

DID ARIZONA GO FAR ENOUGH?

A point-by-point look at immigration issues ... and the corollary that seems to follow.

by Vic Berecz

According to a *USA Today* poll (May 4, page 1) most Americans “call for stricter border measures ... and a fair deal for illegal immigrants.” In *Parade* (June 13, page 23) David Gergen argues for policies that encourage immigration of the likes of “Sergey Brin, Jerry Yang, and Pierre Omidyar” (who founded *Google*, *Yahoo!* and *e-Bay* respectively) to bring their talents to America. I agree with both articles and am convinced we can’t forego any of the concerns raised. So, let’s explore the immigration issue point-by-point and try to come up with approaches that ... given some tweaking and time ... can ultimately result in a state of equilibrium that most Americans would view as *success*.

First, we must ask, what is *success* with respect to the immigration issue? As a firm believer that immigration is the lifeblood of America, in my mind the first indication of success is that immigration continues to be encouraged and succeeds in bringing people to America who will continue to build and revitalize our nation. Therefore, our immigration laws and regulations must be focused and flexible enough that they can adapt to changes in our needs over time. The second indication of success is that our immigration law is strictly, but fairly, enforced. It serves no purpose to have laws on the books which either can’t be enforced, or which the great majority of Americans don’t believe should be enforced. The final indication of success is that the extremists of both the left and the right stop shouting about immigration ... that is, immigration becomes a non-issue due to success in the way it is handled over time. I know that’s a tall order, and will take decades to achieve. That’s why it’s important we immediately get started down a path that can eventually lead to success. Let’s look at the pieces of the puzzle and how each can be addressed.

Why do immigrants come here illegally? There are four basic reasons ... to work and earn money for the support of themselves and their families; to have their children become “native-born” Americans; to transport drugs and other contraband to the U.S.; and to undertake illegal acts in the U.S. including actions that we consider *terrorism*. I would maintain that out of every 1000 illegal immigrants, well over 900 come primarily to work and earn money, and only a handful come as criminals or terrorists. Therefore, if we can eliminate the incentives for the masses of illegal immigrants, it will allow the authorities to effectively focus on those who truly represent a danger to us.

How do we dissuade most aliens from entering the country illegally? I believe the best answer is a good guest-worker program, which would move the great majority of illegal entrants to the ranks of legal aliens. Most who come here to work are employed in seasonal agriculture-related jobs. Because of the low wages and seasonal nature of this work, it is more suited to guest-workers who are temporarily here than to most U.S. citizens who are likely to find themselves repeatedly on-the-dole when out of work. I expect that if only the worker is admitted to the U.S. (not their family) and there is a strict time limit on each entry of something like 6-9 months, everyone involved (worker, employer, general public) can be satisfied. These guest workers would generally be under contract with an employer, who is licensed to sponsor guest workers and who must comply with applicable labor laws. Note that such a system would

encourage workers to return home when the term of their contract expires, since their family is there and if they don't leave in a timely way, the privilege of re-entering the U.S. as a guest-worker would be denied. Clearly, for a guest worker program to be successful, the authorities will have to be extremely diligent in prosecuting employers who give work to aliens without appropriate documentation.

How would we deal with the much larger flow of legal immigrants resulting from a guest-worker program? I believe Arizona ... and existing Federal law ... have the right idea. Every alien setting foot in the U.S. must have in their possession at all times documentation that establishes their status. This has been Federal law since the 1940 *Alien Registration Act*. I still have my grandmother's 1940 *Alien Registration* card bearing her fingerprint. Unfortunately, over the years effective enforcement has eroded. Yet, we have the technology to make an alien registration system virtually foolproof. I believe the answer is biometric identification cards which incorporate a photograph, fingerprint, and retinal scan. I expect such ID cards could be created today for less than \$50, and the cost will go down with use. Likewise the cost of card recognition equipment will drop as it becomes ubiquitous. Such a card would be virtually impossible to forge or misuse, would identify the person as an alien, and clearly define their status. We would have many categories of aliens living in or passing through our country: permanent residents; guest-workers, students, business travelers, tourists, etc. Each of these categories needs to have its own regulations concerning access to jobs, taxation, length of stay, access to government services, etc. Also note that the cost of creating ID cards for aliens would be borne by the aliens themselves (or in the case of guest workers, probably by their employers). It can be done ... cleanly and neatly and will eliminate the great bulk of illegal border crossings.

