attend public school, join the military (with some restrictions), and do nearly everything American citizens can do with the exception of voting or running for public office. Unlike citizens, though, their status can be revoked (and they can be deported) if they commit certain serious crimes.

In 2005, just over a million people became legal permanent residents. They fell into four general

categories. About 20 percent (the numbers are limited by law) received employment-based green cards. Another 13 percent were refugees and asylum-seekers, admitted after proving they were subject to persecution in their home country. A further 4 percent were so-called “diversity immigrants,” admitted under a lottery program established in 1986 to make room for newcomers from countries with low rates of immigration to the United States. Millions vie for one of these spots—the threshold requirement is a high-school diploma or two years of skilled employment—and 50,000 are selected randomly each year.

But by far the largest share of new legal permanent residents—about 60 percent in 2005—are relatives of naturalized American citizens or (in far fewer cases) of other legal permanent residents. Indeed, “family unification” is easily the foremost organizing principle of American immigration policy today. Once an individual has become an American citizen, he or she can petition on behalf of relatives—not only spouses and children, but also parents and siblings. Parents of new citizens account for almost 10 percent of new permanent residents each year, and siblings for another 7 percent. Once naturalized as citizens, each such spouse, child, sibling, and parent can bring other relatives over, creating a so-called “chain immigration” that accounts for a large and growing portion of newcomers to America.

This emphasis on extended family unification is also the main reason for the overwhelming proportion of Mexicans among legal immigrants to the United States. In 2005, Mexicans comprised nearly 15 percent of new legal permanent residents, almost twice the portion from the next nearest home country, India (closely followed in turn by China, the Philippines, Cuba, Vietnam, and the Dominican Republic). This was almost exclusively because of family-based petitions, about a quarter of which were granted to Mexicans. Among employment-based immigrants, by contrast, Mexicans did not even make the top five, lagging far behind India, China, South Korea, and the Philippines.

IN PRINCIPLE, legal permanent residence is the first step toward citizenship and full integration into American society. But in reality—and here is where one big problem starts—many immigrants prefer to remain in non-citizen resident status for the long term. As legal permanent residents, they can enjoy almost all the rights and privileges of an American while retaining their foreign citizenship, avoiding the need to demonstrate cursory English

proficiency and pass a simple civics test, and sidestepping the often difficult formal separation from their home country. At the end of 2004, there were 12 million legal permanent residents living in the United States, roughly the same number as illegal immigrants. About 8 million of these were eligible to become citizens but had chosen not to do so. A substantial number—almost 15 percent—had been here since before 1980. Mexicans made up by far the largest share.

As for those who do choose to become citizens, the process is fairly straightforward, though often protracted by administrative backlogs. About 500,000 people become American citizens each year, and on average each has been a legal permanent resident for eight years before naturalizing. In 2005, the largest portion of such new citizens—13 percent—was once again from Mexico, followed by the Philippines (with 6.1 percent), India, Vietnam, and China. Two-thirds of new citizens are married. The vast majority live in one of five states: California, New York, Florida, Illinois, or Texas.

The process of naturalization these new citizens go through is essentially bureaucratic. With the exception of a brief exam at the very last stage, it includes virtually no formal elements of or incentives for assimilation into American society and culture. The exam requires the applicant to write and utter a few words of English and answer correctly six of ten questions about American history or government. The questions include items like: “what are the colors of our flag?”; “what country did we fight in the revolutionary war?”; and “who is the President of the United States today?”

Immigration officials are now completing a revision of the exam, ostensibly to test for deeper understanding. According to a government spokesman quoted in the *Boston Globe*, “the new test is designed to encourage immigrants to really look at our history and government and what we value as a society.” The first batch of new questions, unveiled in February, still includes factual items (“who is the governor of your state?”) but also asks applicants, for instance, to “name one important idea found in the Declaration of Independence.” In both its old and new versions, the exam largely relies on memorization of a list of widely available questions and answers. It also remains the only feature of the immigration process explicitly focused on assimilation.

