

# Heritage Lectures

No. 1046  
Delivered July 30, 2007



Published by The Heritage Foundation

October 3, 2007

## Immigration: Many Questions, A Few Answers

*The Honorable Lamar Smith*

Immigration has become the most controversial, complex, and sensitive subject we face today. It directly affects our economy, our culture, and our future. To ensure that any action we take on immigration policy is in our national interest, we need to approach the subject with reason and facts. The astronomer Carl Sagan once said, "Better the hard truth than the comforting fantasy."

### **Immigrants and the American Tradition**

America has a wonderful tradition of welcoming newcomers. We admit more than one million legal immigrants every year, almost as many as all other countries combined. Our generosity and compassion should continue. But it should be tempered by the knowledge that those who want to harm us will use any means possible, including our immigration policy, to do so.

It's no surprise that so many people want to come here: we are the freest and most prosperous nation in the world. Immigrants have benefited America in many ways. They are laborers, inventors, and CEOs. They include the scientist Albert Einstein, Governor Arnold Schwarzenegger, and countless others who have contributed to America's strength.

However, there is a difference between legal and illegal immigration. Legal immigrants play by the rules, wait their turn, and come in the right way. Others cut in front of the line, break our laws, and enter illegally.

We understand their desires. Our hearts go out to them. If we were in their shoes, we would want to get to the United States too. Most are hard-working,

### **Talking Points**

- Illegal immigrants impose a great cost to the U.S. Overcrowded classrooms, long waits at hospital emergency rooms, and expensive government services result from a failure to secure our borders.
- In California alone, hospitals spend over \$1 billion a year on health care for illegal immigrants. Additionally, an immigrant with less than a high school education will, over his or her lifetime, impose a cost on taxpayers of \$89,000.
- Immigration enforcement has failed primarily because administrations for 20 years have not enforced sanctions on employers who hire illegal immigrants. Illegal immigration will never be brought under control as long as the easy availability of jobs remains such a strong magnet.

This paper, in its entirety, can be found at:  
[www.heritage.org/Research/immigration/hl1046.cfm](http://www.heritage.org/Research/immigration/hl1046.cfm)

Produced by the Douglas and Sarah Allison  
Center for Foreign Policy Studies  
of the  
Kathryn and Shelby Cullom Davis  
Institute for International Studies

Published by The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002-4999  
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decent people. But we cannot accommodate everyone. No nation can survive without respect for its laws and without secure borders.

In one poll, almost half the residents of Mexico said they would move to the U.S. if they could. Perhaps hundreds of millions of people around the world would do the same thing. But that would lead to mass chaos. Every nation has to know who and how many are entering and why.

Not enforcing immigration laws has left our borders out of control and has led to disrespect for the rule of law.

### **The Costs of Illegal Immigration**

Today, anywhere from 12 million to 20 million illegal immigrants are in the U.S.—enough to populate America's three largest cities, New York City, Los Angeles, and Chicago. Half a million more enter illegally every year.

Those who would do us harm respect no borders. For instance, four of the 19 terrorists who attacked us on September 11, 2001, were in the country illegally. Border security equals national security.

Illegal immigrants also depress wages and often take the jobs of legal workers. According to the Center for Immigration Studies, low-skilled workers lose an average of \$1,800 a year because of competition from illegal immigrants for their jobs. That's a huge economic hit.

The highest unemployment rates among Americans are in the occupations with the highest number of illegal immigrants. Almost one-quarter of all African-Americans and 40 percent of all Hispanics do not have a high school degree. These low-skilled legal workers are the victims of porous borders.

Some say there are jobs Americans won't do. But that demeans Americans who work hard in every occupation. Any honest job is a worthy job.

There is another cost to illegal immigration besides lower wages and lost jobs. Communities and taxpayers pay the bills for their education, health care, and government benefits. Overcrowded classrooms, long waits at hospital emergency rooms, and expensive government services result from a failure to secure our borders.

In California alone, hospitals spend over \$1 billion a year on health care for illegal immigrants. And the National Research Council has found that an immigrant with less than a high school education will, over his or her lifetime, impose a cost on taxpayers of \$89,000. It is unfair to force legal residents and taxpayers to continue to pick up the tab.

Some say the taxes illegal immigrants pay offset the costs of providing them education, health care, and government benefits. But, at their low wages, most illegal immigrants don't even pay taxes. And when they do, their taxes don't cover other government services, like maintaining highways, providing for our national defense, and taking care of the needy and elderly.

