

The Future of Immigration Policy:

A Public Debate on Immigration Policy

sponsored by

the Mid-America Immigration Reform Coalition
UMKC Federalist Society and
UMKC American Civil Liberties Union

**University of Missouri-Kansas City
White Hall**

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**For every brick torn down
by terrorists in America,
immigrants will put up one million.**

Senator Sam Brownback, September 16, 2003

Prepared by Debate Participant

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Current U.S. Immigration Law and Policy: Problems and Solutions

comments by Attorney Mira Mdivani¹

A. Introduction

President Bush outlined a new immigration proposal on January 7, 2004, in which he stated:

“By tradition and conviction, our country is a welcoming society. America is a stronger and better nation because of hard work and the faith and entrepreneurial spirit of immigrants. ... As a Texan, I have known many immigrant families, mainly from Mexico, and I have seen what they add to our country. They bring to America the values of faith in God, hard work and self reliance – the values that made us a great nation to begin with.”

“ As a nation that values immigration and depends on immigration, we should have immigration laws that work and make us proud. Yet today we do not. Instead, we see many employers turning to the illegal labor market. We see millions of hard-working men and women condemned to fear and insecurity in a massive, undocumented economy, Illegal entry across our borders makes more difficult the

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urgent task of securing the homeland. The system is not working. Our nation needs an immigration system that serves the American economy, and reflects the American Dream.”

President Bush, January 7, 2004 speech, Appendix C.

B. Some Problems and Solutions

1. **Family Separation - Compassion and Family Values?**

a. Visa Bulletin - Allowable Levels of Immigration, Appendix A

Problems:

A Legal Permanent Resident must wait for over five (5) years to reunite with spouse and minor children while they cannot visit him in the United States: such separation is bad for family, children growing without a parent

b. Processing Times, Appendix B

Problems:

A U.S. citizen must wait over a year and a half before being able to bring a spouse or a minor child to join him or her in the U.S. Is this good for families?

Solutions:

- ___ further restrict levels of immigration
- ___ increase levels of legal immigration
- ___ further slow down processing times
- ___ give more money to USCIS and Department of State to work faster on visas for eligible family members

c. 3 and 10 year bars, “Illegals” including “Out of Status”

Problems:

EWI (Entered Without Inspection) alien married to a U.S. citizen -
problem solved - No, currently no way to become legal while staying in the
U.S.

Inconsistent policy on illegal entrants: marriage to USC and three kids not
enough to cure illegal entry but Temporary Protected Status (TPS) is OK

Problem: Once out of status, always out of status in many cases!

Children brought here without inspection and raised here, thinking they are
Americans?

Solutions:

_____ Deny citizenship to children born to parents without status

_____ Remove bars and/or re-introduce 245(i),

_____ We need to come up with “**A more humane way to immigrate**” -
President Bush, December 2003

d. **Impact on Economy and Business**

Alan Greenspan,
Chairman of the Federal Reserve
Congressional Testimony on Feb. 27, 2003:

“As you know, the aging of the population in the United States will have significant effects on our fiscal situation. In particular, it makes our Social Security and Medicare programs unsustainable in the long run, short of a major increase in immigration rates... Immigration, if we choose to expand it, could prove an even more potent antidote for slowing growth in the working-age population. As the influx of foreign workers in response to the tight labor markets of the 1990s showed, immigration does respond to labor shortages... An expansion of labor force participation by immigrants and [the] heightened growth of output per worker... presents the greatest potential to boost the

growth of gross domestic product.”

