

A RATIONAL DEFENSE OF EMPLOYMENT-BASED
IMMIGRATION REFORM

by

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INTRODUCTION

One would think that after nearly 240 years, a nation of immigrants would have mastered immigration policy. However, the United States of America has yet to adopt an economically sensible system for allocating employment and citizenship rights to would-be entrants. In view of dismal long-run economic growth projections, driven largely by expected declines in U.S. labor force growth¹, immigration reform is an emerging national priority that will become increasingly urgent in the decades ahead.² The central question for this study is whether employment-based immigration reform offers a rational alternative to the dysfunctional U.S. immigration system by providing a framework that would regulate immigration flows in a manner most conducive to the long-term economic prospects of the U.S.?

As a democratic nation with high living standards, the U.S. remains a top destination of choice for migrants and refugees.³ The inevitable difficulty for the U.S. government is deciding whom to admit and on what terms.⁴ The dysfunctional aims and

¹ Congressional Budget Office (2013, 36) projects, “The average growth of real GDP in CBO’s projection is 2¹/₄ percent a year during the 2019-2023 period; that pace is much slower than the average annual growth of 3¹/₄ percent since 1950, primarily because of slower expected growth in the labor force from both the retirement of the baby-boom generation and an end to the long-standing increase in the labor force participation rate of women.” See also Gordon (2012, 1).

² Gordon (2012, 12) writes, “The retirement of baby boomers causes hours per capita to decline and thus reduces growth of income per capita relative to productivity. A method to raise hours per capita is to increase the ratio of those of working age to those of retirement age. As a matter of arithmetic, this could be achieved by a more rapid inflow of immigration.”

³ Borjas (2001, 175) writes, “The United States does indeed offer unequalled social, political, and economic opportunities to anyone lucky enough to enter its borders.”

⁴ Borjas (2001, 175) writes, “Almost everyone... in the immigration debate... recognizes that immigration policy must *discriminate*... ‘using good judgment’ to allocate the limited number of entry visas among the many applicants. Because many more people want to live in the United States than the country is willing to admit, immigration policy has to... selectively pick and choose from the many applicants.” Orrenius and

rules of the current system are widely acknowledged. Even the White House now admits, “America’s immigration system is broken” (Office of the White House Press Secretary 2013). Since the 1960s and especially since the 1990s, U.S. immigration policies have limited the admission of high-skilled immigrants as a result of unnecessary quotas and regulations.⁵ Instead, these policies have generated an influx of disproportionately low-skilled and unauthorized immigrants which have reduced the wages of native workers (Greenstone and Looney 2010, 7); in addition, they have adversely affected federal and state government budgets (Rector and Kim 2007, 1).

It can be safely assumed that someone advocating on behalf of the United States would agree that immigration policy needs to be reformed to maximize the economic and social benefits derived from immigration while minimizing the costs accrued by Americans (Borjas 2001, 181 and 189). What is needed, many economists⁶ contend, is a pro-growth employment-based immigration policy that “boosts the U.S. economy, spurs innovation, enhances productivity, benefits consumers by keeping prices low, and enriches our society and culture” (Orrenius and Zavodny 2010, 4). Employment-based immigration policy (EBIP) is one of several approaches that have come to the fore in the nascent national debate over how to reform the U.S. immigration system to achieve these valued goals. In contrast to other approaches, such as the family-based policies adopted

Zavodny (2010), similarly write on page 70, “How to change the number and nature of future inflows is both the most difficult and the most important aspect of immigration reform.”

⁵ As Anderson (2012, 74) writes, “A bureaucratic process, high fees, frequent government audits, and low quotas are among the obstacles facing U.S. employers and the high educated foreign nationals they may wish to hire.”

⁶ See Stern (2013), Greenstone and Looney (2013), Peri (2012), Anderson (2011), Ball, *et al.* (2010).

by the U.S. Congress in 1965,⁷ an EBIP would admit immigrants primarily on the basis of their education and skills in accordance with the current demands of the American labor market.⁸ Advocates claim that an EBIP would “increase the benefits of immigration to U.S. economic growth and competitiveness while limiting the harms imposed on native workers and taxpayers” (Orrenius and Zavodny 2010, 5).

In addressing the research question, the study will examine the potential economic advantages and disadvantages of an employment-based immigration policy based on the detailed proposal advanced by Pia Orrenius and Madeline Zavodny (2010). After a summary of the goals and methods of the Orrenius-Zavodny (OZ) proposal, the paper will feature a virtual dialogue between popular critics and proponents of EBIP. In responding to the research question, the dialogue will provide a rational defense of EBIP against leading representatives of two prominent perspectives on U.S. immigration policy: (1) the nationalist perspective of conservative and liberal observers who worry that any form of large-scale immigration (especially EBIP) will reduce native workers’ employment opportunities and earnings, exacerbate income inequality, and place undue fiscal burdens on federal and state governments; and (2) the libertarian perspective of critics who regard the very idea of ‘immigration policy’ (i.e. government allocation of employment and citizenship rights) as an unwarranted abridgment of the individual human right to migrate and a violation of free-market principles. In conclusion, the paper

⁷ In his employment-based immigration policy proposal, Peri (2012, 14) writes on page 14 regarding an employment-based immigration proposal, “The reorganization of labor-sponsored visas should eventually be accompanied by a rebalancing between family-based and labor-based visas in favor of the latter type.”