Also, at their wages, if illegal immigrants participate in Social Security, they will get back \$100,000 more than they pay in, further bankrupting the system for everyone else. The cost of illegal immigration is staggering. And it is growing by the minute.

### **The Dangers of Automatic Citizenship**

Ten percent of all births in the U.S. are to illegal immigrants. In Los Angeles and Houston and other large cities, two-thirds of all births are to illegal immigrants. These children automatically become citizens and the parents become eligible for taxpayer-funded benefits. Yet nearly every industrialized country in the world requires at least one parent to be a citizen or legal immigrant before the child is automatically considered a citizen.

This granting of automatic citizenship comes from a misinterpretation of the Fourteenth Amendment. It was drafted after the Civil War to guarantee that the recently freed slaves gained full citizenship rights. When it was enacted in 1868, there were no illegal immigrants in the United States because there were no immigration laws. Therefore, drafters of the Amendment could not have intended to benefit those in our country illegally.

Professor Peter Schuck of Yale University Law School has referred to "the offense to common morality and common sense of conferring citizenship on children whose only connection to the United States is that their mothers crossed the border (illegally) in time to give birth here."

Legal experts disagree as to whether a constitutional amendment or a federal statute is needed to eliminate automatic birth citizenship. Congress arguably has the power, and the responsibility, to act for three reasons: 1) No Supreme Court case has dealt directly with the offspring of illegal immigrants and the question of automatic citizenship; 2) the Constitution expressly gives Congress the power to decide national immigration policies; and 3) during the debate on the Fourteenth Amendment in 1866, the Senator who was its author said it would “not of course include persons born in the United States who are foreigners.” Congress is long overdue in making sure the Fourteenth Amendment is correctly interpreted.

### **Amnesty and Guest Worker Proposals**

Most Americans feel that illegal immigration poses serious challenges. Several solutions have been suggested to cope with illegal immigration, though they often result in more questions than answers. One is to give the 12 million to 20 million immigrants illegally in the U.S. amnesty and a path to citizenship, which is the greatest honor our country can bestow.

What message does this send to legal immigrants who have played by the rules and waited their turn to come in the right way? What message does this send to law-abiding Americans who work hard to pay their taxes—only to see their tax dollars go to lawbreakers? What message does this send to terrorists? It says once you are in the country you can gain a legal identity that gives you cover to ply your treacherous trade. What message does this send to every would-be illegal immigrant? It says in bright flashing lights: If you get across the border, you’re home free.

Of course, if illegal immigrants are given amnesty, that will only encourage others to enter illegally, too.

Another proposal is to create a guest worker program and permit illegal immigrants to stay and work legally. While there may be a legitimate need for such a program in one industry—agriculture—most industries do not have a legitimate need for foreign workers since most of their workers are legal.

Guest worker programs also raise a number of questions. For instance, what happens to the illegal immigrants who do not apply for the program? Are guest workers limited to certain jobs or can they go to another job? What is to stop them from taking a better job for more pay? Can they bring their families? How long can they stay? Will they voluntarily return to their home country? How do you know they have left the country?

Doesn’t such a program create an endless stream of guest workers who drive down wages and take the jobs of American workers, including legal immigrants?

Recently, federal immigration agents arrested illegal workers at two large meat-processing companies. At one, they were replaced quickly by local African-Americans who lined up for the jobs. At the other, the jobs went immediately to legal immigrants.

For a guest worker program to function, we would need to have a national database of tamper-proof, biometric, machine-readable ID cards. How long will that take to create? What will it cost to conduct background checks on all guest workers to make sure they aren’t criminals? Will foreign countries provide criminal records?

How do you stop the widespread use of fraudulent documents? In many localities you can get a birth certificate in the mail without proof of identity! Under the 1986 amnesty law, two-thirds of the agriculture worker applications that were approved were later found by the Government Accountability Office to be fraudulent.

What about the implications for our national security? Wouldn’t it be easy for a terrorist to gain access to a guest worker program and legitimize his presence? In fact, it has already happened. The terrorist who blew up the garage of the World Trade Center in 1993 was admitted as an agricultural guest worker, though he had no connection to agriculture.

Maybe the best way to fix a broken immigration system is to enforce our current immigration laws. Shouldn’t we do this before taking any other action?

## Jobs and Illegal Immigration

The magnet that attracts most illegal immigrants is the easy availability of jobs. Yet the 1986 law that makes it unlawful to hire someone in the country illegally is seldom enforced. In 2005, only *four* employers were fined under this law. If we make it more difficult for illegal immigrants to get jobs, won't many go home?

