



WE ARE BETTER THAN A FENCE

JUDITH GANS



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Udall Center for Studies in Public Policy, The University of Arizona



“Show me a 50-foot fence and I’ll show you a 51-foot ladder”
Arizona Governor Janet Napolitano

On December 16, 2005, the House of Representatives passed HR 4437, an immigration bill with a series of enforcement provisions that include creating “physical barriers” (a fence) along the U.S.-Mexico border. This legislation reflects the view that “until our borders are protected, we cannot have any kind of meaningful immigration reform.”¹ There is ample evidence that this view misstates the problems facing our immigration system and confounds their solutions.

Without question, illegal immigration is a critical issue that has become equated in public discourse with immigration in general. Legitimate concern over violation of U.S. law combines with national security imperatives to make control of the border essential. But public discourse is increasingly vitriolic, expanding the appeal of enforcement-only solutions such as building a fence along the U.S.-Mexico border.

Attempts to stop illegal immigration have caused spending on border enforcement to increase from \$406 million in 1990 to \$1.6 billion in 2002. Staffing went from the equivalent of 4,561 full-time positions to 11,663 over the same period,² and in April 2006, Congress approved \$1.9 billion in emergency funds to strengthen security along the U.S.-Mexico border.³

Yet the reality of illegal immigration remains, and since the mid-1990s, the number of illegal entrants has exceeded the number of immigrants entering the country legally. Concurrent with increased enforcement, unauthorized entry to the United States has gone from an estimated 400,000 migrants per year in the early 1990s to an estimated 850,000 per year today.⁴ Why is this occurring?

The causes of illegal immigration are not a mystery. Rather than being something “they” are doing to “us,” illegal immigration is a predictable consequence of demographic trends and current U.S. law in the face of global economic realities. While Mexico remains a significant source of illegal migration to the United States, over 40 percent of illegal immigrants are not from Mexico.⁵

Stopping illegal immigration will require creating an immigration system that is not fundamentally out of alignment with global political and economic forces driving individual decisions to migrate and driving decisions by U.S. employers to hire immigrants. To be sure, solving the problem also requires enforcement, but our recent experience has already shown that enforcement is only possible if the system itself is enforceable.

Causes of Unauthorized Immigration

There are three principal reasons for illegal immigration to the United States:

- global economic integration and increasingly internationalized labor markets
- inadequate provision for legal economic immigration in the face of demographic trends in the United States
- failure to sanction employers for hiring illegal immigrants as a result of:
 - (a) absence of reliable mechanisms for verifying employment eligibility
 - (b) inadequate funding of interior enforcement
 - (c) absence of political will due to labor needs of the U.S. economy

Global economic integration

The current wave of globalization involves more than trade liberalization. Treaties such as NAFTA and the 1995 creation of the WTO have combined with changes in technology to foster an unprecedented level of global economic integration. Production, distribution, and consumption of goods are now internationalized, and these changes coincided with the entry of India, China, and former Soviet republics to the global economy. The result has been a massive realignment of economic activity in response to shifts in global competitive advantage.

One manifestation of this realignment is that labor markets around the world are more integrated, more competitive and more mobile than ever. The United Nations estimates that 175 million people – about 3 percent of the world’s population – are immigrants. Roughly 20 percent of these immigrants are in North America, 30 percent are in Europe, and the remaining 50 percent are scattered around the world, with the largest share in Asia. It is not surprising that immigration laws in developed nations have not kept pace with these changes. Political processes are inherently reactive. Meanwhile, individual actors responding to global economic incentives have spawned massive global human migration in spite of attempts by individual governments to control it.

Inadequate provision for legal economic migration

United States’ immigration laws rest on three pillars which combine to limit provision for economic immigration. The first is family reunification. This allows American citizens to sponsor close family members for permanent immigration to the United States. The second is provision for scarce labor such as agricultural workers and specific high-skilled workers. The third is the idea that U.S. workers can be protected from competition with foreign workers, and its political corollary that “American jobs should be kept for Americans.”

It is a fallacy to think that American workers can be protected from competition in global labor markets. American workers compete in global labor markets every day. At no time in history has it been easier for jobs to go to workers if workers cannot come to jobs. In addition, limits to economic immigration come into question in the face of U.S. demographic trends and economic growth. Except for a recession in 1991, real GDP growth has averaged about 3 percent per year since the late 1980s. This growth is expected to continue and is generating demand for numbers of workers that the native-born population is not providing.

Consider the following:

- from 1990 to 2001, over half of the growth in the U.S. civilian labor force occurred through immigration⁶
- by 2002, immigrant workers comprised 1 in 8 members (12.5 percent) of the U.S. workforce, up from 1 in 17 in 1960⁷
- between 1996 and 2000, the U.S. economy generated 14.3 million new jobs; total population growth during the same period, including immigration, was only 12.3 million people⁸
- unemployment rates have remained relatively low
- over the next 15 years, the number of workers in the 55-and-older category is projected to grow by nearly five times the growth of the overall labor force⁹

In short, the native born population is growing slowly and it is aging. In the aggregate, immigrants are not just doing jobs that Americans won't do, they are doing jobs that Americans aren't available to do. To put it simply, illegal immigrants are here because we are hiring them. And we are hiring them not just because they are cheaper, although this may be the case. We are hiring them because they are available. U.S. economic performance over the past two decades has become increasingly dependent on the presence of immigrant workers.

