

A MARKET-BASED PLAN TO ADDRESS ILLEGAL IMMIGRATION

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Overview

Our plan calls for a market-based approach to ending illegal immigration and the domestic market in undocumented Hispanic labor. Such an approach would allow background-checked migrants from Mexico and the Northern Triangle countries to purchase a work visa at a market rate and enter and work in the US on demand. In addition to closing the US southwest border and ending the black market in undocumented Hispanic labor, a market approach would limit the undocumented and migrant headcount to no higher than under current policy, generate \$30 bn in net Federal revenues, provide legal status without amnesty for seven million Hispanics, facilitate the identification and deportation of criminal aliens, deter birth tourism and the bringing of dependents, and reduce the year round population of undocumented immigrants by up to one million persons.

Illegal immigration is a type of black market. Black markets arise from prohibitions, when governments attempt to prevent buyers and sellers from consummating transactions, historically in drugs, prostitution, alcohol, gambling – and migrant labor.

Black are virtually impossible to extirpate. The US has never eradicated a single black market by enforcement, including undocumented migrant labor associated with unauthorized crossings of the US southwest border. On the other hand, the US has successfully ended black markets using a legalize-and-tax approach, with Repeal for alcohol in 1933, gambling from the 1970s outside Nevada, and more recently marijuana on a state level. Notably, marijuana smuggling over the unsecured border has fallen by 80% since President Trump took office.

A legalize-and-tax approach would similarly end illegal immigration.

Policy and Political Benefits of Market-based Guest Worker Visas

A market-based approach (the ‘Plan’), described in detail in following sections, would bring a wide range of benefits to the US public and state and federal governments; to Mexico and the Northern Triangle countries and their citizens; and not least, to the Republican Party and the Trump Administration.

Benefits to the United States

- **Close the Southwest Border to Illegal Immigration**

Closing the border was President Trump’s central campaign promise. A market-based approach closes the border by using a price, rather than a volume, mechanism. Background-checked migrants could enter the US by paying a suitable – and material – fee. By allowing a legal form of entry, migrant flows would be redirected from the unsecured border to official crossing points, while maintaining border crossings in total no higher than under the current regime. Under our approach, the visa price substitutes one-for-one for the willingness to enter illegally. In effect, this is a membership fee approach, no different than Mar-a-Lago.

- **End the Domestic Black Market in Undocumented Immigrant Labor**

Just as a market approach can close the border, it can also be used to transform illegal immigrant labor in the US into a fully documented, law-abiding and transparent market.

- **Generate cash to build and maintain the Wall**

Visa fees would generate net revenues of \$30bn annually to the Federal government. These funds could be used at the President's discretion to build and maintain a Wall, should it be so desired.

- **Allow the government to focus law enforcement on criminals rather than economic migrants**

A market-based approach would allow law enforcement to focus on dangerous criminals rather than economic migrants in the US seeking work. By clearly segregating these two groups, enforcement efforts could be concentrated on dangerous criminals.

- **End Sanctuary Cities**

Sanctuary cities exist because many Americans feel that unauthorized economic migrants who seek nothing more than a better life deserve protection. Under a market-based approach, these migrants can purchase a visa at a market rate, thereby making sanctuaries redundant. Those not eligible for visas – dangerous criminals – would now be isolated and deprived of protection even in traditional sanctuaries, as no authority would want to knowingly protect violent criminals.

- **Reduce immigrant levels gradually over time, as desired, without requiring aggressive enforcement**

The system can be tightened over time to reduce the migrant headcount if this is deemed desirable. For example, cigarette taxes have continued to increase over time without a notable rise in black market activities because US consumer behavior is also changing over time. A market-based visa approach could allow a similar reduction in migrant numbers over time.

- **Remove inconvenience and physical threats to Americans living near the border**

By focusing economic migrant flows towards official crossing points, the lives of US citizens adjacent to the Mexican border would be greatly improved, and the illegal immigrant problem there would all but disappear—without the need for a wall.

- **Create an incentive for unemployed Mexicans to leave the country**

One of the perverse aspects of current policy is that undocumented immigrants become trapped in the US. Crossing the border is fraught with risk; therefore, once an illegal is in the US, there is a strong incentive to stay, regardless of work opportunities. Current barriers to entry create commensurate barriers to exit, thereby ensuring that unemployed migrants stay in the US, rather than relocating back to their home countries, where the cost of living is lower, family is present, and alternative work may be available. Our approach allows immigrants to leave and re-enter easily, to source US jobs from their home countries, and to sell, be refunded or roll over visa days—all to encourage unemployed immigrants to leave the country.

- **Create market transparency**

The system will permit the government, visa applicants, employers and the general public to see just how work immigration is unfolding. This will provide clear information for those seeking to increase or decrease labor flows, as the case may be.

Benefits to Undocumented Immigrants / Democrats

- **Reduction in numbers of deaths and other victimization**

Crossing illegally into the US is inherently dangerous. US Customs and Border Patrol recorded 283 deaths related to crossing in 2018. We estimate that Border Patrol captures only one-third of total deaths, thus the true total of deaths in 2018 probably approached 1,000. Deaths, and other forms of victimization, would be reduced by more than 90% in a market-based system.

- **Reduce the pressure to move to the United States**

The Plan allows Central Americans and Mexicans to travel to see their families at will, thereby reducing stress and the incentive to bring their families into the United States.

- **Certainty and Security**

Living undocumented in a country is stressful, knowing that one can be deported at any time, even though one has resided in that country for years, in some cases, decades. A visa program would reduce the stress level, and immigrants will find that alone to be of great value.

- **Improve ease of working and living in the US**

The Plan would also pave the way for immigrants to obtain daily necessities like bank accounts, healthcare, IDs, rental agreements and other routine services.

Benefits for Employers

- **Get rid of visa red tape, and make it easier for US companies to access immigrant labor in the necessary volumes and time frame**

The Plan would allow employers to access as many employees as necessary from participating countries on immediate notice, subject only to the *a priori* applicant eligibility and the cost of visas. With this information, the employer can make a quick cost/benefit calculation on the number of immigrants to bring in for any given purpose.

In addition, the cost of visas would give employers a clear view of supply-demand conditions and an objective metric—the price of a visa—by which to request additional visa volumes from the government, if necessary.

