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# Borders Beyond Control

*Jagdish Bhagwati*

## A DOOR THAT WILL NOT CLOSE

INTERNATIONAL MIGRATION lies close to the center of global problems that now seize the attention of politicians and intellectuals across the world. Take just a few recent examples.

– Prime Ministers Tony Blair of the United Kingdom and José María Aznar of Spain proposed at last year's European Council meeting in Seville that the European Union withdraw aid from countries that did not take effective steps to stem the flow of illegal emigrants to the EU. Blair's outspoken minister for development, Clare Short, described the proposal as "morally repugnant" and it died amid a storm of other protests.

– Australia received severe condemnation worldwide last summer when a special envoy of the UN high commissioner for human rights exposed the deplorable conditions in detention camps that held Afghan, Iranian, Iraqi, and Palestinian asylum seekers who had landed in Australia.

– Following the September 11 attacks in New York City and Washington, D.C., U.S. Attorney General John Ashcroft announced several new policies that rolled back protections enjoyed by immigrants. The American Civil Liberties Union (ACLU) and Human Rights Watch fought back. So did Islamic and Arab ethnic organizations. These groups employed lawsuits, public dissent, and congressional lobbying to secure a reversal of the worst excesses.

– *The Economist* ran in just six weeks two major stories describing the growing outflow of skilled citizens from less developed countries to

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developed countries seeking to attract such immigrants. The “brain drain” of the 1960s is striking again with enhanced vigor.

These examples and numerous others do not just underline the importance of migration issues today. More important, they show governments attempting to stem migration only to be forced into retreat and accommodation by factors such as civil-society activism and the politics of ethnicity. Paradoxically, the ability to control migration has shrunk as the desire to do so has increased. The reality is that borders are beyond control and little can be done to really cut down on immigration. The societies of developed countries will simply not allow it. The less developed countries also seem overwhelmed by forces propelling emigration. Thus, there must be a seismic shift in the way migration is addressed: governments must reorient their policies from attempting to curtail migration to coping and working with it to seek benefits for all.

To demonstrate effectively why and how this must be done, however, requires isolating key migration questions from the many other issues that attend the flows of humanity across national borders. Although some migrants move strictly between rich countries or between poor ones, **the most compelling problems** result from emigration from less developed to more developed countries. They **arise in three areas**. **First, skilled workers are legally emigrating, temporarily or permanently, to rich countries. This phenomenon predominantly concerns the less developed countries that are losing skilled labor. Second, largely unskilled migrants are entering developed countries illegally and looking for work. Finally, there is the “involuntary” movement of people, whether skilled or unskilled, across borders to seek asylum.** These latter two trends mostly concern the developed countries that want to bar illegal entry by the unskilled.

**All three problems raise issues that derive from the fact that the flows cannot be effectively constrained and must instead be creatively accommodated.** In designing such accommodation, it must be kept in mind that **the illegal entry of asylum seekers and economic migrants often cannot be entirely separated.** Frustrated economic migrants are known to turn occasionally to asylum as a way of getting in. The effective tightening of one form of immigrant entry will put pressure on another.

SOFTWARE ENGINEERS, NOT HUDDLED MASSES

LOOKING AT the first problem, it appears that developed countries' appetite for skilled migrants has grown—just look at Silicon Valley's large supply of successful Indian and Taiwanese computer scientists and venture capitalists. The enhanced appetite for such professionals reflects the shift to a globalized economy in which countries compete for markets by creating and attracting technically skilled talent. Governments also perceive these workers to be more likely to assimilate quickly into their new societies.

This heightened demand is matched by a supply that is augmented for old reasons that have intensified over time. Less developed countries cannot offer modern professionals the economic rewards or the social conditions that they seek. Europe and the United States also offer opportunities for immigrant children's education and career prospects that are nonexistent at home.

These asymmetries of opportunity reveal themselves not just through cinema and television, but through the immediacy of experience. Increasingly, emigration occurs after study abroad. The number of foreign students at U.S. universities, for example, has grown dramatically; so has the number who stay on. In 1990, 62 percent of engineering doctorates in the United States were given to foreign-born students, mainly Asians. The figures are almost as high in mathematics, computer science, and the physical sciences. In economics, which at the graduate level is a fairly math-intensive subject, 54 percent of the Ph.D.'s awarded went to foreign students, according to a 1990 report of the American Economic Association.

Many of these students come from India, China, and South Korea. For example, India produces about 25,000 engineers annually. Of these, about 2,000 come from the Indian Institutes of Technology (IITs), which are modeled on MIT and the California Institute of Technology. Graduates of IITs accounted for 78 percent of U.S. engineering Ph.D.'s granted to Indians in 1990. And almost half of all Taiwanese awarded similar Ph.D.'s had previously attended two prestigious institutions: the National Taiwan University and the National Cheng Kung University. Even more telling, 65 percent of the Korean students who received science and engineering Ph.D.'s in the United States

were graduates of Seoul National University. The numbers were almost as high for Beijing University and Tsinghua University, elite schools of the People's Republic of China.

These students, once graduated from American universities, often stay on in the United States. Not only is U.S. graduate education ranked highest in the world, but it also offers an easy way of immigrating. In fact, it has been estimated that more than 70 percent of newly minted, foreign-born Ph.D.'s remain in the United States, many becoming citizens eventually. Less developed countries can do little to restrict the numbers of those who stay on as immigrants. They will, particularly in a situation of high demand for their skills, find ways to escape any dragnet that their home country may devise. And the same difficulty applies, only a little less starkly, to countries trying to hold on to those citizens who have only domestic training but are offered better jobs abroad.

