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NISKANEN
CENTER

PRINCIPLES OF
IMMIGRATION
REFORM

ENFORCEMENT ADMISSIONS RIGHTS VALUES

Immigration policy decisions, like all policy considerations, necessarily require normative judgments. Even the strongest evidence about the effects of immigration policy is politically inert without underlying normative principles. Sharing the principles that guide our policy considerations and recommendations allows us to identify unlikely allies and continue to strengthen relationships we have with those guided by similar principles or policy goals. This document discusses Niskanen’s principles of immigration reform:

- 1 — Effective enforcement of immigration law must address the incentives that drive undocumented immigration.
- 2 — Federal immigration enforcement should prioritize people charged with serious crimes and those who have recently committed an immigration violation.
- 3 — Border security and interior enforcement should be efficient and cost-effective, utilize cutting-edge technology and tactics, and be minimally invasive to commerce, legal immigration, and civil liberties.
- 4 — Under certain conditions, undocumented immigrants should be able to regularize their immigration status.
- 5 — Some admissions policies should capture productivity-associated economic benefits.
- 6 — Some admissions policies should capture input-associated economic benefits.
- 7 — Some admissions policies should provide humanitarian relief.
- 8 — Some admissions policies should offer opportunities to the global poor.
- 9 — Our immigration system should be family-friendly.
- 10 — Immigration policy should be responsive to global trends.
- 11 — The rights of Americans and migrants turn on reliable due process.
- 12 — Immigration petitions must be adjudicated expeditiously and predictably.
- 13 — Some guest workers should regularly be afforded the right to naturalize.
- 14 — The immigration system should facilitate and encourage integration.
- 15 — Immigration should be a net fiscal benefit to the United States.
- 16 — American world leadership turns on robust cooperation with allies and partners to address global challenges and opportunities—like immigration.
- 17 — The immigration system can and should be a win-win for workers, business, and immigrants alike.

Effective enforcement of immigration law must take into account incentives that drive the bulk of undocumented immigration. The ability to work is a tremendous incentive to enter and remain in the U.S. to support families here or abroad, despite the threat of deportation.

Simultaneously increasing the number of work visas and deploying a reliable system that allows employers to confirm the legal eligibility of workers will start to effectively address these incentives, and ensure employers and employees are operating within the law.

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Effective enforcement of immigration law must address the incentives that drive undocumented immigration.

2

Federal immigration enforcement should prioritize people charged with serious crimes and those who have recently committed an immigration violation.

Law enforcement's limited resources are best spent pursuing and prosecuting immigrants charged with serious crimes and those who have recently committed an immigration violation. Prioritizing dangerous criminals ensures federal immigration enforcement resources are directed towards individuals that pose national security and public safety hazards in our communities.

Additionally, recent visa overstayers and border crossers are easier to remove than those who have already put down roots, and focusing on recent arrivals will protect against another ballooning undocumented population.

Cooperation between federal immigration enforcement authorities and local law enforcement is critical to maintaining a cohesive enforcement force. However, cooperation should be limited in order to preserve community relations, respect budgetary constraints, and limit liability. All immigration enforcement officials and partners should respect sensitive locations guidance.

The treatment of immigration violations should reflect the severity of the violation. We should prioritize detention for criminal offenders and those who threaten our national security or public safety and utilize alternatives to detention for those who do not. We should never detain children for enforcement purposes.

Border security should use information to guide choices about technology and infrastructure that effectively safeguards our borders, combats drug-and-human trafficking, and safely accommodates asylum seekers.

Immigration enforcement on the border and in the interior should utilize the most advanced technology to both save money and reduce risk for CBP and ICE agents.

The enforcement regime must also be minimally invasive to civil liberties, legal immigration flows, and the enormous amount of commerce that takes place across the southern and northern borders.

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Border security and interior enforcement should be efficient and cost-effective, utilize cutting-edge technology and tactics, and be minimally invasive to commerce, legal immigration, and civil liberties.

4

Under certain conditions, undocumented immigrants should be able to regularize their immigration status.

There should exist a path to earned legal status for undocumented immigrants without a serious criminal record who have lived in the U.S. for more than 10 years, and who were brought to the U.S. as children.

The presence of a large undocumented population undermines public safety, impairs immigrant integration, and rewards unscrupulous employers.