- **A market-based approach would create substantial business opportunities for US companies**

Latin America governments would covet the right to participate in a legalized migrant system. This would provide the US leverage to obtain liberalization in other sectors necessary to facility a market program, including banking, telecommunications, and air travel. For example, the transition to a market-system would end the practice of crossing the unsecured border on foot. Instead, migrants would use more convenient transportation, for the Central American countries, primarily air travel. This would require a 30-40% increase in air traffic originating in those countries, representing an annual market of \$1.5 bn, of which up to two-thirds would be captured by US air carriers.

Benefits to Mexico

- **Better governance**

The first line of defense against illegal immigration is good governance in Latin America. Illegal immigrants come to the US when their domestic prospects or security conditions are poor. Although not detailed in this proposal, the Plan could be used as a lever to incentivize better governance in participating countries, Mexico to start with.

- **Access to the US immigration control system**

The envisioned system is open and could be used by the Mexican government to manage its own illegal immigration, even without linkage to Mexican law enforcement databases. Further, by passing parallel legislation to that of the US, the Mexican government could have, at low cost, a fully functioning immigration and law enforcement system which is, by default, integrated with US DHS.

- **A major step up for Mexican and Central American prestige and pride**

Today, undocumented Mexican and Central American immigrants are treated as a criminal class by many in the US. With the Plan, Latin Americans – not only undocumented migrants, but Mexicans and Central Americans more generally – will emerge from the shadows and be able stand as respected partners to the US. For Latin American pride and status, no other program could do as much.

- **Reduce crime near the border**

As the US Prohibition era shows, black markets are almost always accompanied by crime syndicates and associated violence, and yet relatively little of this has appeared in the US. On the other hand, northern Mexico is a near war zone. Migrant deaths in the desert, drug smuggling, human trafficking, rape and prostitution in the border zone are the direct result of US migrant and drug policy—with almost the entire cost foisted on Mexico and its citizens. It is plausible that a portion of violent crime in northern Mexico is also related to US immigration policy. If so, the Plan may have the unintended by-product of reducing crime levels in northern Mexico. It would certainly end the human smuggling business.

Benefits to the Republican Party / Conservatives

- **The Plan should increase the President's approval ratings by 5-8 percentage points**

We have discussed this proposal with many people across the political spectrum. Almost without exception, those from the far left well into the most conservative right are willing to consider this approach. Everyone understands the concept of a Costco membership or a day pass at Disney World. The notion of compensating the government at its market value for the right to work in the US is not fundamentally alien to most people. Consequently, the program has the potential for wider acceptance across the political spectrum, thereby enhancing the President's appeal and raising his approval ratings, and the only initiative in prospect with the potential to do so.

- **The Plan will reduce political polarization in the country and better unify the Republican Party**

Arguably, no policy is as divisive in the US as immigration and, in particular, illegal immigration across the southwest border.

Market-based immigration represents a solution which emphasizes accountability, but is neither mean-spirited nor xenophobic. It would address the frustration and anger of American conservatives in the

government's – and specifically the Republican Party's — inability to control the border and come together around constructive policy.

At the same time, such a program would eliminate the rationale for sanctuary cities and deprive the left of a rallying point against the Trump administration and Congressional Republicans.

Finally, such a policy would allow President Trump to emphasize a more transactional, rather than confrontational, approach to governance.

- **Secure the Hispanic vote for the Republican Party for a generation to come**

The Plan would give up to seven million undocumented immigrants legal status. This status is neither free nor unconditional, and it provides no path to citizenship and may restrict *jus soli*. But it would be an enormous step up for this population, and indeed, for the approximately 40 million legal Hispanics in the US. The Plan would, at a minimum, split the Hispanic vote and help ensure that Republicans retain the White House and Senate in 2020.

- **The Plan can be used to shape other immigration-related issues, for example, birthright citizenship**

Birthright citizenship, also known as *jus soli*, allows a child born on US territory to gain US citizenship. It is one of the most contentious aspects of illegal immigration, as birthright citizenship appears to incentivize border jumping and circumvents the entire intent of US immigration law. As part of a visa condition, a market-based visa (MBV) may become invalidated if the migrant has a child in the US. The child as such would continue to enjoy *jus soli*, but the parent would lose the work permit—a considerable incentive to have the child in the parents' home country. Whether such conditionality would survive the US courts is an open question, but at least the Plan promises some measure of control over the issue.

- **The Plan is Low Risk, Low Cost to the US Government**

In the initial phases, visas would most likely be issued with short durations, probably one year or less. If the program proves a failure, the issued visas can be allowed to lapse, and a year later, the *status quo ante* will be largely restored.

The system is flexible. As visas expire, new visas with modified terms can be issued.

The Plan system can exist side by side with incumbent work visa systems, and need not disturb them at all. If the Plan is successful, other work visas can be migrated to the proposed system over time. If it is unsuccessful, the incumbent systems continue to operate without disruption.

While some software and organizational work is required from the government, most of the effort could be funded and operated by commercial entities. Thus, the private sector would carry much of the risk of project failure.

The Plan is not a panacea, but it does represent a substantial advance over current practice in almost every respect. It is the next step towards a more rational management of economic migrants and holds the potential to emerge as the key achievement of the Trump administration.

Illegal Immigration as a Black Market

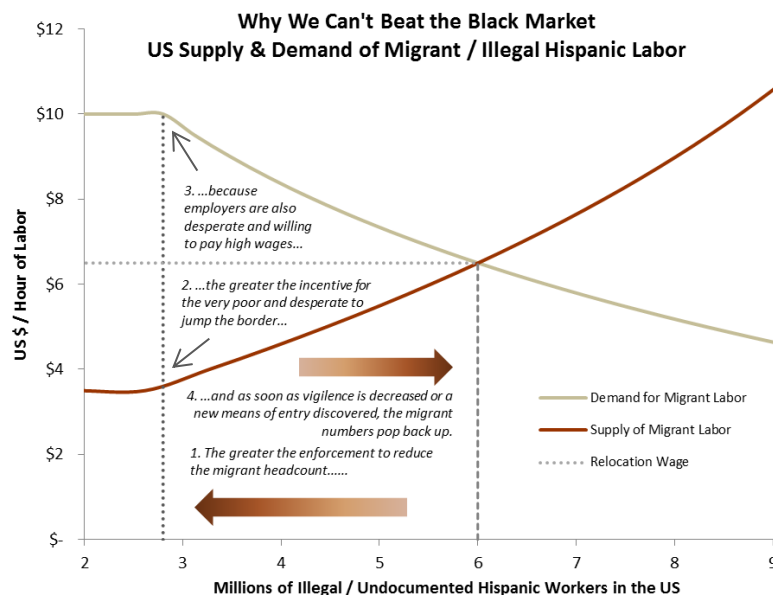
Illegal immigration is a kind of black market.