Three-quarters of the American people want to penalize employers who hire illegal workers. If the federal government enforced our laws, illegal immigrants would be less likely to enter and more likely to leave. This would help create jobs for American workers and ease the financial burden on taxpayers.

Unfortunately, border patrol agents estimate that for every one person they apprehend, another one or two succeed in entering illegally. These agents' hands are tied both by a lack of sufficient resources and by an immigration policy that says an illegal immigrant must be caught as many as ten times before they are actually arrested. That's an open invitation for illegal immigrants to keep trying until they succeed in entering our country.

Forty percent of all illegal immigrants actually enter on short-term visas and never return home after their visas expire. And there is no way to know who they are since the federal government has not developed the exit system—required by law—to keep track of who leaves our country. That law was enacted 11 years ago and has been largely ignored by both Democratic and Republican administrations.

When discussing the problems of illegal immigration and their solutions, we should put the interests of American workers, American taxpayers, and legal immigrants first. Supporters of amnesty for the 12 million to 20 million illegal immigrants in the U.S. say that even if their proposals are flawed, the status quo is intolerable.

I agree: The immigration status quo is intolerable not because our immigration laws are broken, but because they are not enforced. It would be immigration reform just to enforce current laws. To this end, I have introduced both a resolution and a bill with Congressman Peter King (R-NY) that will secure the borders and protect our homeland.

The resolution outlines 12 ways in which a lack of enforcement has led to increased illegal immigration.

## Why U.S. Policies Fail

Immigration enforcement has failed primarily because administrations for 20 years have not enforced sanctions on employers who hire illegal immigrants. Illegal immigration will never be brought under control as long as the easy availability of jobs remains such a strong magnet. Our resolution calls on the Bush Administration to enforce employer sanctions systematically, not just sporadically.

A lack of adequate resources has been another problem. This Administration has not requested the number of detention beds, immigration investigators, and Border Patrol agents that Congress called for in the Intelligence Reform and Terrorism Prevention Act of 2004. Additionally, it has constructed only a few of the miles of fencing called for in the Secure Fence Act. The resolution calls on the Bush Administration to seek all the immigration enforcement resources called for in the Intelligence Reform Act and to fulfill the pledge we made in the Secure Fence Act.

Administrations have stood by while states and localities have violated federal law by granting in-state tuition to illegal immigrants. Such a policy rewards illegal immigrants at the expense of U.S. citizens who are forced to pay out-of-state tuition rates for the same education. The resolution calls on the Bush Administration to enforce federal law.

Administrations have failed to prosecute 98 percent of the illegal immigrants stopped at the border. The resolution calls on the Administration to engage in more prosecutions so as to create a credible deterrent to illegal entry and alien smuggling.

Administrations have failed to implement a mandated exit control system to keep track of visa overstayers and have failed to fully make use of tools that Congress has granted to combat illegal immigration, such as expedited removal for illegal entrants. The resolution calls on the Administration to do so.

Administrations have failed to protect American taxpayers by not enforcing the affidavits of support

that sponsors of legal immigrants must sign. The resolution asks the Administration to do so.

Had previous administrations utilized these tools, requested the necessary resources, and vigorously enforced these laws, we would not have an illegal immigration crisis today: We would not have 12 million to 20 million illegal immigrants living in our country.

The Bush Administration claims we have a *de facto* amnesty now. That's true and it is the result of the Bush Administration's own lack of determination to enforce the law. We do not need amnesty to enforce current law—we need to enforce the law to eliminate the need for amnesty.

We can further reduce illegal immigration by giving the government new and better tools. To do this, Representative King and I have introduced the Secure Borders FIRST Act. One main point of the bill is to end the job magnet by making it more difficult for illegal immigrants to obtain jobs that should go to American workers. The bill creates an

employment eligibility verification system that will reduce the attraction of that magnet.

The bill enlists the Social Security Administration and the Internal Revenue Service to help end the employment of illegal immigrants. The bill prevents businesses from claiming tax deductions for illegal workers. Also, the bill substantially increases document security. The bill prevents the federal government from accepting insecure foreign consular ID cards and institutes new security standards for birth certificates. Finally, the bill responds to the legitimate needs of the agricultural community for a reliable seasonal workforce.

Together, our resolution and our bill point the way toward an end to the intolerable status quo and towards a future when our laws are both respected and enforced.

—*The Honorable Lamar Smith, a Republican, represents the 21st District of Texas in the U.S. House of Representatives.*