Regularization of any immigrant should, at a minimum, be predicated on paying a penalty or owed taxes and passing rigorous background checks.

The economic benefits — increasing economic productivity and increasing the labor supply — from immigration can be enormous. We call these productivity-associated benefits and input-associated benefits, respectively.

Productivity growth in the United States has fallen in the last 50 years. While some of the slowing in productivity may be the unavoidable result of diminishing returns to innovation, immigration policy is a tool that can raise productivity growth.

Immigration policy that facilitates productivity growth attracts those most likely to come up with valuable new ideas: innovators and entrepreneurs.

Productivity-associated benefits are positive economic spillovers from the work of these immigrants that benefit native-born Americans. Market-based policies (e.g., employer sponsorship, visa auctions, etc.) are unlikely to adequately maximize these benefits, since employers and investors considering whether to sponsor or collaborate with a potential immigrant will not incorporate spillover effects into their own cost/benefit calculus. Thus, we must have an admission policy that targets immigrants that facilitate productivity-associated economic growth.

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Some admissions policies should capture productivity-associated economic benefits.



Some admissions policies should capture input-associated economic benefits.

Capturing input-associated benefits is about using the power of migration to increase the labor supply and the skills available to the American economic engine to increase the level of output.

Immigration can help employers who face skills shortages because of failures in the education system, or who face apparent labor shortages because their labor demand is elastic, and they face prices set in global markets.

Input-associated economic benefits mostly go to immigrants themselves and their employers, but do not hurt native workers. Any effects of an increase in labor supply on the wages of Americans tends to be offset by the increase in labor demand caused by immigrants' role as consumers, not to mention as business owners and employers. Since input-associated benefits are mostly private, government can rely on market-based immigration policies to capture them.

Humanitarian interests require robust refugee and asylee resettlement. The U.S. has a tradition of offering refuge to those escaping war, oppression, and persecution — a tradition based on our founding ideals of universal equality and freedom of religion, speech, and opportunity. And that tradition is one to which we've committed ourselves in domestic law and international obligations.

Congress was right when it declared in 1980 that “it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands.”

That policy has benefited the lives of millions of refugees, not only directly for those resettled in the United States, but for the cities and states where they live. Robust resettlement also indirectly benefits America by furthering our foreign policy and national security initiatives, and by encouraging other countries to follow America's resettlement example.



Some admissions policies
should provide
humanitarian relief.



Some admissions policies
should offer opportunities
to the global poor.

The United States should remain a place of opportunity for those who want to build a better life for themselves and their families. Those born in the United States are lucky to have opportunities not available to most people in the world, opportunities made possible by their forebears — who themselves sought out opportunities to eke out a better life here, thanks to policies that allowed them to do so.

Being a destination for opportunity allows people to work where they can be more productive, benefiting immigrants as one of the most effective measures against global poverty and Americans by situating them in a more productive world.

Our immigration system should be family-friendly and treat immediate families (i.e., a primary immigrant, their spouse, children, and/or parents) as the fundamental unit of immigration.

An immigration policy that allows families to move together avoids the unnecessary suffering that comes with long distances and does not force immigrants to choose between opportunity and family. It also makes the United States a more attractive destination and situates immigrants as a fundamental unit of our society — one that serves as the first bulwark against crime, indigence, and hardship.

A family-friendly immigration system need not accommodate all extended family relationships permanently. But it can improve on treatment of nuclear families, for instance, by offering protections to children of immigrants who can age out of our present system, or to spouses, who are presently denied the rights of their primary-immigrant partners in some cases.

By the same token, the use of waivers for the three- and ten-year inadmissibility bars that apply to those who remain in the United States without legal status should be significantly expanded to accommodate family reunification.



Our immigration system
should be family-friendly.

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Immigration policy should be responsive to global trends.

The various push-pull factors that drive global migration evolve rapidly. Admissions policies must be nimble and not exacerbate the challenges of global migration by remaining static and unresponsive in the face of forces outside of U.S. control.

Global migration stands to be a major challenge (and opportunity) the world will encounter in the 21st century as more people acquire the means to consider migration.

America treats human rights as inalienable. Denying noncitizens due process not only threatens their inherent rights, it also threatens America's commitment to the rule of law.

Due process ensures that people are treated fairly, and necessarily includes the right to fair application of laws, the right to an impartial fact-finder, and the right to counsel where necessary.