⁸ As Krusell, Ohanian, Ríos-Rull, and Violante (2000, 1033) write, “it is standard in the literature to define the level of labor skill on the basis of the level of workers’ education. Most education-based measures show a strong secular increase in the stock of skilled relative to unskilled labor input.”

will affirm the study's question and render EBIP as a rational alternative to the current dysfunctional system based on the rational defense presented through the dialogue.

EMPLOYMENT-BASED IMMIGRATION POLICY

Inspired to formulate an effective, efficient, pro-growth alternative to the current U.S. immigration system, Orrenius and Zavodny advocate for a complete overhaul of the current system rather than “cobbling together piecemeal reforms” (Orrenius and Zavodny 2010, 68-69 and 4-5). According to the Department of Homeland Security's recent statistics, 64.8% of those admitted to the U.S. as legal permanent residents were admitted through family ties; however, only 13.1% of those immigrants were admitted based on employment (Monger and Yankay 2011). Furthermore, only 3.9% of temporary visas were granted to temporary workers and trainees (Monger 2011). The OZ proposal would reform current policies to grant fewer visas based on extended family ties and many more visas on the basis of applicants' education and labor skills.⁹

The motivating aim of the OZ proposal – their commitment to an employment-based immigration approach to immigration reform – is grounded in their belief that “the economic future of the United States hinges on bringing the best minds together here” (Orrenius and Zavodny 2010, 4). Their proposal would cater to the diverse interests of American employers, workers, and consumers. It would prioritize the admittance of high-skilled immigrants who improve the overall economy, income, and innovation (Ibid., 48). It would also provide more visas to low-skilled immigrants who increase natives' choice of activities and help keep prices low for labor-intensive goods and

⁹ It must be noted that an EBIP need not necessarily reduce family-based immigration as the OZ proposal suggests but its primary goal is to increase and prioritize employment-based immigration.

services—namely in the agricultural industry (Ibid., 48-51). On both counts, Orrenius and Zavodny argue that an EBIP would increase the U.S. ‘immigration surplus’¹⁰ by systematically aligning the size and composition of annual immigration flows to the needs of U.S. employers.

Orrenius and Zavodny advocate for a unique permit system as a way to execute their proposed employment-based immigration policy. Through such system, they aspire to gauge the level of the market’s supply of labor from foreign countries and the demand of labor in the U.S., thereby enabling the Department of U.S. Citizenship and Immigration Services to know the optimal number of visas to allocate.¹¹ This system would require U.S. employers who wish to employ immigrants to bid at auctions¹² to purchase permits which would act as a mechanism to determine the labor demand of certain U.S. industries (Orrenius and Zavodny 2010, 72). On the other hand, the supply of labor is indicated by the number of applicants who apply for a visa to the U.S. and indicate their skills and education on their application. The Department of U.S. Citizenship and Immigration Services may use the permit mechanism as well as flexible caps to determine annual admittance of provisional visas (Ibid., 83). Flexible caps would set the desired number of immigrants the U.S. wishes to admit but their flexibility would

¹⁰ According to the Council of Economic Advisers (2007), “immigration surplus is a simple and frequently cited metric of natives’ total gains from immigration.”

¹¹ Orrenius and Zavodny (2010), write on page 111, “The government will be able to gauge changes in demand by observing employers’ bids at auctions, and it can then adjust supply accordingly, making more permits available during expansions and fewer permits during economic downturns.”

¹² Orrenius and Zavodny (2010, 85) explain more specifically, “the federal government will hold [frequent] auctions for new permits... Employers submit bids indicating how many permits they would like to purchase and the price they are willing to pay. Permits are then allocated from highest to lowest price until the total number of permits is filled or the reserve price hit, whichever happens first.”

allow them to adjust to changes in the business cycles, U.S. labor demand, and the sending country's labor supply (Ibid., 62). The proposal also suggests using the revenue from selling permits to mitigate potential negative impacts on native workers within a certain industry (Ibid., 65). The revenue could fund retraining programs for displaced native workers which would not only benefit the displaced native workers but also increase the overall human capital of the economy.

Furthermore, the Orrenius-Zavodny proposal strives to limit adverse fiscal impacts by prioritizing provisional visas for immigrant workers rather than permanent visas for families of current immigrants (Orrenius and Zavodny 2010, 70). In many cases, elderly family members are very costly to the U.S. because they are less likely to work and will often be eligible for federal and state welfare programs (Ibid., 66). The proposal calls for reducing future inflows of these types of immigrants.¹³

While this paper does not explore the issue of illegal immigration in depth, it is worth noting that the OZ proposal aims to reduce illegal immigration by encouraging temporary migration to low-skill workers.¹⁴ Increasing temporary work visas will enable many low-skilled immigrants to come and work legally in the U.S. while knowing that if they return when their visa expires they will have a realistic chance of obtaining another temporary work visa in the future (Orrenius and Zavodny 2010, 63). Increasing the number of temporary work visas granted to low-skilled applicants not only works to reduce illegal immigration but also leads to a more efficient labor market (Ibid., 60-61).

¹³ Another policy suggestion (not endorsed by Orrenius and Zavodny), would be to require the family of the elderly immigrants to prove an ability to host and financially support them as a criterion for admission.

¹⁴ Orrenius and Zavodny (2010, 60) write, "A goal of immigration reform should be to provide legal means for low-skilled workers to be admitted... [which] helps reduce illegal immigration."

Such policies which allow for a flexible inflow and outflow of low-skilled immigrants help to stabilize the labor market as well as the prices of goods and services in industries, such as the agricultural industry, which rely heavily on low-skilled labor.