THESE BASIC outlines of current American immigration law have their origins in policies established more than 40 years ago, in response to a very different world. The Immigration Act of

1965, the last major overhaul of the system, was in many respects a fruit of the civil-rights movement of the 1950’s and 60’s. As John J. Miller argues in his insightful book *The Unmaking of Americans* (1998), immigration reform would likely not have come about when it did “were it not for the growing revulsion against anti-black racial categorization” and its obvious parallels with America’s existing immigration policy.

The 1965 act put an end to the long-established system of national-origins quotas, intended to restrict the inflow of certain groups (especially Jews, Italians, and Asians). In its place, the new system emphasized aiding refugees from Communist nations, meeting the growing need for highly skilled labor, and respecting immigrant family ties. These were sensible aims. But over the ensuing decades, the policy grew chaotic and aimless, and today it is positively unsuited to our needs.

To grasp the problems with the current system, we need only ask a simple question: what is our immigration policy for? Clearly, the United States cannot let in all the many millions who wish to immigrate here each year. Some selection and filtering are necessary. But by what principle, and to what purpose, does and should that selection operate?

As our system stands now, the answer is very hard to discern. Our policies are clearly not well designed to advance America’s economic interests, either by importing the best and the brightest or by meeting shortages of lower-skilled labor and manpower. Such employment-based immigration accounts for but a thin slice of the whole, and is not matched to actual economic needs. Special-skills work visas are quite limited and hard to come by, and low-skilled, employment-based immigration is worse than inadequate, as evidenced by its failure even to make a dent in the demand of employers who now end up resorting to illegal immigrant labor.

Nor is our policy advancing the good of immigrant assimilation and cultural integration. As we have seen, America has almost no policy at all in that regard. In 2002, when Congress moved most of the authority over immigration from the Justice Department to the Department of Homeland Security, it also created a new Office of Citizenship which, according to the language of the statute, was supposed to “promote instruction and training on citizenship rights and responsibilities and to provide immigrants with information and tools necessary to successfully integrate into American civic culture.” The office has since then published brochures and posted some “civics flash cards” online; but that is about it.

The closest thing to an effort at integration is the English Literacy and Civics Program administered by the Department of Education, which provides \$70 million in grants each year to community colleges and adult-education schools that offer classes in English and American civics. But as the Hudson Institute's John Fonte found in reviewing the programs, most turn out to be classes in "life-coping" skills like opening a bank account or making a police complaint, and even these are too small in scale to make a difference.

Which leaves family reunification as the only serious aim of current immigration policy. The bulk of new immigrants are admitted in support of that aim, and the basic character and flavor of legal immigration to America are shaped by it. Moreover, the enormous backlogs in family applications (in some cases stretching more than two decades) mean that, absent serious reform, this will continue to be the defining feature of our policy long into the future.

It is easy to see why family unification appeals to legal immigrants themselves. And keeping spouses and their children together makes good humanitarian, social, and cultural sense. But what sense is there in *extended* family unification? What is the great benefit to America in admitting parents and siblings of adults admitted as immigrants, and then further admitting the parents and siblings of *those* new immigrants (and of their spouses), all the while leaving less room for new arrivals who might meet important economic needs or be better suited to become new Americans?

Family unification came to be the defining goal of American immigration policy largely by default. It was one of several aims of the Immigration Act of 1965, but because it was not made fully subject to an annual quota (like employment-based immigration), it soon came to dominate the system. As various reforms took effect over time, each new immigrant admitted for non-family reasons could form the first link in a long family chain stretching over many years. Soon, family-based immigration overwhelmed all of the law's other aims. The time has clearly come for change.

THE GOOD news is that a few simple reforms of the immigration system, and of the assimilation process, could begin to make a difference fairly quickly. The less good news is that they require a fundamental change of attitude and, as usual, political will.