Black markets arise when the government attempts to prevent willing buyers and sellers from consummating a transaction, ostensibly in the interest of the public good. Traditional black markets have included gambling, alcohol, prostitution, marijuana and hard drugs – as well as migrant labor.

The black market in labor arises because unskilled Mexicans can earn \$2.50 / hour in Mexico or \$10 / hour in Arizona. If a Mexican can just make it over the border, he can triple his wages, even after accounting for the higher cost of living in the US. Migrants have a powerful economic incentive to violate US immigration law.

Black markets are almost impossible to eradicate. Indeed, *the US has never beaten a black market*, not for alcohol, gambling, marijuana, hard drugs or prostitution. The US solved the former three through legalization and taxation, with Repeal for alcohol; Las Vegas, Atlantic City and Indian reservations for gambling; and semi-legalization for marijuana, which by year-end will have cut smuggling over the unsecured US southwest border by 80% since President Trump took office. The black market in hard drugs remains unchecked, with opioids killing more each year than total US casualties in the entire Vietnam War. With or without a Wall, experience shows that the US is highly unlikely to win the war against migrant labor.

The US is unlikely to win because enforcement creates the very funding for the black market. An effort to reduce the migrant headcount will tend to squeeze out those who are the most law-abiding or have other sources of income, and leave those migrants who are willing to work for the least because they are unemployed or lack skills, on the one hand; or have the greatest propensity to break the law, on the other.



At the same time, employers will find themselves short of labor, providing a cornucopia of job openings and high wages for illegal immigrants who succeed in crossing the southwest border. A \$1 / hour increase in wages translates, by our estimates, into a \$6,000 increased willingness by an unskilled migrant to pay for entry into the US market. With a differential of only \$1 / hour, five agricultural migrants together could afford to book a Lear Jet to fly them to the fields of California. For this reason, enforcement and violation are iterative, with each new type of enforcement prompting some innovative way to come over the border

– because the enforcement itself provides the financial incentive to do so.

As a consequence, an enforcement-based approach is almost certain to fail. Instead, the US should use the proven solutions applied to alcohol, gambling and marijuana: legalize and tax the flow of migrant labor over the border.

This proposal describes a specific means to achieve such a goal.

Program Overview

As noted above, most undocumented immigrants come to the US to work and earn wages. This has a value to the immigrant, part of which can be captured by the US government. Our Plan is based on the assumption that immigrants can—and should—pay a market-based fee for access to the US labor market.

Separating Eligibility from a Work Permit

The key to the Plan is the separation of eligibility for a work permit from the permit itself.

Ordinarily, eligibility for a work permit and the permit itself are treated as a single document. When an applicant submits documentation for a visa, both the background checks and the visa are processed as part of the same package.

If however, we separate eligibility from the permit itself, then we can create a far more flexible system. This is the essence of the Plan, our approach to ending the black market in migrant labor.

Eligibility

Eligibility for a visa today is earned through proof of identity—a passport, birth certificate or similar document—and a background check, primarily associated with US criminal databases. The Plan would not change background checks substantively.

However, in the proposed Plan, passing a background check would only make the applicant *eligible*, but *not approved*, to work in the US.

Approval to Work - A Work Permit

To obtain approval to work in the US, an eligible immigrant would have to purchase a visa.

Each work permit, designated as an H2-M guest worker visa, would have a start and end date determined by the migrant and an up-front fee which varies with market conditions.

Depending on the circumstances, the visa could also have other features to segment the market, should it become necessary.

Thus, the government decides to approve or decline a potential applicant to work in the US. However, once the applicant has passed a background check, he can enter and exit and work in the US for any participating employer at will subject to paying the appropriate visa fee.

Visa Conditions

The H2-M market-based visa would also allow the necessary functions associated with presence in the country: opening of bank accounts, obtaining driver's licenses, renting property, contracting for telecommunications and other utilities and other rights associated with the H2 visa class. It would not provide unemployment insurance, access to any Federal welfare programs like SNAP or TANF, or Social Security benefits. Health insurance, purchased at the migrant's expense, would be mandatory as part of the program.

No Path to a Green Card

Not only would H2-M visa not provide a path to permanent residency, it would represent a completely discreet path. As the H2-M visa would be purchased at a market price, any future benefits deriving from the visa would be reflected in its market value. Permanent residency in the United States is an extraordinarily valuable right, by our calculation, worth more than \$4 / work hour even if promised for 15 years in the future. As migrants in the program are assumed to be earning about \$10 / hour, the option to obtain permanent residency would reduce this amount by \$4 / hour, plus the value of the work visa by itself, which we estimate at \$3.50 / work hour. Thus, were the option of permanent residency included in the H2-M program (the 'Program'), participants would be reduced to penury by facing the trade-off between eating today and becoming citizens years hence. The Program would ultimately be judged as unreasonable and exploitative. Such accusations ultimately undermined the Bracero program in 1965 and remain one of the principal risks to the Program in the future. Therefore, not only must the Program make no promise of permanent residency, it must be seen as an entirely different path, in fact detrimental to obtaining a green card. Per our proposal, any participant in the H2-M program would be precluded from either claiming asylum or applying for permanent residency for a fixed period of time from the end of their H2-M participation, probably a period of 3-5 years. Thus, the migrant must choose one or the other: an indefinite and flexible, market-priced work permit or an application for a green card – but not both, subject to a several year 'cooling off' period in between.

Health Insurance

As noted above, health insurance would be mandatory for program participants. Most of those coming across the border are between 18-32 years of age, that is, in their prime years. And indeed, even in later years, undocumented Hispanics outlive whites and do so in better health, to appearances because they engage in physical activity every day and typically do not smoke. For purposes of these visas, however, migrants need to be insured for acute care – accidents and illness – which should be achievable at a cost of perhaps \$1,500 / year.

Bank Account

Although not strictly critical in the early stages of the program, requiring visa holders to have a bank account would be highly desirable.