A DIALOGUE WITH NATIONALIST CRITICS

A broad line of criticism against mass immigration in general, and employment-based immigration policies in particular, emanates from thinkers who give normative priority to the economic interests of the United States and its citizens over those of immigrants and their nations of origin. In the current U.S. context, these “nationalist” perspectives are often advanced by those who believe that immigration should be significantly reduced in order to protect Americans from the social and economic costs of immigration.¹⁵ These critics contend that the large influx of immigrants associated with the ‘second great migration’¹⁶ have diminished the economic opportunities and well-being of the native population in four related ways: (1) by reducing employment opportunities for U.S. workers (Camarota 2007, 139), (2) by reducing wages and salaries for high- and low-skilled workers (Ibid.), (3) by exacerbating secular trends toward greater income inequality (Borjas 2001, 52), and (4) by adversely affecting government budgets and burdening taxpayers at local, state, and federal levels. Their central question, nicely captured by journalist and Peter Brimelow, is: “Why should native-born Americans put up with immigration at all if they do not get significant benefits themselves” (Brimelow 2007, 159)?

¹⁵ See Krikorian (2008), Brimelow (2007), and Camarota (2007)

¹⁶ The Second Great Migration according to Borjas (2001, 8 and 211), is “the large immigrant wave that began to enter the United States after 1965... and has yet to subside.”

While nationalist perspectives emerge from across the political spectrum, the most prominent forms can be identified as conservative nationalism and liberal nationalism. The conservative perspective suggests that immigration should be significantly reduced for economic reasons such as displacement of native U.S. workers, the reduction of the wages of native U.S. workers, and adverse effects on government budgets. The liberal perspective generally supports a welcoming immigration policy but it is concerned with the current U.S. immigration policy's burdens on the poor and low-skilled natives.

As conservative writer and executive director of the Center on Immigration Studies, Mike Krikorian points out, "while immigration certainly increases the overall size of our economy, it subverts the widely shared economic goals of a modern society: a large middle class open to all, working in high-wage, knowledge-intensive, and capital-intensive jobs exhibiting growing labor productivity and avoiding too skewed a distribution of income" (Krikorian 2008, 133). In addition, Brimelow argues that while immigration has resulted in "some (possibly minimal) growth in overall output", immigration does not actually benefit the U.S. economy because it lowers (or slows the growth of) a country's living standard as defined by GDP per capita (Brimelow 2007, 159). Furthermore, Brimelow refers to George Borjas's estimate of the immigration surplus. Using data from the 1990s and a standard applied economics technique called the "Harberger Triangle," Borjas estimated that immigration generates a net gain for natives of only \$30 billion per year (Borjas 1995, 3-22). Roy Beck, executive director of Numbers USA, an organization committed to reducing legal immigration, is another conservative critic of EBIP. While EBIP prioritizes the admittance of high- and low-

skilled workers who are in-demand by U.S. employers, Beck has long argued that “the chief difficulties that America faces because of current immigration are not triggered by *who* the immigrants are but by *how* many they are” (Beck 1996, 14). Thus, conservative nationalists oppose EBIP mainly because they contend that it would admit too many total immigrants and too large a fraction of low-skilled immigrants.

In contrast to the conservative nationalists, liberal nationalists such as Vernon Briggs and Jared Bernstein favor immigration; however, they seek to reform current immigration policies to mitigate their adverse effects on low-wage workers and overall income inequality. As Bernstein writes, “the problem at this point is not immigration; it’s the dysfunctional system” (Bernstein 2008, 157). While he proposes to “remain a welcoming nation, born of immigrants,” he points out the need to address the “failure to control immigration flows” (Ibid., 157-158). With regard to the disparate impacts of the current U.S. immigration system, Briggs writes, “there is no question who loses: it is the native-born workers who are low skilled (disproportionately minorities, women, and youths)” (Briggs 2012, 960).

To bring these concerns into dialogue with Orrenius, Zavodny and other defenders of employment-based immigration policies, the remainder of this section will outline the manner in which an employment-based immigration policy might address the principal concerns of conservative and liberal nationalists.

Nationalist concern #1: Mass immigration reduces the employment opportunities of U.S. workers.

These concerns are echoed by “a growing body of research [which] has raised the possibility that immigrants may also be displacing natives in the job market” (Camarota

2007, 139). In light of employment data from 2000-2004, Steven Camarota, director of research for the Center on Immigration Studies, argues that both low-skilled and high-skilled immigrants take the job opportunities of native workers and distort the native labor market. He shows that “immigrant employment gains have occurred throughout the labor market, with half of the increase among workers with education beyond high school” (Ibid., 155-156). Similarly, Beck opposes an employment-based immigration policy that prioritizes the admittance of high-skilled immigrants, whose presence brings very real consequences to skilled American workers, and perhaps more significantly, to Americans who aspire to professions” (Beck 1996, 192). According to this argument, immigrants not only reduce the job opportunities of U.S. workers but also negatively impact Americans’ efforts to gain higher skilled jobs.