How would we deal with "family" issues? I've heard many complaints about the injustice of separating families. Yes, a guest-worker program would temporarily separate families. That fact itself would have the benefit of increasing the likelihood that guest-workers will not attempt to overstay the term of their contract. Also, since we don't have a problem sending our soldiers away from their families on multiple tours-of-duty in Iraq or Afghanistan, why should we be bothered that guest-workers are separated from their families for a few months ... when they themselves have chosen that option to earn money to help their family live better? The other family issue is more difficult ... that is how do we keep children born in the U.S. to tourists and undocumented aliens from automatically gaining American citizenship and thereby complicating future family separation issues? The current system produces results that nobody to my knowledge favors. These babies are born here due in part to the ease of modern travel, and are immediately Americans by virtue of the Civil-War-era 14th Amendment to our Constitution which was intended to make the freed slaves citizens. It's a problem of applying old rules to new situations. I think we need something like the recent Senate Joint Resolution 6, introduced by Sen. David Vitter (R-LA), which proposes a Constitutional Amendment that says a person born in the U.S. is *not* a citizen unless at least one parent is a citizen, an alien legal permanent resident, or an alien active duty armed services member. Together, I believe these three actions – a guest-worker program, foolproof biometric ID cards for all aliens, and the Vitter Amendment – would go a long way to solving the problem of illegal aliens. Then the authorities could focus on keeping smugglers, criminals and terrorists out of our country.

What about all the other "legal immigrants"? While the establishment of a "guest worker" program represents a major change to our immigration approach, we need to consider also the bigger picture of immigration where such drastic change is probably not necessary. The

most important group of legal immigrants are those who come here as permanent residents and (in most cases) intend to eventually become American citizens. They fall into two categories: those admitted for the contribution they are expected to make to our nation, and those who are admitted for humanitarian reasons. It makes sense that we have quotas for each of these groups, and that those quotas be both flexible and non-geographic. The first group are basically those who want to come to America, have skills that are needed here, and in most cases have the promise of a job. Shortages in skilled and professional job classifications should probably be the key in selecting these immigrants. While potential employers might facilitate some immigration applications, others could be based on things like the willingness of a medical doctor to establish a practice in an underserved area, etc. Frequent changes in these sorts of needs mean that legislation and those who administer the system must be quite flexible.

People wishing to immigrate for humanitarian reasons (this usually involves reuniting families or relocation of refugees) ought to have behind them the old-fashioned idea of a *sponsor* -- someone (typically a family member or a charitable organization) who guarantees that the immigrant will not be dependent on government services for some reasonable period of time. Obviously, in special circumstances (like the aftermath of *Vietnam*), the Government itself may take responsibility for such a group of humanitarian immigrants. Finally, I will briefly mention the other groups of legal (but temporary) immigrants ... students, business travelers, tourists, diplomats, etc. Their temporary presence in our country is by definition mutually advantageous ... therefore our immigration regulations should not discourage these groups. But, as proposed above, all legal immigrants should be required to carry foolproof biometric identification cards indicating their precise immigration status and their nationality (the nation on whose passport they gained entry).

So what about the 12 million-or-so illegal aliens that are here already? As I've written before,

“We must deal with them carefully and humanely ... in the American-way as individuals ... not simply as a pile of trash to be tossed out. I believe, that in the end, some should stay and become permanent residents probably on a path toward citizenship, some may get temporary work permits and return periodically, some will be deported for good, some (hopefully very few) will be imprisoned here.”

Here are a few further thoughts. Some of these folks have been here for years becoming hard-working, honest, law-abiding residents of our country with steady jobs. Most of these families, by virtue of their contribution to our nation have in my mind *earned a pass*. Let's give it to them if they want to stay. Some, especially those who face losing “welfare” benefits, would really rather live in Mexico (or whatever their home country) and would opt into the guest worker program to permit their families to have a decent life there. So be it. Others are no-good-niks and we'll probably have to chase them down and deport them. That can be done over time, especially if we diligently withhold jobs and government services from them. A few have committed real crimes against Americans and should be treated as any other criminal, and probably already have ... and on their release from prison they should be deported. Remember, if we have a good, foolproof identification mechanism for all legal aliens *and* we really enforce NO JOBS and NO WELFARE for undocumented aliens, there will be a lot fewer attempting illegal entry – the border patrol folks will have an easier job focusing on the really dangerous people trying to get into the U.S.