As conceived, each migrant would have to obtain an authorized bank account before purchasing a visa. All payments received would have to be made to this bank account. The very existence of the bank account would tend to counter the black market, as it would guarantee a non-cash means for migrants to receive payments. In addition, were the migrant in arrears on visa or other mandatory payments, the government could automatically debit this account as funds came in.

Moreover, if the accounts could be monitored, they would provide essential information about the state of the black market, the financial health of the migrant community, labor utilization and unemployment, and through that, be used to adjust the price of visas in the market place.

Undocumented Immigrants

A guest worker program like the proposed H2-M is, of course, not ideal for undocumented migrants who are for practical purposes permanent residents. Nevertheless, since negotiations regarding the status of DACA and Dreamer participants seem at an impasse, market-based visas (MBVs) can serve as a substitute, even if an imperfect one.

Providing market-based visas just for incoming migrants is less than ideal. Even assuming the border can be sealed with this approach, the incoming migrants will end up working alongside undocumented immigrants at a ratio of perhaps one legal migrant for every 10-20 undocumented workers. In such an event, either the value of the visa will be low or a migrant who entered on H2-M visa may allow it to lapse to improve his personal economics. Moreover, the American public will remain unsatisfied if 90%+ of the migrant market remains illegal.

As a consequence, extending the H2-M program to undocumented migrants already resident in the country makes sense. This would materially wipe out the black market in labor over time and ensure the unsecured southwest border remains closed to economic migrants.

The process of issuing and purchasing visas would be identical for undocumented residents as it is for incoming migrants. Both could purchase visas online.

The difference would be in the background checks. Background checks are intended to keep migrants deemed undesirable out of the country. If migrants are already in the country, the background check is essentially a moot point. The public interest is better served by signing up as many undocumented residents as quickly as possible on the basis of a provisional background check. Put another way, the US is better off by documenting those already here than waiting for some extended period of time, probably two or more years, while millions of undocumented Hispanics continue to reside and work in the country. If an ex-post background check turns up a crime, the government will know where to find the individual.

In reality, hotel maids and berry pickers will sign up, and gang members will not. This is the desired outcome: to legalize economic migrants and isolate dangerous criminals and focus enforcement efforts on the latter segment.

Mixing new migrants with undocumented immigrants will have the effect of putting those two groups on a more equal footing for US jobs. It changes the status of undocumented residents back to guest workers. This is, in a sense, a demotion. On the other hand, it provides an indefinite right to work and live with ordinary protections and it will solve the black market problem over time. Barring a more permanent solution, the MBV program can finesse the issues of DACA and the Dreamers as well as the millions of the undocumented immigrants who have been in the US more than a decade.

Further, because the background checks for undocumented residents are ex-post, they will have an advantage over new migrants. As the H2-M program launches, millions of Mexican and Central America citizens will present themselves at US consulates and embassies in their home countries to sign up for a background check. Working off this backlog will take time, months to years. Working off the backlog of eight million undocumented Hispanic residents could take even longer, but undocumented US residents will be able to work legally in the meanwhile, and that means they will enjoy a positional advantage over newcomers for some period of time.

This will prove to be a benefit in Congressional negotiations over the Program.

Treatment of Prior Illegal Activities

Without exception, every undocumented immigrant has broken at least one US law, and probably several. How should the government react? Should the state be lenient or strict? Clearly, if illegal entry disqualified an applicant, no undocumented immigrant would qualify and the black market would continue undisturbed. Therefore, illegal entry cannot be a disqualifying factor for a visa. Of course, many of those who came in either used fake identification or failed to pay taxes. In fact, this can be assumed to be universally true, since undocumented migrants have no legal means of paying taxes. As a consequence, if the government intends to provide status to undocumented migrants in the country, it will have to accommodate administrative violations of US law.

This, of course, does not apply to those known to have committed serious crimes representing a tangible danger to the community. Indeed, the entire point of leniency for administrative crimes is to isolate the hardcore criminals, and deprive them of social support and work opportunities. Instead of spreading enforcement efforts widely upon both murderers and hotel maids alike, administrative leniency allows the full force of ICE and police to be focused on the criminal element.

Similarly, leniency will prevent the non-criminal element from being forced to re-enter the unsecured border. Again, the objective is to eliminate non-criminals from illegal crossings and permit Border Patrol to concentrate its resources on just those who cannot enter the country legally due to a criminal past. Put another way, leniency for administrative malfeasance can give confidence to Border Patrol that those they encounter in the desert are not berry pickers or construction workers, but criminals who merit aggressive interdiction techniques.

The Number of Visas

While we are using a market mechanism, the purpose of the program is ultimately conservative: to close the US southwest border and end the black market in migrant labor in the US with a minimum number of visas.

Migrants from just four countries – Mexico, Guatemala, El Salvador and Honduras – constitute 96% of attempted crossings at the US southwest border. The citizens of these four countries ('the MCA countries'), therefore, must be included in any program seeking to close the border. The remaining 4%, from a variety of countries, would be excluded simply as a matter of practicality.

The number of visas would be set by the price which reduces apprehensions at the US southwest border to approximately 150 / day, compared to the current level of 3,000 / day. This represents a reduction of approximately 95%. This implies 250,000-450,000 visas would be issued for border crossing, in the range of the Goodlatte bills from 2018 and essentially the same number as would enter illegally under current policy.

To this must be added the resident undocumented aliens in the country. Of the 10.7 million undocumented immigrants estimated by the [Pew Research Center](#) in 2016 to be living in the United States, 7.2 million (67%) came from the MCA countries. Again, non-MCA countries would be excluded from this program in its pilot phase as a matter of practicality.

For purposes of the Plan, Central Americans working illegally on valid tourist visas in the US, but who are not permanent residents in the United States, should be added to the total. We estimate this group at 1 million visa year equivalents.

Taken together, the total pool of resident and non-resident Mexicans and Central Americans either living or working illegally in the United States may approximate 12 million persons representing 7 million work years (FTEs), and requiring as many as 20 million discreet visas per year. While this may appear a large number, it principally recognizes those who are long-time residents of the United States.