Defense

While it may be true that some Americans may lose their jobs due to competition with foreign workers, these displacements would be minimized under an EBIP for several reasons. According to economist Jacob Funk Kirkegaard, who studied the labor market situation of U.S. software workers in the face of competition from high-skilled immigrants with similar skills, “U.S. high-skilled workers have not suffered adverse labor-market effects by the inflow of foreign high-skilled workers in recent years” (Kirkegaard 2007, 82). Even if immigration does to a certain degree displace native workers, the OZ permit system would mean that immigrants would be admitted and allowed to compete for positions in fields that are experiencing labor shortage. Furthermore, while some American workers may lose their jobs or find it harder to gain jobs in desired fields, an EBIP could still yield net benefits to the U.S. economy. The OZ

proposal admits an optimal number of immigrant workers as determined by employers' demand, thereby increasing labor competition which in turn maximizes economic efficiency and growth.¹⁷ Lastly, Orrenius and Zavodny propose using revenue from the sale of employer permits to mitigate negative impacts on native workers, e.g., funding retaining programs (Orrenius and Zavodny 2010, 65). Such provisions would benefit displaced native workers while elevating the economy's overall stock of human capital.

Nationalist concern #2: Employment-based immigration policies threaten to adversely affect the wages and salaries of native workers.

The nationalist criticism that EBIP reduces natives' wages is echoed by Krikorian who cites an analysis done by Borjas¹⁸ which "calculates that after a decade and a half of admitting 1 million college graduates a year, the wages of native-born college graduates would be reduced by 15 percent" (Krikorian 2008, 161). He argues that since high-skilled immigrants would compete with high-skilled native workers for the same jobs, wages would decrease. He similarly argues that immigrant workers depress the wages of low-skilled native workers by citing a basic principle from economist Paul Samuelson who wrote, "an increase in the supply [of any grade of labor relative to all other productive factors] will, other things being equal, tend to depress wage rates" (Samuelson 1964, 552). It is worth mentioning that other scholars have used results from the Stolper-Samuelson theory of trade¹⁹ to make similar claims. As summarized by Milner and

¹⁷ As Borjas (2012, 144) writes, "If [labor] markets are competitive and if firms and workers are free to enter and leave these markets, the equilibrium allocation of workers to firms is efficient; the sorting of workers to firms maximizes the total gains that workers and firms accumulate by trading with each other."

¹⁸ See Borjas (2001, 201).

¹⁹ See Stolper and Samuelson (1941).

Tingley, “scholars²⁰ have noted that in a capital-rich country that is importing unskilled labor, groups well-endowed with capital and skills will profit from immigration, while unskilled labor will lose” (2013, 7). Continuing this line of argument, Borjas concludes, “a theory-based framework predicts that the immigrants who entered the country from 1990 to 2010 reduced the average annual earnings of American workers by \$1,396 in the short run” (Borjas 2013, 2).

Defense

In his analysis of adverse wage impacts of immigration on U.S. labor markets, Borjas cites the example of cities with large clusters of immigrants that see the wages of competing native workers decrease while the wages of complementary native workers (often higher skilled workers) increase.²¹ Borjas shows that many times statistics fails to account for the impact of this on the whole economy because as natives see their wages go down they may move out of that city or state in order to find better opportunities. But at the same time, the effect of a cluster of immigrants in an area incentivizes new employers and firms to move to the area thus increasing the returns to capitalists and improving the economy. Thus, the economy may very well improve as a whole even if the wages of some workers decrease in the short run.²² On the other hand, as Darrel West points out, “researchers found that 90 percent of native-born workers with at least a high-school diploma experienced wage gains from immigration ranging from 0.7 percent to

²⁰ See Mayda (2006), Milner and Tingley (2011), and Scheve and Slaughter (2001).

²¹ See analysis: Borjas (2001, 67).

²² As West (2010, 40) writes, “in contrast to critics who worry that immigrants take American jobs and depress American wages, considerable research suggests that immigrants contribute to the vibrancy of American economic development... they start new businesses, patent novel ideas, and create jobs.”

3.4 percent, depending on education” (West 2010, 12). In short, research indicates that immigration increases the wages of the overwhelming majority of native workers while depressing the wages of those with less than a high school education. Employment-based immigration policies would enhance the increase in wages to the overwhelming majority of Americans while minimizing the depression of wages to the very low-skilled native workers.²³

Nationalist criticism #3: Employment-based immigration would exacerbate income inequality among the native population.

Briggs writes that “poverty figures have increased and income disparity has widened among families... whose wages and employment opportunities have been disproportionately harmed by the shortcomings of prevailing immigration policies” (Briggs 2012, 958). Like Briggs, liberal nationalists are concerned with the unequal distribution of wealth in society and believe immigration is to be blamed for further increasing the income disparity. Beck uses the 1990s as an example and writes that “the importation of foreign workers [...] played a significant role in depressing real wages for workers [and] in increasing disparity between the rich and the poor” (Ibid., 341). Thus, it is argued that low-skilled and high-skilled immigrants complement high-skilled native workers while competing with low-skilled native workers. As a result, “immigration will redistribute income by lowering the wages of competing American workers and increasing the wages of complementary American workers” (Borjas 2013, 1). Krikorian

²³ According to Greenstone and Looney (2010), a major cause of the reduction in the wages of low-skilled native workers has been the influx of disproportionately low-skilled and unauthorized immigrants. Since an EBIP proposal such as the OZ proposal would admit low-skilled immigrants according to U.S. employers’ demand and work to reduce illegal immigration, the depression of the wages of low-skilled native workers would be minimized.

concludes that income disparity caused by immigration results in “swelling the ranks of the poor, thinning out the middle class, and transferring wealth to the already wealthy” (Krikorian 2008, 145-146).