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The rights of Americans
and migrants turn on
reliable due process.

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Immigration petitions must be adjudicated expeditiously and predictably.

Families, workers, and employers must make major life and business decisions based on how various immigration petitions are adjudicated, so resources must be made available to process them in a timely and predictable manner.

Processing petitions correctly takes time, but that time must not be allowed to grow unpredictably and without bound. The very legitimacy of our immigration system depends in no small measure on its predictability, consistency, and timeliness. An ever-growing adjudication backlog erodes legitimacy and makes illegal immigration more attractive.

Guest worker programs are a valuable asset to the economy and are a great benefit to guest workers themselves, who can earn much more in a more productive country than at home.

However, they pose a dilemma. On the one hand, there is understandable concern that guest workers are vulnerable to exploitation and can become a permanent underclass with fewer rights. Even if we are not much concerned about guest workers who have accepted jobs knowing they would not be afforded certain rights, we may still be concerned that they will undergo less integration, and that this could reduce social trust and political support for immigration overall.

On the other hand, there is also justified concern that granting all foreign workers the right to eventually naturalize raises the political cost of guest worker programs and leads to the admittance of far fewer workers, thereby reducing opportunity, negatively impacting the American economy, and hurting foreign laborers.

A clear two-track system can break the dilemma. A temporary guest worker program, with a maximum length of stay, can operate in parallel with a program that allows for the opportunity for eventual naturalization. The temporary program can offer opportunities to people who know upfront that their stay is temporary and who are not putting down permanent roots. The latter program would provide an avenue for people who do intend to set down roots and naturalize.

The clear delineation ensures that both groups are aware of the terms, without the pretensions of the present system — which offers far greater numbers of dual-intent guest worker visas than opportunities to adjust to status as a permanent resident — leading to senseless zero-sum competition among guest workers for scarce slots and ever-increasing waiting times for visas.

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Some guest workers should regularly be afforded the right to naturalize.

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The immigration system
should facilitate and
encourage integration.

Immigrants should learn English, internalize American values and history, and become active participants in our civic culture. The immigration system should facilitate this integration and encourage immigrants to naturalize in a timely and organized process.

We should expect immigrants to respect our shared institutions and share our common values, but also to reinvigorate our culture with practices, traditions, and customs from their homelands.

The immigration system should seek newcomers who can support themselves on their own, while still maintaining exceptions for those who need assistance when hard times arise.

A strong social safety net and the expectation of self-sufficiency aren't mutually exclusive. Immigrants should continue to face rules that limit their use of public benefits, and the immigration system on net should continue to be a fiscal benefit to our economy.

While refugees, asylum seekers, other vulnerable immigrants, and those who fall on hard times require reasonable assistance, the overall system should always come out on the positive side, considering the full range of fiscal benefits from all classes of immigrants.

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Immigration should be a net fiscal benefit to the United States.

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American world leadership turns on robust cooperation with allies and partners to address global challenges and opportunities—like immigration.

Immigration by its very nature is a global phenomenon. Addressing the challenges and opportunities presented by immigration flows is (and should be) a cooperative enterprise among countries, NGOs, international bodies, private partners, individuals, and immigrants themselves.

An engaged U.S. is required to make that cooperative enterprise operate effectively. Moreover, regional cooperation in addressing flows from Central America remains a pressing issue and collaboration is a necessary component of any strategy.

The immigration system on the whole should continue to benefit both Americans and immigrants.

The immigration system should never create an implicit advantage for foreign workers over native-born workers, and its benefits must be shared. Most Americans should be able to truthfully believe the immigration system is working for them.

On net, both Americans and immigrants should be made better off by a functioning, efficient, and fair immigration system.

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The immigration system can and should be a win-win for workers, business, and immigrants alike.

NISKANEN'S EMERGENT POLICY FRAMEWORK

A policy framework outlining comprehensive reform of the U.S. immigration system will emerge from these guiding principles. Building on the four main pillars explored above — enforcement, admissions, rights, and values — a holistic reorientation of the U.S. immigration system comes into view.

This distinctive policy framework modernizes the immigration system, effectively aligning principle and policy for the 21st century and beyond. We will explore this emergent policy framework at length with a specific comprehensive reform proposal in a forthcoming piece.