The Value of a Visa

The right to work in the US is extraordinarily valuable, and working without that right is quite costly. Our analysis suggests that the average migrant working in the US loses up to \$3.50 / hour due to wage theft, under-utilization and the hassles of living undocumented and the risk of deportation. The unskilled wage level in the US is about \$10 / hour, implying that the realized wage of Mexicans is about \$6.50 / hour in total, about \$7.50 / hour in cash (as hassles and risks may be non-cash expenses).

We can calculate this number ‘bottom-up’ as well. Unskilled wages in Mexico are around \$2.50 / hour. We allow an additional \$2.50 / hour (\$500 / month) in higher cost of living in the US, and allow another \$1.50 / hour to compensate migrants for having to leave their home country. This also yields a ‘Relocation Wage’ around \$6.50 / hour.

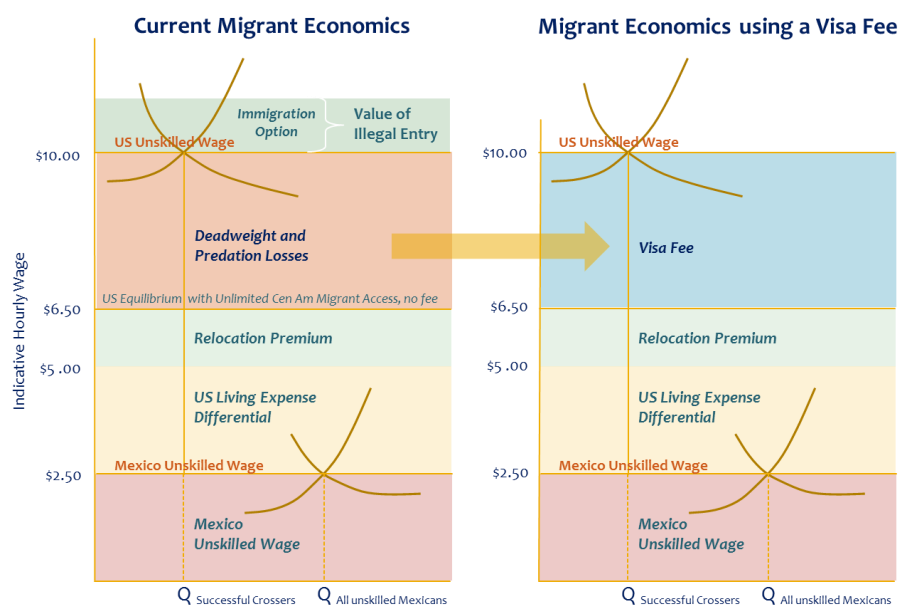
If the US unskilled wage is \$10 / hour, then Mexicans should be willing to pay \$3.50 / hour for the right to earn \$10 / hour in the US, or about \$7,000 / visa year. That is quite a sum, but again, with an H2-M visa, migrants have no risks in crossing the border, can come and go as they please, work at will and enjoy all the ordinary rights and protections of the average US citizen.

Setting the Visa Price

In the Plan, the price of the visa is set by the market. This is a central component of the Plan and critical to its success for many reasons.

First, while we estimate the visa value at \$3.50 / work hour, the market value could be higher or lower and could change materially over time, with seasonality and with the business cycle.

If Mexicans and other Central Americans are allowed to set the price in an open market, then they will essentially convert the value of legality into the visa price. On average, therefore, the undocumented migrant should be no worse off than they are today.



During the introductory phase of an MBV program, the price of a visa could be lower than its long-run value. Perhaps half of those eligible for DACA did not sign up, probably because they either felt they could continue to

operate without status or because they felt it would make their later arrest and deportation easier. These same dynamics may pertain to an MBV program, and visas may trade under their estimated fair market value due to a lack of credibility of the US government in the eyes of undocumented migrants. This would then imply a ‘push’ roll-out strategy involving discounting in the first year or two of the program. Allowing the market to set the price would encourage the undocumented to sign up.

Congress cannot set the price of the visa at its fair market value. At present, there are initiatives to allow an H2 class visa to be purchased annually for a flat fee of \$2,500. This seems a reasonable number from the migrant perspective, but would flood the US with migrants. The unskilled wage in Honduras is about \$1 / hour, add \$1.25 / hour visa fee and another \$0.50 / hour travel costs; consequently, for about \$400 / month, every middle and upper class US household could have a live-in Central American maid. There would nary be an adult female left in the Northern Triangle countries. This would be unacceptable to conservatives.

On the other hand, Congress cannot peg the visa price at \$7,000 because it seems exorbitant in terms of political optics. Thus, the old equilibrium will re-emerge in which conservatives allow too few visas (because they are being under-compensated) and the black market continues to operate just as it has. This has been the central problem of H2 class visas since the 1960s and can only be addressed by moving to a market-price system. That is the only politically viable solution.

A high visa price is, of course, vulnerable to accusations of exploitation beyond the halls of Congress. The market price is again the best defense against this charge. If a migrant can enter and exit on demand and can work at will for any participating employer, and is willing to buy a visa at the market price, then how can it be exploitative? If the system is turning over, say, 50,000 visas per day, then surely the buyers must think it is a reasonable price. Thus, a market-set price offers the best protection against charges of exploitation without either flooding the country with new migrants or requiring the imposition of a visa cap which would undermine the Plan. It would make the visa price more like the price of gasoline. It goes up and down, and we are unhappy when it is high, but motorists accept the price as legitimately reflecting supply and demand conditions at that moment.

A market-based price also corrects any misestimate of the visa value. For example, suppose agricultural employers value migrant labor at only \$9 / hour and will find one means or another to pay less than the ostensibly promised \$10 / hour. In such a case, the value of the visa would be \$1 / hour less than the \$3.50 / hour we estimate. If the market is allowed to set the price, then this mis-estimation will automatically be corrected without manual intervention. We are not under pressure to correctly set the value of the visa. If we are wrong, the market will fix it.

The market price also allows the border to be closed and undocumented migrants to leave the country. If a migrant knows with certainty that he can cross the border back into the US at will, then he will not need to consider a desert crossing through the unsecured border. Similarly, seasonal workers will be willing to leave the US secure in the knowledge that they can return at their own discretion on short notice. We estimate this may reduce the full time resident migrant population by one million or more.

