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Rationalizing U.S. Immigration Policy: Reforms for Simplicity, Fairness, and Economic Growth

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Rationalizing U.S. Immigration Policy: Reforms for Simplicity, Fairness, and Economic Growth

The current system of immigration in the United States is a complicated composite of policies and reforms implemented at various times in our history to accomplish varying goals. Dozens of overlapping visa categories—each with different quotas, costs, and durations—characterize the system of legal immigration, supplemented by country-specific caps, and even a randomized visa lottery. As a result, the system is plagued by problems, ranging from its cumbersome and costly application, to its inefficiencies in meeting the needs of potential immigrants and their U.S. family members, of employers who would like to hire foreign workers, and of the American economy. All of this and more undermines its effectiveness, the rule of law, and the humanitarian goal of reuniting families.

In a discussion paper for The Hamilton Project, Giovanni Peri of the University of California, Davis, proposes a series of reforms that would create a market-based immigration system in the United States. Starting with a focus on the current allotment of temporary work visas, Peri's proposal would

align the distribution of these visas with the current needs of the labor market to best benefit today's economy, American citizens, states burdened by immigration-related outlays, and potential immigrants. The proposal culminates in a broader reform that would equip our system of immigration for the twenty-first century.

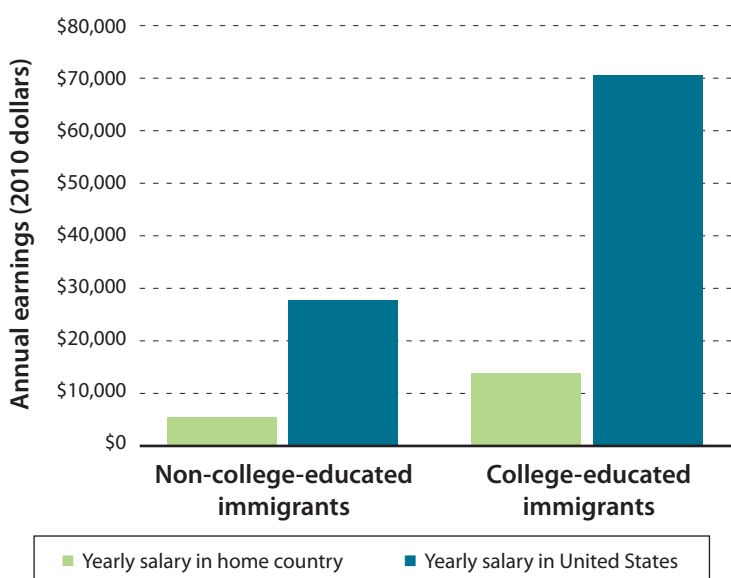
The Challenge

Peri demonstrates that the current U.S. immigration system is too complex and inflexible. He points to dozens of separate visa categories, many with arcane rules, difficult application processes, and arbitrary quotas. This can lead to visa wait times of more than two decades for certain applicants, as well as other problems.

Peri also notes that the many visa types and categories do not always align with one another to create a clear path to citizenship for hard-working foreign nationals whose citizenship would ultimately benefit the U.S. economy. Many skilled foreign engineers working in the United States on temporary H-1B visas, for example, are eventually required to leave the country each year when the annual allotment of employment-based green cards runs out, thus depriving the United States of a significant economic contribution (see Figure 1). High-skill immigrants make a major contribution to innovation, business formation, and productivity in the United States, yet the quotas for admitting these people into the United States are not tuned to economic demand.

FIGURE 1.

Economic Surplus per Worker as a Result of Productivity Increases from Immigration to the United States



Note: Average increase in earnings for a non-European immigrant.

The problem is similar for low-skill workers, who also face quotas that are out of tune with economic needs. Immigration policy has failed to address the demand among U.S. businesses for low-skill immigrant labor, and this is part of the reason that roughly 11.5 million undocumented immigrants live in the United States today. This situation is bad for employers and workers, unfair to immigrants who came through the proper channels, and the cause of some of the popular outrage against the system.

At the same time, the economic evidence suggests that, on average, immigrants do not directly compete for jobs with U.S.-born Americans. On the contrary, most studies estimate that the average American worker experienced zero or positive wage effects from the externalities associated with increased immigration because the work that immigrants do often complements rather than competes with the labor of U.S.-born citizens.

A final economic problem with the current immigration system has to do with the fiscal impact of immigrants, especially at the state and local levels. While most immigrants pay taxes, they tend to pay more in federal taxes than they do in state and local taxes compared

with the services they receive at each level, meaning that communities with high populations of immigrants may be unfairly burdened.

The components of the U.S. immigration system were designed with many goals in mind—including family unity, humanitarianism, and economic opportunity. America’s outdated immigration system is unable to effectively achieve these goals, but some simple reforms could help us come closer to achieving these goals.