First, the cause of family unification can and should be understood in narrower terms: the holding-together of *nuclear* families. New immigrants

should be permitted to petition only for spouses and for unmarried children below the age of twenty-one. Keeping parents and their young children together is not only humane and ethical, it is good social policy, helping to channel the energies of immigrants toward building stable families and communities. But to permit more extended family relationships to define the character of American immigration is absurd. Although the narrowing of family-based immigration categories would need to be carried out over time, allowing those now in the process to adjust, and clearing at least some of the backlog, new extended-family petitions could be curtailed immediately and eventually ended.

Second, it is time to end the so-called "visa lottery" originally designed largely to aid immigrants from poorer European nations (especially Ireland, which is how the program won the support of Congress). Created in 1986, the program now has neither rhyme nor reason, and no one in Washington seems able to explain why green cards should be given out at random in the first place. If the desire is for some diversity of national origin, Congress could easily integrate that aim into employment-based immigration by formalizing a modest preference for applicants from countries with low rates of emigration to the U.S. But admission by lottery makes no policy sense, and surely sends the wrong message about the meaning of the opportunity to immigrate to America.

The visa lottery also makes it more difficult to screen new immigrants for security risks. Hesham Mohamed Ali Hedayet, the Egyptian who opened fire at the El Al counter at Los Angeles International Airport in 2002, had entered the country when his wife won a green card in the lottery, despite his prior connections with the Muslim Brotherhood. In 2004, the State Department warned Congress that the system might be vulnerable to more organized infiltration as well. "The bottom line," the department's deputy inspector general told a congressional committee, is that the program "can be taken advantage of by hostile intelligence officers or terrorists." Keeping out radical Islamists is difficult enough in a time of war; a program that assigns immigration slots randomly is no help.

Third, and most important, employment-based immigration needs to be expanded and reformed to meet the requirements of the American labor market. This, indeed, should be the new organizing principle of our immigration system. Reform is needed at both the high and the low end. At the upper level of skill, many of those who are able to come here already do, and America benefits by

importing their talent and training. But the annual quota of visas and green cards for these priority workers generally fills up within two months every year. As Microsoft chairman Bill Gates told a Senate committee in March, “It makes no sense to tell well-trained, highly skilled individuals—many of whom are educated at our top colleges and universities—that the United States does not welcome or value them.” Gates’s specific proposal, which would completely eliminate the caps on such visas, goes too far, making it difficult to exercise any control on the flow of trained workers. But high-skill labor quotas could be regularly adjusted to meet demand, particularly in very specialized scientific and engineering occupations.

EVEN GREATER reform, though, is needed at the other end of the labor market, where America’s legal system has been of very little use. By narrowing family-immigration categories and eliminating the visa lottery, about 220,000 slots annually could be opened for legal permanent residents. All of these could be turned into lower-skill, employment-based visas. In addition, another 200,000 or so slots could be made available in the form of temporary visas, with the option (assuming good behavior and economic standing) of applying for legal permanent-resident status at the end of the term. (This option is now available only to a narrow class of high-skill labor visas.)

Increasing lower-skilled, employment-based immigration would not solve the problem of illegal immigrants from Mexico, who are willing to work at extremely low wages and in dismal conditions. That solution must involve, first and foremost, securing the southern border; nothing short of that will make a significant dent. But as that is done, a sizable increase in the number of lower-skilled legal immigrant workers will help employers meet their job requirements and avert a painful labor shortage. By admitting those eager to find a place here, it would once again help us achieve better control of the inflow, and put lower-skilled immigrants on a legitimate track toward American citizenship.

Holding out the option of eventual permanent residence and citizenship would also be better for America than an expanded or new temporary-worker program of the sort advocated by President Bush and some in Congress. American immigration has always been tied to the ethos of assimilation—a sense that newcomers can become new Americans, not a permanently separate class.