Without legal channels of entry, economic incentives have trumped legal structures to create a large pool of illegal immigrants inside U.S. borders and embedded in the domestic economy.

Of course, if these workers were not available, the economy would adjust through higher wages and more rapid movement of certain economic activity overseas. However, not all economic activity can be out-sourced, and the economic dislocation that would occur from eliminating these workers would be significant, disproportionately impacting industries such as construction and hospitality that rely on them.

Failure to enforce employer sanction laws

It has been unlawful to hire an illegal immigrant since 1986, but these laws have not been enforced. Fewer than 200 agents nationwide and less than three percent of the budget for patrolling the border is spent on worksite enforcement.¹⁰ Employer-sanction laws are weak. Employers are not required to determine whether an immigrant is in the country legally. They are simply enjoined from knowingly hiring an immigrant without work authorization, and there is no reliable mechanism for verifying such authorization. In truth, there has been little political will to disrupt the economic activity generated by illegal immigrants.

Employers are required to file an Employment Eligibility Verification Form, commonly called an I-9 form, for every worker, citizen and non-citizen. This form requires the employer to note which of 29 possible documents is provided to show employment eligibility, but it is difficult to verify the authenticity of the documents presented. The result is a cottage industry in forged documents. It is easy to secure employment with forged documents; there is little chance that these forgeries will be detected; and there is little chance that employers will be prosecuted if they are detected. While HR 4437 would strengthen employer sanction laws by making it mandatory for employers to verify eligibility to work, it does not provide for economic immigration and therefore omits a key element of viable immigration reform.

Solving the Problem

Stemming illegal immigration is conceptually straight forward and a successful approach will require each of three ingredients.

1. Legal avenues for immigrants to enter the country to work. A temporary worker program is a part of the solution in that it will allow for circular migration between the United States and Mexico. But U.S. demographic trends also suggest a need for increased permanent economic migration. None of the legislation currently before Congress addresses increased permanent economic migration. Further, strictly temporary worker programs create a distinction

between workers and citizens, set up social divisions, and work against immigrant incorporation to the fabric of American society.

2. Reliable mechanisms for workplace verification. Employers must have both the tools and the legal requirement to verify a prospective employee's eligibility to work (and legal presence in the country). An easy-to-use technology such as electronic swipe cards tied to federal social security and department of homeland security databases combined with mandatory employment verification would be one way to accomplish this.
3. Enforcement beyond the border. Once adequate legal economic immigration channels have been created and employee verification mechanisms are in place, adequate resources must be devoted to enforcement at the border and, more importantly, in the workplace. All must be convinced that real penalties will result from employing illegal immigrants.

Thus, while prospective solutions to the problem are conceptually straight-forward, there are political obstacles to stopping illegal immigration. Enforcement-only views are ascendant in the House of Representatives. Unfortunately, proposals to fence the border misrepresent the nature of the problem and obfuscate solutions. Consequently, illegal immigration continues to undermine the rule of law and victimize hard-working people in search of a better life. Realistic approaches are needed to solve this problem.

We are better than a fence.

¹ From a press release by House Judiciary Committee Chairman F. James Sensenbrenner, Jr. (R-Wis.) and House Homeland Security Committee Chairman Peter T. King (R-N.Y.) available at <judiciary.house.gov>.

² Meyers, Deborah Waller, *"US Border Enforcement: From Horseback to High Tech"*, Washington DC: Migration Policy Institute, Policy Brief: Independent Task Force on Immigration and America's Future, No. 7, November 2005, page 21.

³ Cowan, Richard, *"Senate Adds \$1.9 Billion for Border Enforcement"*, Reuters: Washington Post, April 26, 2006. <www.washingtonpost.com>

⁴ Passel, Jeffrey, *"The Size and Characteristics of the Unauthorized Migrant Population in the U.S."*, Pew Hispanic Center, Washington, DC, March 2006.

⁵ Passal, Jeffrey, *"Unauthorized Migrants: Numbers and Characteristics"*, Washington DC: Pew Hispanic Center, June 14, 2005.

⁶ Mosisa, Abraham T., *"Foreign-Born Workers in the US Economy"*, Monthly Labor Review, May 2002

⁷ Mosisa, Abraham T., *"Foreign-Born Workers in the US Economy"*, Monthly Labor Review, May 2002

⁸ Bean, Frank D. and Gillian Stevens, *America's Newcomers and the Dynamics of Diversity*, New York: Russell Sage Foundation, , 2003, page 6.

⁹ Bureau of Economic Analysis

¹⁰ Jacoby, Tamar, *"An Idea Whose Time Has Finely Come? The Case for Employment Verification"*, Washington DC: Migration Policy Institute, Policy Brief: Independent Task Force on Immigration and America's Future, No. 9, November 2005.