A New Approach

Peri outlines a multiphase, market-based approach to immigration reform that seeks to maximize the contributions of immigrants to the U.S. economy while preserving the social goals of the current system and emphasizing the principles of simplification, fairness, and consistency. Drawing on ideas from *Beside the Golden Door* by Pia Orrenius and Madeline Zavodny, Peri’s proposal focuses mainly on immigration for labor purposes, and allows for greater flexibility and self-adjustment within the system to respond to market signals.

The main idea behind Peri’s proposal is to replace large parts of the current immigration system with an auction to allocate employment-based visas. Immediate family members (spouses and minor children) could also be brought into the country, if the immigrant paid a fee, proportional to the permit fee.

Recognizing the practical and political challenges of a comprehensive immigration reform, Peri breaks down his proposal into discrete phases starting with a pilot program that uses an auction-based system to allocate temporary work visas to test the viability of this approach. If the pilot is successful, then Peri would expand the auction-based approach to incorporate further parts of the immigration system.

Phase 1. Use market-based mechanisms to allocate temporary employment visas for specific existing categories.

Phase 1 of Peri’s proposal would use a market-based mechanism for the distribution of temporary employment-based visas. Each visa would be tied to a permit, which American companies would be required to purchase in order to be allowed to hire a foreign worker. The U.S. Department of Commerce, which has the mission of promoting economic growth, would oversee a quarterly electronic auction system in which a set number of permits would be sold to American employers. H-1B permits (and possibly other permits applying to high-skill professional workers such as L-1A, L-2B, and TN) would be sold in one auction, while permits for lower-skilled H-2 category workers would be sold in a separate auction. The

auction would serve to quantify the value that the U.S. labor market attributes to different types of immigrant labor. The current visa lengths would be maintained—three years for H-1 visas and twelve months for H-2 visas.

Each permit would entitle an employer to hire a foreign worker. If the desired worker was abroad, she would need to obtain a visa to be matched with the employer’s permit. The employer would sponsor the worker’s request for a temporary visa, and, given sponsorship by an employer with a valid permit, the worker would simply acquire a visa. The U.S. Department of Homeland Security would continue to perform background checks and issue the visas. This would improve upon the current system, which assigns visas on a first-come, first-served basis, with a random lottery for applications received on the day that the quota is exceeded, and often has cumbersome requirements.

While on a visa, a worker would be free to move across employers as long as the employer who hired her possessed a valid and vacant permit. This job mobility would provide workers important protection against exploitation or other unfair treatment.

Revenues from the auction would flow to the federal government and could be used to cover the costs of administering the program. Peri proposes that some of the revenues be refunded to state and local governments that incur the costs of providing local services (e.g., public schools and local public goods) to immigrants.

Phase 2. Simplify the temporary visa categories, and extend the auction system to include provisional visas that can be converted into permanent residence visas.

After a pilot program with temporary employment-based visas, the auction system would be expanded and a simplified system of visa (and corresponding permit) categories would be created. Peri would consolidate the most relevant current temporary employment-based visa categories (H-1, H-2, I, L, Q, R, and TN) into three simpler categories: C (for jobs that typically require college degrees), NC (for jobs that do not typically require college degrees), and S (for seasonal jobs). C and NC visas and permits would be valid for five years, and S visas and permits would be valid for twelve months (see Table 1). The initial number of permits available at auction would be based on current numbers, and could potentially be adjusted based on feedback obtained from the pilot program in Phase 1.

Beginning in Phase 2, each foreign worker would also be allowed and in fact encouraged to buy back her own permit from the employer in order to achieve even greater flexibility on the job market.

Following the simplification of visa categories, Peri proposes that a new system of provisional visas leading to permanent residence also be established. The current immigration system

allows for the allocation of roughly 140,000 employment-based permanent residence visas each year. Peri would incorporate these visas into an auction-based system, divided into two categories: C and NC. These visas, called “provisional visas,” would remain separate from the temporary visas previously discussed, and would come with an ability to be converted to permanent residence status after a five year provisional period. The auction prices for these provisional visas would likely be comparatively higher than the prices for temporary visas because they offer a path to permanent residence status and citizenship.

In order to obtain permanent residence at the end of a C or NC provisional visa period, a worker would need to demonstrate a reasonably continuous employment history, tax compliance, a clean criminal record, and sponsorship from her current employer. The only numerical restriction on permanent residence would be the number of provisional visas originally issued. Workers on provisional visas would have access to many American public goods, such as schools, but would not have access to means-tested welfare programs or unemployment benefits.