True, President Bush does not envision such a permanent class; his program, he has said, “expects

temporary workers to return permanently to their home countries after their period of work in the United States has expired.” But this is highly unrealistic, as recent experience amply confirms. Creating a laboring class of outsiders with no prospect of legitimately joining American society would be a serious mistake—a mistake already made by several Western European countries to their sorrow.

AS MUCH AS reasonably possible, coming to America should be linked with becoming an American. This means that as our immigration system is reformed, our assimilation efforts need to be similarly reformed.

For one thing, a modest element of civic education can and should begin early on in the process. To that end, the civics test now administered prior to naturalization could instead be administered prior to granting legal permanent residency. The test requires only a minimal grasp of English and some key concepts of American history and government—and all questions are available to applicants in advance. But administering it early will signal our belief that immigrants are required to take steps toward becoming Americans before enjoying the benefits of living here.

Later on, final qualification for citizenship can be made contingent on completing an actual course in American history and civics, rather than just taking an exam. Such courses might be certified by the Office of Citizenship, and conducted (in English) by civic or religious groups, community colleges, or private companies like those that prepare students for the SAT. They need cover only the basic concepts of American civic life—as found in the Declaration of Independence, the Constitution, the speeches of some of our great men—and the outlines of how these concepts have functioned in American history. Learning the basics in the presence of a teacher and fellow students can make a great deal of difference—for the student, the teacher, and the culture in general.

Finally, we need to put a time limit on legal permanent residency. Past a defined point—ten years is a good term—an immigrant would be required to apply for citizenship or face losing some of the privileges of the green card (like eligibility for student and housing loans or other benefits) and eventually the ability to travel abroad and reenter the country without limit. Combined with better enforcement of the prohibition on dual citizenship, a green-card time limit would help motivate immigrants now living in limbo to find their full place in American life.

These particular reforms are hardly onerous and are almost symbolic in nature. But in a process of acculturation, symbols matter. Assimilation is not something that can be brought about by government programs or the tweaking of incentives alone. It requires a willing immigrant and a welcoming society that believes it has something to offer. For this reason, the entire immigration process must deliver a message about the importance of assimilation, and must actively do as much as possible to help it along.

Assimilation is also a long-term process, often a generational one. This means that the target of our assimilation efforts cannot be the naturalizing immigrant alone but the entire cultural environment surrounding him and his family. In a real sense, a more active assimilation policy, by getting America talking about what it is to be American, can be as important for our society as for the immigrants seeking to join it. The new immigrant will not learn everything he needs to know by attending a citizenship class, but a society that requires such courses, and that encourages citizens to teach them, will be better positioned in the long run to assimilate new members successfully.

Modest though they are, such measures could significantly change the tenor of the process of becoming a resident and then a citizen of the United States, above all by making it clear that Americanization is what America wants.

WHAT AMERICA wants, indeed, has long been the missing ingredient in American immigration policy. This in itself may account for the absence of any serious discussion of legal immigration in the heated debates of recent years. Although reforming legal immigration will not resolve the problems of the Mexican border or of the 12 million foreigners now residing here illegally, it will compel us to plan for the future, and to pursue a policy that is not defensive but constructive, not explosive but unifying. It will also bring home the truth that the problem with immigration is not immigrants but a badly broken system of selecting, directing, managing, and assimilating them.

Getting legal immigration right will be more complex than addressing the illegal inflow from Mexico. It is not a yes-or-no question but a matter of deciding how a nation of immigrants should regard those wishing to make America their home, and of translating that attitude into policy and practice at a dangerous moment in history. But if it is more complex, it is also more important. How we choose new immigrants, and how we help them to become Americans, will determine whether we can remain what we are: a nation uniquely welcoming of outsiders yet also united around a set of ideas and ideals, a nation with a special place and purpose. That is another of the many ways in which immigration has been and can continue to be good for America.