

The Nature of Citizenship and Solving Illegal Immigration

Many people come to the United States but not always in a legal way. Illegal immigrants are people who enter the country without having the proper permission and by avoiding legal procedures. This is usually accomplished by avoiding contact with the security and immigration officials who are tasked with verifying who has legal permission to immigrate. Many illegal immigrants never apply for work or residency permits before they come to the United States. According to the U.S. Department of Homeland Security in 2012, over eleven million illegal immigrants currently reside in the United States. The term, “immigration reform” is often mentioned in public debate on the subject, but it means many different things to different people.

Illegal immigrants, mainly from Mexico and Central America, began entering the United States in sizable numbers beginning in the 1920s. During the economic depression of the 1930s, illegal immigration declined as economic opportunities in the U.S. became scarce. The federal government also became more active in enforcing immigration law. Facing labor shortages during World War II, the U.S. and Mexico formed an agreement known as the Bracero Program, in which Mexicans were permitted into the U.S. to work on farms. This allowed several hundred thousand migrant workers to work in the U.S. during the 1940s, and many more continued to participate in the 1950s.

Though the Bracero Program was designed to meet labor shortages and discourage illegal

immigration, illegal immigration remained a growing problem. Concerned about disregard for the law and mounting competition against American agricultural workers, in 1954 the Eisenhower administration began systematic deportations of illegal immigrants. Within a few years, more than a million people had been apprehended. Over time, Congressional opposition to the Bracero Program continued to grow, and in 1964 it was abolished. Illegal immigration never ceased during the Bracero years; by the 1960s illegal immigration surged and has remained strong ever since.

In 1986, President Ronald Reagan supported and signed into law the Immigration Reform and Control Act (IRCA), providing amnesty to millions of illegal immigrants already living in the United States, while also promising enhanced border security. Simultaneously, IRCA created penalties for employers who knowingly hired illegal immigrants, while mandating increased border security. Following IRCA, the rate of illegal immigration increased rather than decreased. Before the law, the illegal population mainly consisted of transients, who entered and left the U.S. as agricultural seasons changed and work became available. After the law was passed, illegal immigrants increasingly took up permanent residence in the United States and joined family members who had been granted amnesty.

Entry quotas were updated in the Immigration Act of 1990. This law increased the number of family-based immigrants from 216,000 per

year to 480,000. Family-based immigration occurs when an immigrant settles in the United States and is joined in later years by other family members. The law also increased the total number of employment-based visas by nearly 100,000, and established a lottery for 55,000 more people to enter annually. Finally, it provided another round of amnesty for family members of those who were granted legal status under the 1986 Immigration Reform and Control Act.

In 2005, Congress passed the REAL ID Act, which prevents illegal immigrants from obtaining a driver's license without presenting proof of identity or without having a U.S. Social Security number. This was intended to make it difficult for illegal workers to obtain a driver's license, which would in turn impede their ability to obtain and hold jobs and access other services lawful immigrants and citizens would otherwise enjoy. This law has not altered the flow of illegal immigration into the country, however.

In 2006 and 2007, Congress debated a new set of major immigration reforms. In the Comprehensive Immigration Reform Act of 2006 and in its reintroduced form in 2007, illegal immigrants would have been granted legal residency similar to the amnesty bestowed in the Immigration Reform and Control Act of 1986. The federal government would have also increased border security and increased the number of available guest worker visas for lawful immigrants. These laws faced enormous public opposition (a June 2007 Gallup poll found 60% of Americans opposed the law), and in both years the Comprehensive Immigration Reform Act failed to become law.

In 2010, the state of Arizona enacted SB 1070, a law designed to curb illegal immigration through heightened enforcement of state and

federal law. The most important section of the law requires police officers, when in the process of a stop, arrest, or detention, to check a suspect's immigration status, if the officer has reasonable suspicion to believe the person is an illegal immigrant. This mandate sparked widespread protests and was challenged in the U.S. Supreme Court. In *Arizona v. U.S.* (2012), the Supreme Court upheld the constitutionality of this provision.

Since the early 2000s, advocates of open immigration and amnesty have pushed for the Development, Relief, and Education for Alien Minors Act, more commonly known as the DREAM Act. Because many illegal immigrants enter the U.S. with their children, these children also become illegal immigrants. Since children have no control over the decisions and actions of their parents, supporters of the DREAM Act believe it is unfair to punish young illegal immigrants because they entered the country with their parents. The DREAM Act would provide a path to lawful residency for those individuals who came to the U.S. before they turned 16, provided they lived in the U.S. for the last five years and have graduated high school or passed the General Educational Development (GED) test. Permanent residency may be granted if the individual attends college or enlists in the military and passes background checks. Unlike children who are brought to the United States and do not possess legal residency, children born to illegal immigrants after they have entered into U.S. territory are automatically citizens under the Fourteenth Amendment.

In November 2014, President Barack Obama issued an "Immigration Accountability Executive Action," which grants nearly five million illegal immigrants a path to lawful, permanent residency. Most of these individuals are the

parents of children born in the U.S. and parents of individuals who already possess lawful U.S. residency. Because this executive action was issued by the president and was not put before Congress for approval, it has raised questions on the legality of the order and has caused concern that it violates the constitutionally-mandated separation of powers. A challenge to the President's action was heard by the Supreme Court in 2016 in the case of *United States v. Texas*. In a 4-4 decision, the court issued a *per curiam* opinion, holding that the lower courts' preliminary injunction blocking the program would remain in place until another trial can be heard.

The United States has a republican form of government with deliberate protections of individual rights. A rights-respecting republic requires certain kinds of citizens to maintain it. American citizenship has, historically, been understood to encompass certain viewpoints and behaviors. The Founding generation believed that citizens best-suited to safeguard the nation are citizens who value industry (productivity), independence, self-government, and the use of reason in political affairs. Traditionally, duties of citizenship included keeping a watchful eye against efforts to erode the individual rights and liberties that everyone enjoys and to ensure that the government protects these rights from threats foreign and domestic.

Unrestricted immigration poses important questions about the changing nature of citizenship and whether it is important for the United States to ensure that its new residents share the same foundational values as its citizens. Do immigrants who do not view citizenship in the same ways as most Americans pose a threat to the future of the American republic? Will individual rights and liberties be protected when illegal immigrants come from places that have no such protections? As Thomas Jefferson explained in *Notes on the State of Virginia*, "It is the manners and spirit of a people which preserve a republic in vigor." Critics of unrestricted immigration fear that that new waves of immigrants do not possess the "manners and spirit" necessary to maintain a free society. Others do not share the same concerns, and challenge the idea that immigrants do not possess or would not appreciate the governing principles that underpin republican government in the United States.

If you believe that illegal immigration needs a solution, what would your solution be? Maybe you do not believe it is a problem worth worrying about. If not, why not? What has been tried in the past? What worked and what did not? How can the country find new ways of dealing with this issue? The course is up to you.