

Q&A: Immigration Reform

Don't undocumented immigrants take jobs away from American workers?

No. Native-born workers and foreign-born workers do not generally compete for the same jobs. According to the Immigration Policy Center, an initiative of the tax-exempt, not-for profit educational American Immigration Law Foundation, most foreign-born workers have education levels either below or above that of most native-born workers. Most foreign-born workers either don't have a high-school diploma or have at least a bachelor's degree, while most native-born workers have a high-school diploma or some college short of a four-year degree.

Since workers with different levels of education perform different tasks and fill different roles in production, the majority of native-born workers experience benefits, rather than competition, from foreign-born workers.

Even among workers with the same level of formal education, the foreign-born tend to be employed in different occupations than U.S. natives. Less-educated, foreign-born workers are found mostly in agricultural and personal service jobs, while less-educated natives are found mostly in manufacturing and mining.

Don't undocumented workers bring down the wages of American workers?

No. According to a report from the Immigration Policy Center, immigrants stimulate investment, have skill sets and educational levels that complement those of natives, and do not compete for the same jobs as most natives, the result of which was to *increase* the average wage of native-born workers by 1.1 percent during the 1990s.

Without immigration, our ability to fill future jobs is at risk. According to "The Business Perspective on Comprehensive Immigration Reform," a report from the U.S. Chamber of Commerce, "The number of people in the labor force ages 25 to 34 is projected to increase by only three million between 2002 and 2012; ... by 2010, 77 million baby boomers will retire." Without immigrants, we simply will not be able to fill the jobs left behind by retiring baby boomers and by the lack of young native-born workers entering the workforce.

If we allow people who have entered our nation unlawfully to become permanent residents, are we not rewarding illegal acts?

The ABA does not support rewarding those who have broken the law – rather, in any context, we have always supported appropriate consequences for legal violations commensurate with the particular violation.

The ABA believes that the current laws, which fail to account for the U.S. demand for immigrant labor, are unrealistic and unworkable. The rule of law can be restored by regularizing the status of undocumented workers who are otherwise law abiding, who:

- have contributed to our economy and paid taxes; and
- fill jobs that employers cannot fill with American workers.

Why can't we just deport those who are here unlawfully?

Mass deportations would be neither an appropriate response, in light of the devastating effect this would have on our economy, nor a feasible one. We simply do not have the resources to do so.

To do *nothing* about the undocumented workers who are already here, however, and those entering the country every day, is foolhardy and detrimental to our communities and to national security. For national security purposes, they should be identified, and background checks should be conducted to provide assurances that they are not potential terrorists ready to harm us.

Aren't individuals who are in this country unlawfully a threat to national security?

Providing a meaningful way to earn permanent residency for undocumented workers is less risky than continuing the current system or implementing a measure such as "report to deport," which encourages *greater* secrecy by undocumented workers. By providing a sensible, workable program, we will be able to document and conduct background checks on individuals residing in this nation, making us more safe.

Why do we need to do anything about undocumented workers? If they are benefiting the country's economy, why not just do nothing?

This is not a case of "If it ain't broke, don't fix it." The system is broken. Not having a workable policy that allows for an earned path to residency is just unrealistic, creates a permanent underclass at risk of exploitation, separates families, and prevents immigrants from fully participating in our society. Experience shows us that immigrants who live in the shadows are unlikely to come forward to report crimes to the police or serve as witnesses. A sensible and regularized immigration policy will make our nation safer.

Part of the legislative solution proposed by some would include a consolidation of immigration appeals into the U.S. Court of Appeals for the Federal Circuit. Wouldn't this be beneficial, and help address concerns about immigration appeal backlogs and feasibility of the pending policy proposals?

Shifting thousands of immigration appeals to the Federal Circuit could have far-reaching, unintended and unimagined consequences, and the ramifications of such a proposal should be carefully and thoroughly studied well before it's adopted. The consolidation of appeals could literally overwhelm the Court of Appeals with thousands of new cases. The consolidation of the appeals into the D.C. Court would require enormous costs for individuals residing elsewhere, including the West Coast. And for lawyers who want to represent clients on a pro bono basis, the travel costs associated with an appeal in Washington, D.C., could be prohibitively expensive.

Further, immigration appeals currently benefit from review in courts where a broad array of issues routinely arise, including constitutional due process and other issues.

Some immigration reform proposals call for undocumented workers to step forward, prove that they've worked and have a job, and then return to their homelands while they apply for U.S. permanent residence. What's wrong with such a plan?

It's not feasible. Few workers would come forward knowing that they would have to leave their jobs and families and return to their country of birth while applying to return to the U.S. Encouraging them to do so would be counter-productive. Experienced workers would be required to leave their jobs while they wait for immigration paperwork and the required period of time to expire, and both the economic position and stability of the families would be hurt. This is not good for business, or our society, or our economy as a whole.

One recent compromise proposal allows for a bypass of the requirement for individuals to return to their "home country" if they are able to prove a consistent work history, or if their employer shows that their continued work is necessary. This is a more realistic approach to immigration reform.

Does the ABA support building a fence along the Southern Border?

The ABA supports immigration reform that provides an effective and credible enforcement strategy that is cost-effective and adequately resourced. The ABA has not considered whether a border fence would be an appropriate use of resources or a feasible solution to our nation's broken immigration system.