

The ABCs of Immigration Reform

By Sean Garcia | May 28, 2004

On January 7, 2004, President Bush opened the doors to a national debate on U.S. immigration policy. While his proposal leaves much to be desired, it provides activists across the country with an opportunity to raise questions about how immigration reform should be properly executed.

What Is Immigration Reform?

President Bush did not provide specific details on what he would like to see in an immigration reform but rather laid out principles that he believes should guide the debate. In addition to the Bush proposal, several immigration reform proposals have been introduced in Congress over the past year. In analyzing these proposals, immigration reform advocates formulated their own set of principles that should guide the decision-making process. The following is a summary of those basic principles.

Legalization: By this process, migrants living illegally in the United States gain legal immigration status. Experts currently estimate this population at between 8 to 10 million people. Legalizing these migrants would allow them to obtain drivers licenses, open bank accounts, take out mortgages, and access a host of services that most U.S. residents take for granted. Legal status would also allow migrants to file formal complaints regarding labor violations that they presently have to endure in silence for fear of being deported. Moreover, legalization is viewed as important for national security. Most analysts consider it dangerous to have millions of unknown residents in the country, and legalizing their status would let officials know who they are and why they are here.

There are two options for immigrant legalization. A blanket **AMNESTY** would automatically grant U.S. residency to anyone who can prove they have lived in the United States since a certain date. This would open up a path to citizenship, for those who so desire. **EARNED LEGALIZATION** would require immigrants to prove that they have been employed

for a certain period of time in an illegal capacity. If they qualify, they would then be granted a temporary residency status for a determined period of time, during which they would have to meet additional work requirements. Some earned legalization proposals include a path that would allow for permanent residency; others envision sending migrants back to their countries of origin after their temporary work visas expire.

A Path to Citizenship: Most immigration reform advocates believe that a path to citizenship is an essential component of any successful immigration reform proposal. Migrants faced with becoming legal and then being deported before they are ready to return to their home country may opt to maintain their illegal status in order to stay in the country as long as they want. More dangerously, new migrants may opt to risk their lives entering the United States illegally rather than accept a process that limits how long they can work in the country. Either way, as long as residents are working, law-abiding members of a society, they should be allowed to join that society officially if they choose to do so.

Future Flows: Comprehensive immigration reform must not only address the crisis of undocumented workers currently living in the United States, but must provide suitable avenues for new workers to enter the country. Not anticipating future immigration would fix only half the problem, requiring yet another debate on immigration reform at some point.

Currently, there are only 10,000 visas allotted annually for unskilled laborers to enter the United States. However, the Bureau of Immigration and Customs



Enforcement estimates that 300,000 migrants enter the country illegally each year. Comprehensive immigration reform must recognize the reality of this situation and expand the number of visas currently available, or create a new visa category to handle the excess demand. Most immigration proposals in Congress would create a **TEMPORARY GUEST WORKER** visa to fill this demand. Not all temporary guest worker programs contain paths to citizenship. Some would provide a 3 or 4-year visa that may or may not be renewable. These temporary visa plans usually do not include a path to citizenship that would allow the migrant to apply for permanent residency. After the visa expires, migrants would be subject to deportation.

Mobility: Because of stepped-up border enforcement in the past ten years, many migrants are staying in the United States on a more permanent basis, rather than going back and forth between the United States and their country of origin as work and family needs dictate. As a result, many migrants seek to bring spouses and children to join them. In the first nine months of 2003, the Border Patrol repatriated 9,800 minors who crossed the U.S.-Mexico border unaccompanied. Crossing through the dangerous deserts of the Southwest puts children at high risk of injury or death. Any comprehensive immigration reform proposal should permit full mobility of migrants to leave and re-enter the United States.

Family Unity: Currently, the U.S. immigration system specifies that a worker must come to the United States alone. Once here, he or she can apply to have visas issued to immediate family members. However, that process currently takes approximately five years, which is why even legal immigrants often use illegal channels to bring their loved ones to join them. Serious immigration reform should include issuance of family visas before a worker comes to the United States, so families are not separated for years at a

time. The backlog of family visa applications should also be cleared up to prevent undue waiting periods for family members seeking to join migrants.

Labor Protections: Migrants who enter the United States to work temporarily have traditionally been subject to different labor laws and standards that put them at risk of abuse from employers. Because these workers are not U.S. citizens, they do not have the ability to vote for changes to the system and are often reluctant to challenge it for fear of losing their visas. Comprehensive immigration reform should ensure that temporary workers have the same labor protections that U.S. workers receive.