A realistic response requires abandoning the "brain drain" approach of trying to keep the highly skilled at home. More likely to succeed is a "diaspora" model, which integrates present and past citizens into a web of rights and obligations in the extended community defined with the home country as the center. The diaspora approach is superior from a human rights viewpoint because it builds on the right to emigrate, rather than trying to restrict it. And dual loyalty is increasingly judged to be acceptable rather than reprehensible.

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The reality is that little can be done to really cut down on immigration.

This option is also increasingly feasible.

Nearly 30 countries now offer dual citizenship. Others are inching their way to similar options. Many less developed countries, such as Mexico and India, are in the process of granting citizens living abroad hitherto denied benefits such as the right to hold property and to vote via absentee ballot.

However, the diaspora approach is incomplete unless the benefits are balanced by some obligations, such as the taxation of citizens living abroad. The United States already employs this practice. This author first recommended this approach for developing countries during the 1960s, and the proposal has been revived today. Estimates made by the scholars Mihir Desai, Devesh Kapur, and John McHale demonstrate

that even a slight tax on Indian nationals abroad would substantially raise Indian government revenues. The revenue potential is vast because the aggregate income of Indian-born residents in the United States is 10 percent of India's national income, even though such residents account for just 0.1 percent of the American population.

#### UNSTOPPABLE

THE MORE DEVELOPED COUNTRIES need to go through a similar dramatic shift in the way they respond to the influx of illegal economic immigrants and asylum seekers. Inducements or punishments for immigrants' countries of origin are not working to stem the flows, nor are stiffer border-control measures, sanctions on employers, or harsher penalties for the illegals themselves.

Three sets of factors are behind this. First, civil-society organizations, such as Human Rights Watch, the ACLU, and the International Rescue Committee, have proliferated and gained in prominence and influence. They provide a serious constraint on all forms of restrictive action. For example, it is impossible to incarcerate migrants caught crossing borders illegally without raising an outcry over humane treatment. So authorities generally send these people back across the border, with the result that they cross again and again until they finally get in.

More than 50 percent of illegals, however, now enter not by crossing the Rio Grande but by legal means, such as tourist visas, and then stay on illegally. Thus, enforcement has become more difficult without invading privacy through such measures as identity cards, which continue to draw strong protests from civil liberties groups. A notable example of both ineffectual policy and successful civil resistance is the 1986 Sanctuary movement that surfaced in response to evidence that U.S. authorities were returning desperate refugees from war-torn El Salvador and Guatemala to virtually certain death in their home countries. (They were turned back because they did not meet the internationally agreed upon definition for a refugee.) Sanctuary members, with the aid of hundreds of church groups, took the law into their own hands and organized an underground railroad to spirit endangered refugees to safe havens. Federal indictments and convictions followed,

with five Sanctuary members given three- to five-year sentences. Yet, in response to a public outcry and an appeal from Senator Dennis DeConcini (D-Ariz.), the trial judge merely placed the defendants on probation.

Sanctions on employers, such as fines, do not fully work either. The General Accounting Office, during the debate over the 1986 immigration legislation that introduced employer sanctions, studied how they had worked in Switzerland and Germany. The measures there failed. Judges could not bring themselves to punish severely those employers whose violation consisted solely of giving jobs to illegal workers. The U.S. experience with employer sanctions has not been much different.

Finally, the sociology and politics of ethnicity also undercut enforcement efforts. Ethnic groups can provide protective cover to their members and allow illegals to disappear into their midst. The ultimate constraint, however, is political and results from expanding numbers. Fellow ethnics who are U.S. citizens, legal immigrants, or amnesty beneficiaries bring to bear growing political clout that precludes tough action against illegal immigrants. Nothing matters more than the vote in democratic societies. Thus the Bush administration, anxious to gain Hispanic votes, has embraced an amnesty confined solely to Mexican illegal immigrants, thereby discarding the principle of nondiscrimination enshrined in the 1965 Immigration and Nationality Act.

#### MINDING THE OPEN DOOR

If it is not possible to effectively restrict illegal immigration, then governments in the developed countries must turn to policies that will integrate migrants into their new homes in ways that will minimize the social costs and maximize the economic benefits. These policies should include children's education and grants of limited civic rights such as participation in school-board elections and parent-teacher associations. Governments should also assist immigrants in settling throughout a country, to avoid depressing wages in any one region. Greater development support should be extended to the illegal migrants' countries of origin to alleviate the poor economic conditions



that propel emigration. And for the less developed countries, there is really no option but to shift toward a diaspora model.

Some nations will grasp this reality and creatively work with migrants and migration. Others will lag behind, still seeking restrictive measures to control and cut the level of migration. The future certainly belongs to the former. But to accelerate the progress of the laggards, new institutional architecture is needed at the international level. Because immigration restrictions are the flip side of sovereignty, there is no international organization today to oversee and monitor each nation's policies toward migrants, whether inward or outward bound.

The world badly needs enlightened immigration policies and best practices to be spread and codified. A World Migration Organization would begin to do that by juxtaposing each nation's entry, exit, and residence policies toward migrants, whether legal or illegal, economic or political, skilled or unskilled. Such a project is well worth putting at the center of policymakers' concerns. 🌐