A price-limited system implies that there are theoretically an unlimited number of visas for sale at any given time, much as there is theoretically unlimited gasoline for sale in a given locality. In truth, the volume of gasoline is finite at any given moment, but never runs dry because supply and demand are mediated by price, such that there is always enough gasoline to meet demand, but not much more. A market price-based visa system is analogous. The supply of visas is not regulated by doling them out one-by-one on an administrative basis, but by managing the price to ensure that supply and demand are in balance. Without a flexible price, the market might become constricted by a lack a visas, prompting a return of the black market; or conditions may be too lax through the issuance of too many visas, which would flood the market with new migrants.

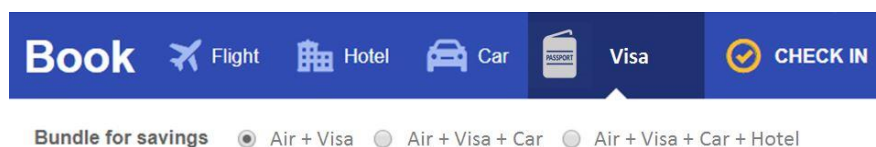
In a market-based system, at the end of the day, the US government does not take a position on the value of the right to work in the US. It does set the volume of visas to close the border and end the black market in migrant labor, but the associated price is set by the migrants themselves.

The Structure of the Visa System

How would a visa system work? In theory, it could be owned by the government from end to end. Implementation could require many years.

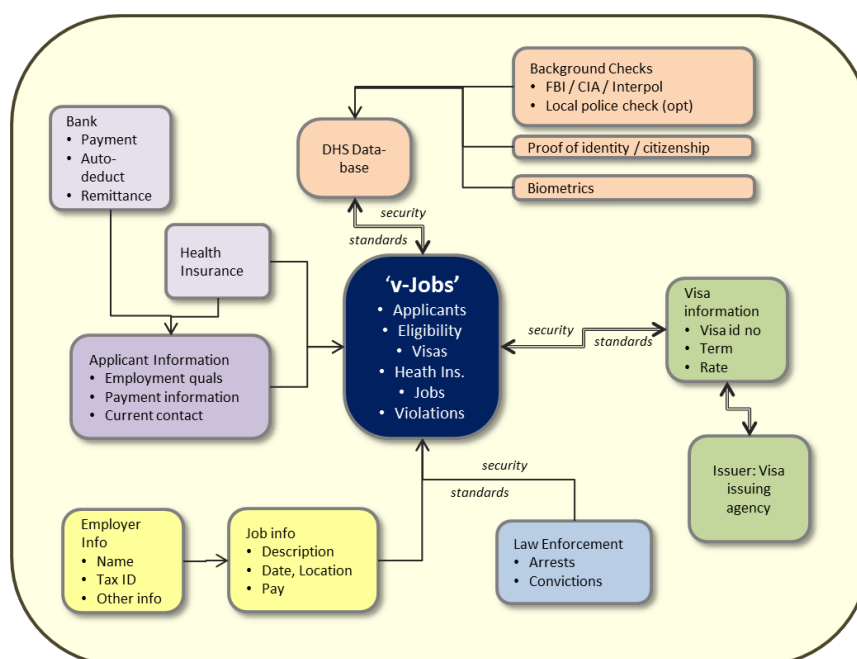
Alternatively, one could try a “Wollman Rink” approach¹, in which the government is limited to certain key functions – issuing visas, providing secure communications and identity validation – and leave much of the commercial aspects of implementation to the private sector.

Conceptually, the Program could look like an e-commerce website. Obtaining a work visa could be similar to buying an airline ticket online, with required information including eligibility, visa terms, payment and applicant particulars. In addition, these would be linked to employers and jobs, as well as to local law enforcement in a platform designated here as ‘v-Jobs’.



Schematic of the v-Jobs System

The system begins, as it does today, with a background check. In the Plan, for incoming migrants this is materially unchanged from current practice and includes checks with US law enforcement databases. Passing a background check does not provide the right to work in the US, but only provides eligibility to purchase a visa.



¹ President Trump’s claim to fame in the public realm arose from his timely completion of the Wollman Ice Rink in Manhattan’s Central Park in 1986, showing that the private sector was both more effective and efficient than government services — true in this case.

Work visas would be issued by a designated US agency, the Department of State, Homeland Security, or Agriculture, for example. These visas might not be marketed directly to the public, but rather to brokers. These could be airlines like Southwest, employment services like Monster.com, or download services like iTunes. Adding an intermediary at this level may seem redundant, but the Plan seeks a robust market in visas with a high degree of convenience and transparency in pricing. Under the assumptions above, more than 50,000 visas would expire and be issued daily, and these would perhaps be marketed more effectively using commercial intermediaries. This is even more so as unused portions of visas could be refunded or rolled over by their holders, with the intent of discouraging unemployed migrants from remaining in the US.

v-Jobs would further have employee and employer information. This would be along the lines of employment sites like Monster.com, with job listings and qualifications, allowing employers and employees match jobs. This is not materially different from internet job boards in use today.

v-Jobs would also be geared to serving visa holders with bank accounts from providers like PayPal or Bank of America; and personal information suitable for uploading to employer accounting systems like SAP or Quickbooks. The intent here again is to maximize convenience to ensure high levels of compliance. If v-Jobs can transmit key employee data in an easy-to-use format, employers will tend to use the system.

Law Enforcement

Finally, v-Jobs uniquely would have a law enforcement component. This is different from any commercial site today. The intent of v-Jobs is that any eligible applicant can be definitively identified in person by a border control officer or policemen with nothing more than an iPhone. In theory, eligible Central American visa holders should be able cross the US border, travel to the place of employment, work and be employed with nothing more than the clothes they are wearing.

If an immigrant is arrested or convicted of a crime, law enforcement would report this via the system to DHS and the US visa issuer. Such violations might affect either eligibility or the validity of a visa. Violations would be visible to employers, border agents, and other law enforcement as agreed in the underlying legislation. If a person is unable to identify themselves via v-Jobs, law enforcement would be entitled to enter the person into v-Jobs on a provisional ('law enforcement entry') basis. With biometrics, this would become a permanent entry, with a name and nationality potentially to be confirmed at a later date. But even absent such information, the individual would be identifiable in the system on the basis of biometric data alone.

System Structure

The user interface is envisioned here as commercial databases underpinned by a secure cloud-based data repository. Such sites could charge fees from immigrants for visa sales and information management. This would provide an incentive for such sites, unlike the US government, to provide comprehensive and timely service. Today, visa issuance can take weeks. Such a system is not viable for the Plan, which depends intrinsically on timely, convenient and reliable service.