Problems:

Employment-based work visas:

Fight around the H-1B visas: this program should work to attract the most talented and educated people from abroad to the U.S.; instead, the number of workers is limited to 65,000 visas; complex and expensive to file, culture of “No” at USCIS;

H-2Bs: long and complex certification process, inflexible categories, no category for workers in the industries where most needed, does not help employers with employees already in the country

Green cards based on employment: takes years, process is restrictive, expensive, bordering on absurd

Restrictions and costs cause reverse brain-drain and outsourcing to foreign countries. Example: IBM announced 15,000 new jobs to be created, only 5,400 in the U.S. Example: factory jobs moving abroad

Jobs, taxes, spending on goods and services (which are 2/3 of our GDP) go abroad

Price to Pay for Businesses:

IRCA Regulations, Criminal Liability and Civil Sanctions

Law Suits by competitors (Commercial Cleaning case) and employees (Mendoza case)

Tyson Chicken and Wal-Mart cases

Solutions:

___ ban any employment-based visas and immigration

— facilitate work visas and immigration for needed professional and essential workers

— meanwhile, good faith effort to comply with immigration law - immigration compliance programs for employees

I-9 audits

Immigration law training for executives and management

Revision of contracts with vendors to include indemnification provisions

Conference on Compliance with Immigration Law for Employers by Hispanic Chamber of Commerce of Greater Kansas City on February 27, 2004

— President Bush's Guest Worker Plan, a possible constructive solution to the temporary worker problem: **“good for our economy and good for the workers”**

“Reform must begin by confronting a basic fact of life and economics: Some of the jobs being generated in America's growing economy are jobs American citizens are not filling...”

It is a program that recognizes the contribution that many undocumented workers are now making to our economy... It will help strengthen our economy, return order to our immigration system and secure our homeland.”

President George W. Bush, radio address, January 10, 2004.

A more comprehensive solution to both the “Compassion” and the “Economy” problems: A bipartisan bill introduced by Senators Chuck Hagel (R-NE) and Tom Daschle (D-SD): The Immigration Reform Act of 2004: Strengthening America's National Security, Economy, Families - introduced on January 21, 2004 - embraces President Bush's Proposal and goes further to address issues not covered by our President.

C. **Need to Protect Our Homeland vs. Impact on Human Rights and Democracy: “Liberty and Justice for ALL”**

1. **NSEERS Re-registration Requirements** - DHS Resources May be Used Better to Secure Our Borders

NSEERS - National Security Entry-Exit Registration System - re-registration requirement repealed in December 2003:

“We have caught suspected terrorists under NSEERS. While they may not be charged with terrorism grounds of inadmissibility and removability, that is not an indication of whether terrorists were caught.” US Customs and Enforcement Q & A, December 1, 2003.

Problem: the requirement is repealed, but people are still arrested, and removed for what is no longer a violation. Problem: many people simply did not know of the requirement to register - arrested if came forward to register late.

“Therefore DHS (Department of Homeland Security) believes there is an urgent rule for the immediate implementation of this rule suspending the automatic interview requirements to avoid unnecessarily burdening the public impacted by this rule. DHS would be forced to re-allocate personnel resources from other law-enforcement functions in order to timely register aliens.”

DHS Interim Rule Suspending NSEERS re-registration requirements, December 2, 2003.

2. Resources and Further Limiting Effective Review

Board of Immigration Appeals (BIA) Reform - Is Shifting the Venue a Wise Use of Federal Resources? In addition, issue of summary dismissal by one judge - effective review?

In 2002, the number of the judges on the Immigration Board of Appeals was cut. As a result of cutting number of Board Members, while making them adjudicate each case within six months, the number of appeals to federal courts have soared by **400%**, especially in cases of so-called “summary dismissals” which can be conducted by one BIA judge.

3. Limiting Access to Court, Legal Counsel

US Patriot Act - all those who are not U.S. citizens, including legal permanent residents, can be held without charge or access to courts or lawyers if suspected of terrorism. No review.

Limiting States' Right and Burdening Federal and State Budget

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“Massive Influx of Aliens” Patriot Act as amended - is this about star wars? This is about having state and local police enforce immigration law without training if a “massive influx of aliens” occur. Shifts burden on enforcement on the states, issues: funding, training, show existence. In Kansas, Lenexa, Overland Park, Olathe and City of Kansas City, KS Police Chiefs are against it. “Aliens” are the millions of immigrant workers about whom President Bush said that his temporary worker program will **“bring millions of hardworking men and women out from the shadows of American life.”** President George W. Bush, State of the Union Address, January 20, 2004.

D. Conclusion - Be Informed, Make Your Own Decision

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