So, how do we eventually achieve success with respect to immigration? In summary:

Put a **comprehensive new immigration law** into place that:

- 1) encourages the immigration of reasonable numbers of those who will benefit our nation and those we choose to welcome for humanitarian reasons;
- 2) institutes an on-going guest worker program that permits short-term entry of workers for certain classes of relatively low-wage and primarily seasonal jobs;
- 3) establishes a system of tamper-proof biometric identification cards which will be required for all aliens within the United States;
- 4) provides a set of mechanisms for undocumented persons currently residing in the U.S. to resolve their situation by applying for permanent residency, opting-into the guest worker program, obtaining another temporary legal status, or leaving prior to a specified date;
- 5) establishes a firm policy of no jobs and no publicly-funded benefits for undocumented aliens after that specified date;
- 6) provides for serious penalties for employers (corporations or individuals) convicted of hiring undocumented aliens for paid jobs;
- 7) establishes an on-going measurement and evaluation system which assesses the progress of the immigration program and recommends changes and improvements.

And, **Congress should pass, and the states ratify, the Vitter Amendment** which would limit citizenship by birth to those with at least one parent who is a citizen, a legal permanent resident, or a member of the U.S. Armed Forces.

What's the impact of all this on the 300 million of us who are good, law-abiding American citizens? David Letterman's recent quip that the new Arizona law lets cops to throw in jail anyone they "don't like the looks of" does exhibit more than a bit of paranoia. On the other hand, it is a valid question to ask: how can any of us establish that we are in fact American citizens? The only reasonably reliable mechanism today is to show a passport ... yet most Americans don't have a passport and those that do usually don't carry them on their person in this country. I know that I don't carry my passport ... it's simply too big and inconvenient. A driver's license or an equivalent state ID card does not serve this purpose, since they do not show a person's citizenship status, and rules for getting driver's licenses and the biometric information they contain (if any) are different in every state. Remember also, every state issues driver's licenses to aliens. The reasonable answer, in my mind, is a foolproof biometric ID card for everyone – citizen or alien. Such a card could be issued by the Federal government specifically for that purpose, or could be tied in with state driver's license/ID programs – as long as they are consistent in their basic format and how they display citizenship status.

You might say, **"Whoa, you call that a corollary? ... a national ID card is un-American!"** We're all too much attuned to World War II movies where Nazi storm-troopers demand: "Show me your papers!" Requiring standard ID cards that bears only identifying information and your citizenship status, just like the Arizona law, will not reduce by one iota our 4th Amendment Constitutional protections against "unreasonable searches and seizures" without "probable cause." Such cards won't contain your life history on a magnetic strip. They simply would contain biometric information – photo, fingerprint, and retinal scan – for purposes of identification and citizenship status. They establish that you are who you say you are. Obviously, if they were tied into a state's driver's license program they might also include state-mandated information such as address and driving restrictions. The only new thing such a card would do is positively identify your citizenship status when that is necessary either for your own

purposes or by law. I can envision many ways that each of us might find such proof of identity valuable in future situations. To me, that's all a good thing. I am certainly not ashamed that I am an American citizen, and I don't care who knows it!

The bottom line as I see it: Let's use the technology we have developed for our well-being – personally and as part of the communities that make up our nation. That technology includes biometric identification. Does a biometric ID card represent a slippery slope? Perhaps, so we should approach it carefully. We should try to anticipate how this technology may be misused, and put precautions in place. Will we get it exactly right? No, from time immemorial crooks have always found ways around the law. But, I venture to guess we will be better off trying to make good use of this technology rather than trying to bury it. And, don't forget, we have voluntarily given up much of our privacy already to make our lives more convenient and more fulfilling. Establishing a mechanism whereby each person in the United States can easily identify themselves to others and verify their citizenship status is perhaps another example of where we choose to give up a little privacy to make our lives better.

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