A “return account” would be established for each worker at the beginning of her provisional visa period, in which a small percentage of her wages (such as five percent) would automatically be deposited in an interest-bearing account during the temporary period. If the worker decided to return

TABLE 1.
New Visa Types in Phase 2

New visa	Primarily taking over the following existing categories	Proposed length
Temporary C (college) visas	H-1B, I, L, Q, R, TN	Five years
Temporary NC (non-college) visas	H-2A, H-2B	Five years
Temporary S (seasonal) visas	H-2A, H-2B	Twelve months
Provisional C (college) visas	Employment-based permanent residence	Five years, and could then be converted to permanent residence
Provisional NC (non-college) visas	Employment-based permanent residence	Five years, and could then be converted to permanent residence

Note: Visa category descriptions: H-1B (specialty occupations, Department of Defense Cooperative Research and Development Project workers, and fashion models); H-2A (temporary agricultural workers); H-2B (temporary nonagricultural workers); I (representatives of foreign media); L (intracompany transferee executive or manager); Q (cultural exchange); R (temporary nonimmigrant religious workers); TN (NAFTA professionals). There will be no changes to the O and P categories of visas for individuals with extraordinary ability or achievement, athletes, artists, and entertainers.

Roadmap

- Phase 1. Use market-based mechanisms to allocate temporary employment visas for specific existing categories.**
- The Department of Commerce would establish an electronic auction for certain temporary employment visas, in which U.S. employers, on a quarterly basis, would bid for permits to hire foreign workers.
 - Foreign workers who found jobs would be sponsored by their potential employers to apply for visas through DHS.
 - Employers would be free to trade permits on a secondary market, and immigrants could move between employers with permits. Commerce would record all employment-status changes in a database that would be shared with DHS.
 - Revenues from permit fees would be allocated to the agencies incurring costs from the new system and all additional revenues could be distributed to states and localities in proportion to the number of resident H-2 visa holders.
- Phase 2. Simplify the temporary visa categories, and extend the auction system to include provisional visas that can be converted into permanent residence visas.**
- Most temporary work-based visas and corresponding permits would be collapsed into three categories: C (occupations typically requiring a college degree), NC (non-college occupations) and S (seasonal occupations). The Department of Labor would create a list outlining which occupations fall under each category.
 - Current permanent employment-based visas would become C and NC provisional visas, which would be allocated via auction and provide paths to permanent residence after five years.
 - Commerce would administer a “return account” for each foreign worker on a provisional visa. A percentage of her paycheck would automatically be diverted to that account, to be returned to the worker if she decided to return to her home country and forfeited as a permanent residence fee if not.
- Phase 3. Expand market-based reforms to encompass more of the immigration system.**
- The visa program for adult extended family and the diversity visa lottery would be phased out, and those visas would be re-allocated to provisional employment visas. The number of employment-based visas could be further adjusted based on labor market demand.
 - Foreign students at U.S. universities would automatically be eligible for provisional visas upon graduating and securing employment in the United States.

Learn More About This Proposal

This policy brief is based on The Hamilton Project discussion paper, *Rationalizing U.S. Immigration Policy: Reforms for Simplicity, Fairness, and Economic Growth*, which was authored by:

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home, all of the funds in the account, with interest, would be returned to her. This would incentivize those whose visas expire to return to their country of origin. If the worker decided to apply for permanent residence, the funds in the account would be applied to a permanent residence fee.

Phase 3. Expand market-based reforms to encompass more of the immigration system.

Phase 3 of Peri's proposal would work towards ensuring that the numbers of visas are allocated most efficiently across categories. Within the current category of family-based visas, Peri would eliminate country-specific quotas and allow only immediate family members of U.S. citizens and permanent residents to join the queue for family-based visas. Peri argues that many extended family members who would have previously received family-based visas could be redirected to employment-based visas, since U.S.-based family networks can play a large role in the search for jobs. The diversity visa lottery—an arbitrary component of the current immigration system that holds a random lottery to allocate 50,000 visas—would be eliminated. Finally, Peri would consider phasing out the program to sponsor parents of U.S. citizens (excepting parents in need of assistance). In effect, Phase 3 would shift the numerical focus of the immigration system from family-based visas to employment-sponsored provisional visas.

Peri estimates that all of these changes would free roughly 150,000 visas (with an additional 100,000 visas freed from the optional phase-out of the parent program) to be incorporated into the new employment-sponsored provisional visa auction system.

Additionally, the numbers of employment-sponsored permits available each quarter could be adjusted such that if the sale price of permits were to change significantly from one quarterly auction to the next, a Congressional decision could trigger an increase (or decrease) in the number of permits available for the

following auction. Peri's system introduces higher predictability of immigrant flows and of their cost, and this may help firms to plan their investments and encourage an expansion of productive capacity, which would also help generate jobs for U.S.-born Americans.

Finally, Peri proposes that each foreign graduate of a U.S. college who finds a job in the U.S. be given a five-year provisional C visa and the corresponding permit, and that every foreign student who receives a Ph.D. in the United States and secures a job be granted permanent resident status.