The links to the v-Jobs database and government databases would be through established standards and secure connections. v-Jobs would be able to access the DHS database on a query-by-query basis (ie, it would update a list of eligible applicants) and check that issued visas are valid. In other respects, however, the v-Jobs application would be in private hands, most likely with already established providers of internet services.

The system is envisioned as inherently open, aiming to be the ‘gmail’ of identity and law enforcement. A commercial system, in essence one or more apps, would be available to download on any smart phone, which link the individual to the respective commercial and government servers as required. These apps serve many key functions. Most importantly from the conservative perspective, it allows employers to serve as the point of enforcement. Want to know about the Mexican you’re hiring? There’s an app for that.



Data Flows in a v-Jobs Style System

Furthermore, these apps could also be available to, for example, the Mexican government. Mexico has its own illegal immigration problem. With this simple app, the Mexican government could use it to handle undocumented immigrants from El Salvador and Guatemala apprehended in, say, southern Mexico. In an open system, these apprehensions would be visible to US Homeland Security, even if the respective border jumpers never apply for a US visa. Indeed, border jumping into Mexico could make respective Central Americans ineligible for a US visa. This condition, presented here only as an example, would in essence use US visa policy to help secure the southern Mexican border, and by extension, the southern US border.

Therefore, two key pillars of this approach would seem to be

- A web-based service compatible with smart phones, which enable employers to act as the point of enforcement, and
- An open, cloud-based approach, which would allow the system to be used by other governments, even if these do not have access to US government databases (ie, a one-way mirror enabling DHS to see activity in foreign countries)

In all, v-Jobs should provide a quick, convenient and secure way for immigrants to obtain visas, find and apply for work; for employers to advertise their positions, purchase visas in bulk as necessary, identify and hire employees and download employee particulars; for border crossing agents and local law enforcement to quickly identify any

migrant with or without identification, and to assign violations to migrants and employers in real time which can be viewed by wider law enforcement community immediately upon data entry.

Two Approaches to Compliance: Enforcement and Compensation

Today, US policy towards undocumented migrants is essentially enforcement-based. Like a bouncer at a bar, an enforcement-based system seeks to physically arrest and remove anyone who has overstayed his welcome. This involves conflict and stress, as violators are considered criminals. Enforcement programs are generally cost centers, that is, a burden to taxpayers.

A market-based visas system is different. Although not averse to enforcement, an MBV system is predicated on gaining compensation from those using the system. This might be called the ‘Library Book’ approach. The library is unlikely to send an agent to recover an overdue book, but will compel the borrower to pay overdue fines before permitting a new book to be taken from library. Compensation systems are about money, not force – no one has ever been sent to jail for an overdue paperback. The relationship is one of vendor to customer, and customers are brought back into good standing by paying their overdue fee. Compensation-based systems are ordinarily profit centers.

In an MBV system, Mexicans are conceptually customers, not criminals.

Achieving Compliance

Those who have worked in an underground economy know it exists for a few principal reasons:

- compliance is simply not possible due to quantitative restrictions on , in this case, visa issuance
- compliance is [complicated and excessively time-consuming](#) due to bureaucratic constraints
- compliance brings unacceptable costs or risks, and adds no value

If compliance is easy—and particularly if it adds value—there is no reason not to comply.

The Plan is geared towards compliance, both from the employer’s and employee’s side. It is intended to facilitate transactions, rather than hinder them. Obtaining a visa and traveling in and out, once eligibility is obtained, is easy. Applying for a job is similarly convenient and timely. And visa fees and taxes are simple and geared towards the economics of the given labor segment. These are all essential aspects of Plan design.

Easy compliance means easy enforcement. A law which is ignored by almost everyone makes its enforcement virtually impossible. Sanctuary cities are an example. Illegal immigration is so wide-spread that it has become de facto accepted in many towns and cities. Federal agents cannot count on local officials to enforce US immigration laws, indeed, just the opposite. However, if compliance is easy, then compliance will be wide-spread, and sanctuary cities will no longer have a reason to exist. In the Plan, an undocumented migrant who represents no physical threat to the community should be able to obtain a visa. On the other hand, if a migrant is unable to obtain a visa, the cause would ordinarily be a crime of sufficient seriousness to question the individual’s safety to the community. In such an event, a sanctuary city would hardly have an incentive to protect them. Thus, a market based system clearly segregates migrants into those who simply want to work and those who are dangerous criminals. The continued presence of those who are not dangerous is simply a matter of money. In the worst case, sanctuary cities could buy them visas if they are so committed to their otherwise undocumented residents. Alternatively, no sanctuary city would want to perpetuate the presence of a dangerous criminal in their community. Thus, a market-based system would render sanctuary cities obsolete.

An Example of Compliance: An Enforcement Approach versus an MBV System

In several industries today, undocumented migrants may constitute half the workforce, including in poultry processing, for example. Imagine a processor in Alabama, a publicly-listed name brand firm with thousands of employees. ICE would like to enforce against this firm. What are its realistic options? Assume ICE tried to shut down the firm. Within minutes, management of the firm would be on the phone to the state's Congressman and Senators threatening to transfer the facility to Mexico with a devastating loss of employment opportunities for the local non-Hispanic community and a blow to the state's economy. This would in turn prompt calls up and down the chain, quite plausibly ending with instructions to the local ICE agents 'not to get carried away'. This is the essential problem of an industry dependent on black market migrant labor. Either one strictly enforces the law and shuts the violators, or materially turns a blind eye, with enforcement reduced to the 'make believe' which conservatives so rightly decry. The reality is, however, that any employer, given the choice between complying with immigration law or facing bankruptcy will, without hesitation, break the law to stay in business, confident in the knowledge that his competitors are doing the same. It is not possible to enforce a law which is widely flouted.

By contrast, in an MBV system, the employer can – with nothing more than a cell phone – purchase visas for his entire crew at the market price, confirm their identities, enter them in his accounting system, see that they have health insurance, and set up payment to the workers through authorized bank accounts. Now ICE can enforce. The employer has no excuse when he can hire 300 employees as fast as he can type into a computer. And if a prospective employee is not eligible for a visa, and the system is otherwise lenient with non-violent transgressions, then that prospective employee can be presumed to be a danger to the community, and the manager will act accordingly.