Defense

This criticism is based on studies such as one conducted by Borjas using the “factors proportion approach” which estimated that about one third of the postwar US rise in wage inequality is due to immigration (Borjas et al. 1997). However, while “there is an extremely large literature focusing on the consequences of immigration on the labor market [...] and inequality [...] most of these studies were conducted using *partial* equilibrium models [that] induce... major shortcomings” (Chojnicki et al. 2009, 318). The 2009 study by Chojnicki et al. examined “the economic impact of the second great immigration wave (1945-2000) on the U.S. economy” and instead the “analysis relied on a computable general equilibrium model combining the major interactions between immigrants and natives” (Ibid., 317). Their study found that “the minor impact on wage differentials translates into a minor impact on income inequality” (Ibid., 344). In another study using the “cross-city research design,” David Card concludes that “immigration accounts for a small share (5%) of the increase in U.S. wage inequality between 1980 and 2000” (Card 2007, 1). Therefore, as West stated, “the costs immigrants impose are not zero, but those side-effects pale in comparison to the contributions arising” from immigration (West 2010, 20). These studies suggest that employment-based immigration would have a minimal impact on income inequality while greatly increasing the economic well-being of the American economy.

Nationalist concern #4: Mass immigration adversely affects federal, state, and local government budgets and thus harms native taxpayers.

Briggs writes that “there is no question who loses: it is... the American taxpayers” (Briggs 2012, 960). He cites a study from the National Research Council which “documented the fact that the fiscal costs of immigration (e.g., education, welfare, incarceration, housing, and health care) far exceeded the taxes paid by the foreign-born population, leaving the native-born population to pick up the deficit” (Ibid.). Consistent with the NRC analysis, Heritage Foundation scholars Robert Rector and Christine Kim calculated that in 2004, low-skill immigrant households paid more than \$10,000 in all taxes but received more than \$30,000 in services, translating to a net burden on American taxpayers of nearly \$20,000 per household per year (Rector and Kim 2007, 1). Economist and business journalist Edwin Rubenstein also analyzed the direct and indirect fiscal impact of immigration on 15 federal agencies. In his collaborative study, Rubenstein writes, “we estimate that the 15 departments profiled here incurred \$346 billion of immigrant-related costs in FY2007 [and] each immigrant costs taxpayers more than \$9,000” (Rubenstein 2008, 69). Rubenstein concludes that the direct budgetary costs are providing “Medicaid, food stamps, welfare, education, [and] Social Security,” while the “indirect fiscal costs are... [reduced] federal tax revenues, traffic congestion, environmental pollution, and communicable diseases” (Ibid.). In addition to immigration’s negative impact on the federal budget, nationalists also argue that immigration burdens state and local budgets. For example, a 2005 study found that “in Florida the net burden on state and local governments from immigrants is on the order of \$2,000 per immigrant household” (Denslow and Weissert 2005, 385). Consistent with

the study in Florida, Briggs cites a study by the U.S. Commission on Immigration Reform which concluded that “increases in immigrant-related fiscal costs were falling disproportionately on the taxpayers of those local communities and states with growing immigrant numbers” (Briggs 2012, 969). Thus, nationalists argue that “current immigration policy ensures that immigrants will be a fiscal burden” because the governmental services provided to immigrants and other indirect costs end up being paid by American taxpayers, especially those who live in local areas and states with larger immigrant populations (Krikorian 2008, 181).

Defense

While the adverse fiscal impact of current U.S. immigration policy is not to be disputed, the underlying cause is not due to immigration as nationalists argue, but due to the wrong type of immigration policy. Employment-based immigration policy reform resolves the fiscal issues raised by nationalists. In a comprehensive study, Smith and Edmonston conclude that the net present value of immigration’s fiscal impact depends on education levels (1997). Correspondingly, Orrenius and Zavodny write that “the fiscal impact of immigration can be sizeable, however, because of the magnitude of low-skilled immigration” (2012, 950). Thus, the major cause of the fiscal costs of immigration is due to the “low-skilled immigrants [who] are a fiscal drain on taxpayers” (Ibid., 950-951). On the other hand, “high-skilled immigrants partially offset the fiscal costs of low-skilled immigrants, and over time, the educational assimilation of the descendants of less-educated immigrants makes up for the costs imposed by earlier generations” (Ibid., 950). Since employment-based immigration prioritizes the admittance of high-skilled immigrants, the fiscal costs would be dramatically reduced. Even the nationalist critic

Krikorian admits, “All these costs might not matter if all immigrants were highly productive, earning high wages, paying large amounts in taxes, and making only modest demands on government services” (Krikorian 2008, 178).

Conclusion

Economic nationalists, both conservative and liberal, worry that “the impact of open policies falls on disadvantaged workers who feel their wages are depressed by newcomers and on taxpayers who worry about a drain on public resources, while the benefits accrue to small groups of successful immigrants who get good jobs and to some businesses that gain the skills of new arrivals” (West 2010, 1-2). Employment-based immigration policies offer a constructive response to these concerns while also addressing the complex dysfunctions of the current U.S. immigration system. The Orrenius-Zavodny proposal not only considers the characteristics of applicants such as skills and education, but it also accounts for admitting an optimal number of immigrants annually. In particular, it offers a robust response to these nationalist critics while maintaining its central goal of maximizing economic growth and minimizing costs accrued by Americans.²⁴ The proposal would legally admit immigrants who would pay taxes, grow the labor force and the economy, and raise the standard of living for all Americans.