Border Security: In 1993, the U.S. Border Patrol began implementing a strategy to close off urban border areas to illegal entry, utilizing fences, cameras, motion sensors and thousands of border patrol agents. The resulting policy has driven more than 2,000 migrants to their deaths in the hostile environment of the southwest desert since

1998. After the attacks of September 11, 2001, the Border Patrol continued with the same strategy, but began adding the word “terrorist” to the plan.

The U.S. Border Patrol has an obligation to protect the nation’s borders from terrorists. However, current border-security policies along the southern border are aimed at migrants rather than terrorists. Serious immigration reform must include reorganizing the Border Patrol and adopting new strategies to keep the nation’s borders safe. The Border Patrol should acknowledge that economic migrants do not constitute a terrorist threat and should not be treated like terrorists. The Border Patrol should also recognize that its activities and the infrastructure it has erected along the border have serious negative impacts on the quality of life for border residents. Reform of the Border Patrol should promote non-invasive security that focuses on terrorists—not migrants.

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How Do the Proposals Stack Up?

To date, only the SOLVE Act (S.2381/H.R. 4262), introduced by Senator Edward Kennedy and Congressman Luis Gutierrez comes close to satisfying the above criteria. In President Bush's January speech, he supported earned legalization for current workers, but did not provide a path to citizenship for those workers. He supports the creation of a new visa category for temporary guest workers that would likely last for a three-year period, renewable once. But this visa does not contemplate permanent residency or citizenship procedures. Although Bush supports the mobility of workers and provides for some labor protections, he also prefers putting workers' families in the current queue for visas. The Bush proposal does not mention a reorganization of the Border Patrol.

Questions for Candidates for Elected Office

- 1) One of the tragic consequences of U.S. immigration policies and the increased presence of the Border Patrol along the U.S.-Mexico border is the increase in immigrant deaths: In the past five years alone, more than 2,000 migrants have been found dead in the desert. What reforms would you propose to stem these deaths? What policies would you reform to allow economic migrants to safely enter the U.S.?
- 2) Thousands of unaccompanied minors enter the United States each year to reunite with their families, either because their parents are here illegally, or because the wait for a visa can exceed five years. Some die in the deserts, others are captured by border patrol agents and placed in the detention system with adults. What reforms would you propose that would reduce the number of unaccom-

panied children entering the United States, and assure humane treatment of those who do attempt to join their families?

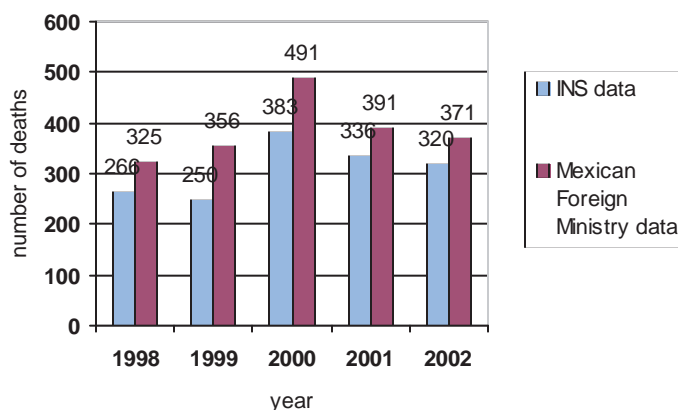
- 3) With \$3 billion budgeted for border security in 2003, dramatic increases in the Border Patrol's budget and staffing, and the accelerated construction of border fencing, more immigrants have been forced to enter the United States by crossing the harsh deserts, which has increased deaths. What do you propose to reorganize the Border Patrol and to demilitarize the U.S.-Mexico border? Would you support the removal of over 80 miles of fencing between the United States and Mexico?

- 4) Most presidential candidates have recognized that U.S. immigrants have historically contributed to the social and economic development of the country. However, most immigration reform proposals focus on providing incentives for immigrants to return to their own countries instead of remaining in the United States. Even those who do not want to stay in the United States permanently may choose to remain longer than the

3-6 years often proposed. Do you have a proposal for immigration reform, and if so, would it allow for longer periods for temporary workers? How would your proposal address issues of long-term residency and citizenship?