The Plan is built on the premise that maximal control over immigration is achieved when market forces are channeled, rather than suppressed.

Compliance is key to successful implementation, and that in turn is driven by speed, certainty, convenience and affordability. These features encourage participation by immigrants and US employers—and are generally best achieved using an open, commercial-style interface.

Legislative Requirements

In essence, the required legislation is enabling, covering

- creation of a visa issuing and market-monitoring body (analogous to the FOMC)
- communications standards between the commercial databases and US government databases
- standards of security and confidentiality and related authorization of commercial intermediaries
- authorization and access levels to the various databases (eg, who can see and access a given level of information)

As MBVs represent a price-determined system, an oversight body is necessary to monitor market conditions and raise or lower visa issuance and pricing depending on the circumstances. Legislation would have to create such a body, whose implicit mission is the optimization of outstanding visa numbers, certain related terms and conditions, and subsequent revenue, with particular emphasis on achieving conservative goals of issuing the minimum number of visas consistent with closing the US southwest border and ending the black market in immigrant labor within the US.

If user-facing apps are to be open or commercial in nature, then the linkages to government databases must be secure. For example, if a hospital can use an app to determine a migrant's insurance coverage, this requires data transfer between the hospital and the insurer, at a minimum, with presumed event notification to the US government. Legislation would have to lay down security standards and requirements or the agencies charged with managing associated data security and transfer.

Similarly, legislation would have to establish who can enter or modify data in the system, as well as access to certain types of information and rules regarding privacy and disclosure.

Political Considerations

Will Republicans support the Plan?

To date, the President's attempts to secure funding for the Wall and deport undocumented aliens have proved unsatisfactory. At this point, conservatives are beginning to realize that the trend line is moving against them. They need an alternative which meets many, if not all, conservative requirements and can be passed in Congress.

The market-based approach does not focus on reducing migrant headcount, but it should close the border, end the black market in labor, provide proper compensation to the US government, reduce dependent headcounts, and create order, safety and propriety. For conservatives, it is not everything, but it is a big step forward.

Democrats will be hard pressed to oppose it

The primary objection of Democrats to an MBV program is that it provides value for service. They do not want migrants to pay the fair value of access. They want them to pay much less, to be granted a concession, an entitlement or an amnesty.

This, however, would leave the left in the awkward position of defending, for example, the rapes of tens of thousands of women coming across the border every year, the deaths of perhaps 1,000 migrants in transit to the US, wage theft, depriving the right of Mexicans to be treated with dignity, and critically, the right of seven million undocumented Hispanics to obtain legal status in the United States.

Democrats – and Republican Senators Collins and Murkowski – could successfully challenge the program if it precipitated the traumatic exodus of a large number of undocumented migrants in a short period. As the program is proposed here, that should not occur. From the perspective of Congressional approval, the lack of deportations is a feature, not a bug.

For House Speaker Pelosi, the proposal would allow her to move the Democratic Party more to center and demonstrate that it can engage constructively with the White House and be trusted with immigration policy.

Barring that, however, it may be possible to pin House Speaker Nancy Pelosi from the left. As we noted above, the program would offer materially lenient terms to undocumented migrants whose transgressions were essentially administrative, that is, entering the US illegally, using a fake Social Security number or working without paying taxes. The intent is to close the border and restrict illegal entry to those who represent a true criminal threat to the US, thereby enabling Border Patrol to take a more aggressive posture.

By our rough estimate, up to 190,000 migrants are being held in US prisons on charges which are essentially administrative, ie, illegal entry, possibly with a related resisting arrest, lesser police assault charge (eg, threw a punch at a Border Patrol agent) and minor drug charges, like possessing small quantities of marijuana. Had they made it over the border, these imprisoned individuals would qualify to remain and work in the US after paying a moderate penalty. Instead, they rot in prison.

In the interest of uniformity of treatment, the early release of such prisoners would seem justified, and one can only imagine that someone like freshman Congresswoman Alexandria Ocasio-Cortez would want to lead the charge to release what might now be deemed political prisoners. Further, she would probably be keen to protect those migrant women raped or forced into coerced sex coming over the border every year. In short, current immigration law and practice is so bad that even a dedicated socialist could find much to love in an MBV program.

Being flanked from the left and being caught between the pincer of Ocasio-Cortez and President Trump is a risk House Speaker Nancy Pelosi cannot afford to take. As a savvy politician, she will not allow the moderate wing of her party to be isolated. The Democrats will support the Plan—with conditions—but they will support it.

Leverage over MCA Governments

As a practical matter, the US can implement an MBV program without the cooperation of the Mexican and Central American (MCA) governments. The program represents a contract between the citizens of the MCA countries and the US government; the MCA governments need not be involved. Notwithstanding, they will want to be.

First, the program represents such a revolutionary change in the relationship between the US and these countries that their leadership will want to take credit locally. Mexico's President Lopez Obrador will want to be seen as a driver of this historic innovation. MCA leaders' need to be seen as partners in the program will provide the Trump administration leverage over the MCA countries.

More important is the allocation of visas. The US can put all of the MCA countries into a single pool, or allocate visas country-by-country, or some hybrid of the two. Mexico will be strongly incentivized to have a Mexico-specific allocation for a simple reason: Mexican wages are 50-150% higher than those in the Northern Triangle countries. If visas are allocated to those willing to pay the most, Mexicans will be squeezed out of the market, with their places taken by citizens of the Northern Triangle countries, who will be willing to pay more. The political pressure on Obrador, should this be in prospect, would be intense. Nor are the financial stakes small. US Mexicans remit \$35 bn annually to Mexico. Even a small reduction in this amount can be measured in the billions of dollars.

This also relates to the issue of bank accounts. As we have stated above, although not essential in the early stages of the Program, bank accounts would nevertheless go a long way to ending the black market. They may also provide an opportunity to reduce the cost of remittances, today about 3-4% of the amount remitted. If this could be reduced by half – something which would require the cooperation of the Mexican government – then the freed up funds could be redirected to the Mexican government for its own purposes. The Trump administration could also require this sum to be committed to building a Wall, should that become necessary.

Thus, an MBV program provides material leverage over the governments of the MCA countries. That leverage can be used in a number of ways, including fulfilling the President's promise to have Mexico pay for the Wall – on a contingent and limited basis perhaps – but with an articulated commitment nevertheless.