A DIALOGUE WITH LIBERTARIAN CRITICS

In contrast to nationalists who seek policies that protect national interests, libertarians pride themselves in their economic and ethical cosmopolitanism. Their philosophical split with nationalists is most vividly clear in their views on immigration

²⁴ See dialogues between Orrenius and Zavodny (2012) and Briggs (2012).

policy where they assign equal importance to the well-being of human beings in all nations.²⁵ While this section will focus on the libertarian criticism against EBIP, it must be noted that the libertarian perspective on immigration shares many similarities with the proposal put forth in this paper. In fact, one may argue that a libertarian immigration reform proposal is itself an employment-based immigration proposal since it pursues a policy that recognizes “the [general] benefits – including the employment benefits – that immigrants bring to this country.”²⁶ As such, libertarians similarly favor an immigration policy that increases legal immigration of both low and high skilled people. Although libertarians agree with a market-based immigration policy (such as EBIP) that stimulates economic growth, they tend to diverge over its implementation. Libertarians generally oppose that the government restrict or regulate immigration.²⁷ In fact, the general libertarian view favors open borders. “Libertarian doctrine traditionally declared itself, with no qualifications or reservations, in favor of the principle of complete freedom of emigration and immigration” (Huerta de Soto 1998, 187). As a result, most libertarians would criticize the permit system proposed by the Orrenius-Zavodny employment-based immigration reform because it violates a completely free market approach by allowing the government to regulate the flow of immigration. To bring these concerns into dialogue with Orrenius, Zavodny and other defenders of employment-based immigration policies, the remainder of the section will feature two libertarian concerns followed by

²⁵ See Tyler Cowen’s article in the *New York Times* on March 17, 2013.

²⁶ According to Tyler Cowen’s article in the *New York Times* on October 31, 2010.

²⁷ According to Caplan (2012, 21), “Whatever your complaint happens to be, immigration restrictions are a needlessly draconian remedy.”

the defense of employment-based immigration proponents.

Libertarian concern #1: A permit system (or any regulatory system) violates individuals' right to migrate.

Libertarians generally advocate for an “open borders” policy on immigration which would allow the free flow of immigrants without any restrictions or regulations by the government. This perspective is supported by the argument that individuals have the right to freely migrate. While theories of justice have advocated for a right to immigrate²⁸ based on various arguments, there remains a consensus among libertarian proponents of open borders that individuals have a right to freely migrate as they wish. “The libertarian argument in favor of open borders is that foreigners have... a ‘right to migrate’.... a right not to be stopped from traveling from one country to another” (Krepelka 2010, 38). Therefore, libertarians argue that a regulatory system to implement an employment-based immigration policy, such as a permit system, is a violation of individuals’ liberty and an unjustified course of action.

Defense

As Borjas points out, at the core of the immigration debate lies the question: “whom should the United States care about” (Borjas 2001, 174)? Borjas goes on to write that “depending on the objectives, the same set of facts can have very different policy implications (Ibid.). Thus, prior to a defense of the permit system, it must be emphasized that the objective of an employment-based immigration policy is to maximize the

²⁸ As Huemer (2010, 30) writes regarding the right to immigrate, “Nor need one accept either libertarianism, or Rawls’ theory of justice, or utilitarianism... One can motivate the thought that it is prima facie wrong to harmfully coerce others without appealing to any general theory of justice, but appealing instead only to a very widely shared and simple moral intuition.”

economic growth and efficiency of the United States. To this end, Orrenius and Zavodny's plan for a permit system "selects the most productive foreign workers, which in turn is most likely to boost economic growth and efficiency" (2010, 86). This is in contrast to the libertarian policy of open borders which promotes individuals' right to freely migrate. However, this argument is not assumed to be true nor held as particularly relevant by proponents of employment-based immigration reform. In fact, the argument for individuals' right to migrate is not even accepted by all libertarians.²⁹ Perhaps more importantly, the presumptive right to migrate becomes irrelevant for U.S. immigration policy which as previously described should pursue the economic growth, efficiency, and well-being of the nation.

Libertarian concern #2: A permit system (or any regulatory system) violates free market principles.

The second libertarian argument in favor of open borders and against a regulatory system rests on the fundamental principles of the free market.³⁰ The idea is that a free market features the free flow of goods, labor, and capital as it efficiently allocates resources and maximizes efficiency. And since people supply labor, their ability to freely move from one place to another is necessary for the market to maintain its freedom and efficiency. According to Walter Block, "at one time, the libertarian perspective on

²⁹ As Block (2011, 595) writes, "the state is justified in regulating not the movement of goods or capital, but of people [according to] the claims of Hoppe (1998, 2001), Kinsella (2005) and Rothbard (1998). In their view, the government of the U.S. is at present justified in restricting immigration to the country, on libertarian grounds."

³⁰ As Mises (1927) writes, "Capital and labor tend to move from areas where conditions are less favorable for production to those in which they are more favorable. But the migration of capital and labor presupposes not only complete freedom of trade, but also the complete absence of obstacles to their movement from one country to another."

immigration could be summed up by the following mantra: ‘There shall be no interference with the free movement of goods, capital, and people’” (Block 2011, 593). As a result of this argument, libertarian proponents of open borders oppose any form of government restriction on immigration. Libertarian economist Benjamin Powell promotes open borders in regards to immigration by writing that “instead of restricting labor flows.., we need a free market in labor” (Powell 2010). In response to EBIP, such as the Orrenius-Zavodny proposal, libertarian proponents of open borders would take issue with a permit system or any regulatory system which restricts immigration. Libertarians would argue that the permit system is unnecessary and places a burden on employers and immigrants who should instead have the freedom to enter into labor contracts without needing a permit or admittance to the country. According to libertarian economist Jeffrey Miron, any restrictions on immigration will have negative effects including “the direct costs of border controls, the creation of a violent black market for immigration, and incentives for corruption” (2010, 107).