Concurrent Phases to Address Undocumented Workers

Peri proposes that two additional measures go into effect at the same time as the main reform proposals to help address the estimated 11.5 million undocumented workers currently residing in the United States. First, a path to earned legal residence could be created for current undocumented workers who have lived and worked for at least three years in the United States. These workers would be required to pay a fee, demonstrate work history in the United States for at least three years, and pay back taxes. Workers successfully able to comply would be given an NC visa and could be subject to lengthened provisional periods before being granted legal residence. All other undocumented workers would face severely restricted opportunities for employment, due to increased enforcement (discussed below) and decreased incentives for companies to hire undocumented workers.

Peri also stresses that the federal government should patrol more vigorously the employment of undocumented workers through use of new technologies such as E-Verify, an Internet-based system that allows an employer to determine the eligibility of their employees to work in the United States. In addition, he advocates that the Department of Homeland Security perform frequent audits and that employers face significant fines and sanctions for noncompliance.

Conclusion

Today, the U.S. immigration system hinders potential immigrants and their U.S. family members, employers who would like to hire foreign workers, and the American economy as a whole. Peri's proposal would create an auction system for employment-based visas, allowing companies to dictate the needs of the labor market in real-time. Later phases of Peri's proposal would also work to create a streamlined system of employment-based immigration that was responsive to labor market demands. It would eliminate bottlenecks, reward those who are committed to and contribute to the American labor force, contribute to America's global competitiveness, and simplify and clarify the process for all.

How an Auction for Immigrant-Worker Permits Could Work

Beginning in Phase 1, Peri's proposal uses auctions to allocate visas for certain existing categories; these auctions are then extended to further parts of the immigration system in Phases 2 and 3. In each phase, the allotted number of permits in each auction would be sold to the highest bidders on a quarterly basis, either at the price that each winning firm originally submitted or at the price of the lowest winning bid (the clearing price). The number of permits allotted each quarter initially would be based on the average annual number of visas awarded over the last ten years, and the U.S. Congress could set an initial minimum clearing price.

The market-based nature of the system would reduce the need for the government to attempt to constantly analyze which skills are needed in the labor market. Instead, auctions would ensure that Peri's system automatically adapted to the changing needs of the current market, as indicated by companies themselves rather than government policy. Congress could eventually use this information to revise the number of available permits (see Phase 3). The cost of these permits would mean that hiring a foreign worker would be more expensive than hiring an equivalent American, thus incentivizing the hiring of American citizens unless the foreign worker possesses a special skill.

If a foreign worker changes employers, her employer would be free to sell or trade the permit on a secondary market, and, beginning in Phase 2, each foreign worker would be allowed and in fact encouraged to buy back her own permit from her employer in order to achieve even greater flexibility on the job market.

Highlights

Giovanni Peri of the University of California, Davis, proposes a series of reforms that would create a market-based immigration system in the United States. With a primary focus on the current allotment of employment-based visas, Peri's proposal would align the distribution of these visas with the current needs of the labor market and the economy in order to best benefit American citizens, immigrants and their U.S. family members, and states and localities with budgets disproportionately affected by immigration's costs.

The Proposal

Phase 1. Use market-based mechanisms to allocate temporary employment visas for specific existing categories. Employers would bid for permits to employ foreign workers. Each permit would be tied to a temporary visa, which would allow visas to be allocated based on the current demands of the labor market.

Phase 2. Simplify the temporary visa categories, and extend the auction system to include provisional visas that can be converted into permanent residence visas. The number of temporary visa categories would be reduced, simplifying the entire system. Permanent employment-based visas would be folded into a similar auction system for "provisional visas." All recipients of provisional visas entering the United States would be automatically eligible to apply for permanent residence after a five-year provisional period, during which time the immigrant must demonstrate a reasonably continuous employment history, tax compliance, and a clean criminal record.

Phase 3. Expand market-based reforms to encompass more of the immigration system. The number of employment-based provisional visas available would be expanded by rebalancing between family-based and employment-based visas. Many extended family members would more quickly and easily be able to enter the U.S. through the expanded employment-based system. The number of employment-based visas could be adjusted by Congress according to the current demand for labor as signaled by the prices of the permits.

Benefits

A simplified immigration system designed to meet the needs of the economy would allow the United States to maximize the many benefits of immigration and would create a fairer process for potential immigrants. The auction-based approach to visa allocation would mean that visas would be given to the immigrants who will contribute most to the U.S. economy and to companies most in need of foreign labor. The market mechanism would also provide useful signals about the constantly-changing economic demand for immigration. By redistributing the auction revenues to the states and localities that receive the largest immigrant inflows, the benefits and costs of immigration would be more evenly distributed across the states.



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