- 5) Some politicians have proposed that only immigrants who have guaranteed jobs would be allowed to legally enter the United States. Unfortunately, most migrants depend on informal networks of family, friends and "headhunters" to find the low-paying and labor-intensive jobs they fill. What system do you propose to allow migrants to gain access to job listings, taking into account the low-

Migrant Deaths at the US-Mexico Border



INS statistics do not include migrant deaths that occur in Mexico, and may not count certain migrant deaths handled by the local police. INS records deaths by fiscal year (October 1 through September 30). The Mexican Foreign Ministry counts crossing deaths in both the U.S. and Mexico by calendar year.

technology environment of many of their places of origin?

- 6) Many immigrant workers are in jobs that pay minimum wage and offer no healthcare benefits or access to other social services, forcing them into a permanent underclass. Studies have shown that U.S. citizens generally shun the type of jobs filled by migrants. Migrant workers without legal status are often afraid to seek medical care or other services for fear of deportation. What reforms would you propose to ensure adequate services for these migrant workers?
- 7) Although much attention is focused on undocumented or illegal immigrants, little attention is given to business owners who take advantage of the unprotected status of immigrant workers to violate laws regarding wages, benefits and working conditions. What proposals would you introduce to ensure that the rights of immigrant workers are protected and that business owners comply with U.S. wage and labor laws?
- 8) Some have suggested that proposed free trade agreements would stem the flow of migrant workers to the United States. The North American Free Trade Agreement (NAFTA) has shown the opposite to be true. How would your trade policies ensure that people in other nations have access to economic opportunities in their home communities, so they are not forced to emigrate—often to the United States—in search of work?

Border Policy Background

The current U.S.-Mexico border enforcement strategy used by the Bureau of Customs and Border Protection (BCBP, formerly the Immigration and Naturalization Services-INS) began in September 1993 with efforts in the El Paso sector to seal the

border at traditional illegal crossing points. The concentration of agents and vehicles in high traffic areas greatly reduced illegal flow at those sections of the border. By 1994, the INS had adopted the El Paso strategy as its model for border enforcement, replicating it in Tucson-Nogales (1994), San Diego (1994), McAllen and Laredo (1997), and El Centro (1998). Today, the overall plan is known as the Southwest Border Strategy.

During the strategy's implementation over the last decade, border enforcement spending and the number of agents patrolling the border have tripled. Sophisticated technology such as ground sensors, surveillance cameras, heat detecting scopes and reinforced fencing are used to prevent and detect illegal crossings. In addition, 4,000 new Border Patrol positions were created between 1995 and 2000. This rapid influx of agents resulted in a Border Patrol force with relatively little experience, posing hazards for both migrants and veteran officers. The increase in complaints of INS misconduct during this period raises questions about the training and supervision of new recruits.

The blockade strategy was designed to deter illegal entries by forcing migrants to cross either at ports-of-entry, where they can be easily apprehended, or in remote areas difficult to pass through. But despite the costly buildup of equipment and personnel, there is no evidence that these tactics reduced unauthorized immigration. An overall increase in apprehension rates since the strategy began suggests that, even with the increased risks, people haven't stopped trying to cross the border.

The architects of the border blockade strategy badly miscalculated by assuming that migrants would not attempt to use more treacherous crossing routes. The strategy has failed to stop migrants from trying to cross the border, but it has driven them into areas

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where they are less likely to be apprehended, such as the southwest desert. Migrants crossing in these remote areas are easy prey for border bandits, so they often seek help from unscrupulous smugglers. The greatest danger, however, is exposure to the elements: the unprecedented number of migrant deaths due to hypothermia, dehydration and other environmental causes in recent years can be directly linked to the border blockades. Every year hundreds of corpses are discovered in deserts, mountains, or rivers, along highways or railroad tracks, and sometimes even trapped inside trucks or freight trains. Official statistics indicate that, since 1998, more than 2,000 migrants have lost their lives trying to cross the U.S.-Mexico border, and many more remain uncounted, their bodies unfound.

The INS-BCBP border-blockade strategy is inhumane and ineffective. It has failed to reduce undocumented migration, it has redirected migrants to their peril, and it has led to an increase in civil rights violations by a dangerously inexperienced Border Patrol force. Despite these failures, the deadly policies continue, with a proposed budget of \$6.2 billion for border enforcement in 2005 alone.

The lives and rights of migrants should be protected. Creating more avenues for legal migration and revisiting the current border enforcement strategy would keep undocumented people from taking perilous crossing routes and prevent deaths. Ultimately, people will continue to come north as long as economic circumstances leave them no other option.

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