Defense

Libertarians criticize implementing an employment-based immigration policy through a regulatory system such as a permit system because it violates the free-market principle of allowing the free flow of labor. However, free-market principles actually form the rational basis for a permit system which is designed as a market-based system for implementing employment-based immigration. In their proposal for a market-based permit system, Orrenius and Zavodny admit “surely employers will do a better job of selecting immigrants than would government bureaucrats” (2010, 111). The free market for labor includes immigrants who enter the U.S. labor force. In order to have an

efficient and effective legal immigration system, the government must effectively enforce immigration laws while the free market efficiently reaches the optimal equilibrium between the supply and demand of immigrant labor. Since the U.S. faces a “surplus of foreigners who want to enter,” the supply of immigrant labor is very high as the U.S. remains one of the most attractive destinations for migrants (Ibid., 37). As a result, the optimal number of admitted immigrants is primarily set by the U.S. demand of immigrant labor. Thus, the number of admitted immigrants is not restricted or arbitrarily fixed by the government but rather flexible and responsive to the demand of U.S. employers. To this end, a permit system (such as the one proposed by Orrenius and Zavodny) would allow U.S. employers to purchase a permit for a price determined by the bids of employers wishing to hire immigrant workers. In other words, the permit price gauges the market for immigrant labor and allows the government to adhere to the market demand. As a “signaling device,” the permit price signals the federal government to admit more immigrants when the price is high and admit fewer immigrants when the price is low (Orrenius and Zavodny 2010, 84). As a “selection device,” the permit price “will help ensure an efficient allocation of foreign workers to U.S. employers” (Ibid.). In response to the libertarian criticism that the permit system is a violation of free market principles since it is not an open-border policy, proponents of employment-based immigration would argue that it actually is consistent with free-market principles since it allows the market—not the government—to choose the number of admitted immigrants.

CONCLUSION

As suggested by the paper's rational defense against nationalist and libertarian criticisms, employment-based immigration reform is a valid reform proposal to repair the broken immigration system and improve future economic prospects. Before providing a decisive response to the study's research question, one may be inclined to ask in light of preceding discussion, how the Orrenius-Zavodny proposal fares in the current realm of contemporary proposals for U.S. immigration reform. Consequently, while the previous sections addressed specific points of criticism, the conclusion will investigate the generally accepted aspects of popular policy proposals from nationalists and libertarians and compare them to the Orrenius-Zavodny proposal.

Nationalist proposals³¹ for immigration reform in today's current discussions have one main component in common: reduce the annual level of immigration. Both conservative and liberal nationalists in the current debate argue that the current level of immigration is too high therefore hurting native workers and the economy.³² They also call for a vigorous enforcement of current immigration laws as well as other measures (such as E-Verify) to significantly reduce or eliminate illegal immigration.³³ Some proposals also call for avoiding "guest worker" programs arguing that they incentivize

³¹ Progressives for Immigration Reform (2013), Federation for American Immigration Reform (2013), North (2013) writing for the Center on Immigration Studies, NumbersUSA (2013), and Krikorian (2008).

³² Progressives for American Immigration Reform (2013), Federation for American Immigration Reform (2013), and Krikorian (2013, 214).

³³ Progressives for Immigration Reform (2013), Federation for American Immigration Reform (2013), and North (2013, 3).

immigrants to overstay their visas.³⁴ While the detailed components of contemporary nationalist proposals vary, the key aspects are clearly a reduction in immigration flows and an elimination of illegal immigration. All in all, nationalist proposals are grounded in the concern for the economic interests of the U.S. and its citizens.³⁵

Libertarian policy proposals³⁶ for immigration reform unanimously advocate for an expansion of legal immigration. Most libertarian proposals would even go as far as advocating for open borders where the free market would be the only determinant of immigration inflows.³⁷ Aside from varying elements between current proposals, the central feature of a libertarian proposal is nevertheless a major expansion of immigration. While libertarians promote increasing all forms of immigration, they increasingly stress the importance of high-skilled and low-skilled immigrants as beneficial to the U.S. economy.³⁸ Ultimately, the general call for the expansion of immigration stems from the libertarian principles of the free market and the individual right to freely migrate.³⁹

³⁴ Progressives for Immigration Reform (2013) argues, “guest worker programs tend to increase illegal immigration.” Krikorian (2008, 234) similarly writes, “large scale temporary programs should never be instituted... [because] they distort the economy..., inevitably promote illegal immigration, and they lead to the creation of a servile class.”

³⁵ Numbers USA (2013) states that its proposal “would allow present and future generations of Americans to enjoy a stabilizing U.S. population and a high degree of individual liberty, mobility, environmental quality, worker fairness and fiscal responsibility.”

³⁶ See Powell (2010), Miron (2010), Griswold (2009).

³⁷ Krepelka (2010, 49) writes in favor of open borders, “The most libertarian position seems to be to let people do what they want...,” Powell (2010) writes “we need a free market in labor... that means open borders.” Miron (2010, 116) writes, “open borders is the best immigration policy.”

³⁸ Powell (2010) writes, “If the U.S. government didn’t severely limit the number of skilled worker H1-B visas... the net gains could be larger.” Griswold (2009) writes, “Strong, positive arguments remain for pursuing a policy of expanding legal immigration for low-skilled workers.”

³⁹ See Block (2011, 593) and Krepelka (2010, 38).

The Orrenius-Zavodny proposal for employment-based immigration reform in the context of other current proposals is perhaps best understood through a visual depiction of “the politics of immigration” (See Figure 1). As Orchowski shows, the current immigration debate is not horizontally polarized between Republicans and Democrats, like most other issues in American politics. Instead, today’s immigration debate is vertically polarized, ranging from nationalists who favor the highest restrictions on immigration to libertarians who favor a complete open-border immigration policy. The beauty of EBIP is that it falls in the middle of the spectrum. It neither advocates total restriction nor total expansion of immigration; rather, it promotes a system in which the market

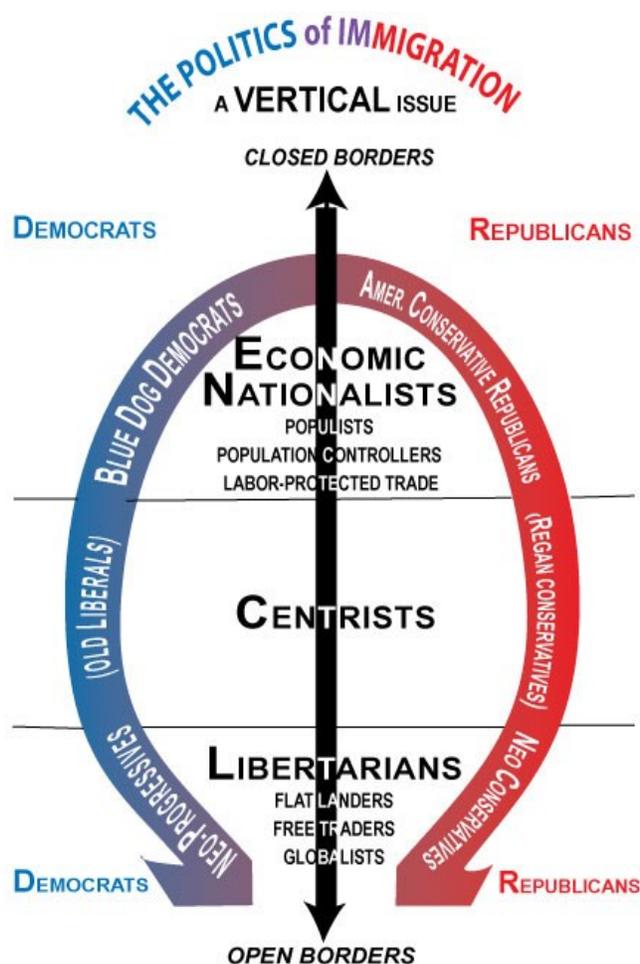


Figure 1

Source: Orchowski (2010).

determines the optimal level of immigration inflows with flexibility to fluctuate in accordance with the business cycle. Furthermore, it focuses on admitting skilled workers who will contribute to the economic growth of the U.S. Thus, employment-based immigration reform, such as the OZ proposal, is a politically balanced approach to reform the current system and is based on

economic principles that aspire to maximize future economic growth.

The merits of employment-based immigration reform have been weighed through its rational defense against popular criticisms of conservative and liberal nationalists as well as libertarians. Careful research has resulted in affirming the study's question that employment-based immigration does indeed offer a rational alternative to the dysfunctional U.S. immigration system by providing a framework that would regulate immigration flows in a manner most conducive to the long-term economic prospects of the U.S. While EBIP is found to be *one* rational approach to reforming immigration policy, further research must be conducted to test whether it is the *best* rational approach. Nevertheless, the study has important implications for all who participate in the ongoing U.S. immigration debate. It is especially significant to lawmakers and policy advisers. Of the many issues facing a federal government marked by partisan gridlock, here is one crucial issue that can be resolved through a politically balanced and economically based approach. It has been proposed by Orrenius and Zavodny as a comprehensive employment-based immigration policy. It has been defended in this study as a rational alternative to the current dysfunctional system. It now begs to be seriously considered as the law of the land.

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ABSTRACT

In light of the broken immigration system and anemic forecasts of future economic growth, this study considers and defends employment-based immigration reform as a proper course of action for the United States. The central question for this study is whether employment-based immigration reform offers a rational alternative to the dysfunctional U.S. immigration system by providing a framework that would regulate immigration flows in a manner most conducive to the long-term economic prospects of the U.S.? In addressing the research question, the study will examine a policy proposal by Pia Orrenius and Madeline Zavodny as a prototype for employment-based immigration reform—to allow for a process of selecting the most valued immigrant workers and allocating visas efficiently among applicants. Subsequently, the study provides an extensive defense through a virtual dialogue between popular critics and proponents of employment-based immigration reform. The following criticisms are considered and defended: (1) the nationalist criticisms (conservative and liberal) that such an approach will reduce native workers' employment and earnings, exacerbate income inequality, and place undue fiscal burdens on federal and state governments; and (2) the libertarian criticisms that such an approach results in a violation of free-market principles and an unwarranted abridgment of the individual human right to migrate. Finally, the conclusion affirms the study's question and provides significant implications for the current immigration debate.