



Thinking Systematically about Abuse and Fraud in Migration Programs

By David North

There are a bewildering variety of immigrant and nonimmigrant programs in the United States and a wide variety of problems and fraud are found within many of them. It strikes me that it might be useful to examine these matters in a systematic manner.

Before sampling the various problems in specific programs, it may be helpful to discuss the six different ways that these programs bring harm to various groups of people — ranging from society as a whole to an individual citizen being bamboozled by an individual alien.

Some migration programs, of course, are inevitable — we are not about to tell marriageable U.S. citizens that they cannot import overseas spouses, for instance. And others bring us talent, such as some of the people in the EB-1 program (aliens with extraordinary ability and outstanding professors or researchers).¹ In short, some migration programs are clearly beneficial, but here I am dealing only with the other side of the coin.

The six clusters of abuse that can, and do, occur in the migration field are:

1. Abuse of the U.S. public, generally;
2. Abuse of resident workers, generally;
3. Abuse of resident taxpayers, generally;
4. Abuse of specific groups of aliens, usually workers;
5. Abuse of specific citizens, usually spouses of aliens; and
6. Abuse of specific alien investors and of some employers of aliens.

These abuses are arrayed roughly in order of the number of persons injured; other observers might suggest a different sequence.

1. **Abuse of the U.S. Public, Generally.** Given our fading infrastructure and the population build-up in urban areas, the most basic set of problems aggravated by immigration is covered by the term over-population. Further, it is well known that both legal and illegal immigrants have, on average, less education and more poverty than Americans generally, thus burdening all of our systems. The administration has turned a blind eye to this variable.

Virtually all migration programs, whatever their specifics, suffer from this abuse.

2. **Abuse of Resident Workers, Generally.** The concept here is that a tight labor market is good for workers. All of the immigration programs, and most of those for nonimmigrants, bring additional workers to the United States, thus broadly loosening the labor market. This is particularly true for some of the specific programs, including the H visas for “needed” workers.²
3. **Abuse of Resident Taxpayers, Generally.** Taxpayers suffer negative impacts from immigration programs when they bring in, as they often do, a new population that is more prone to using welfare programs than the nation generally,³ or that seems to receive a disproportionately high share of tax refunds⁴ or bears a

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disproportionately low share of payments to the FICA and Medicare trust funds, as they do in the OPT and Summer Work/Travel programs.⁵

The three clusters of abuse noted above impact hundreds of millions of people; the next three clusters, while distressing, deal with smaller numbers. In the case of nonimmigrant workers, the size of the group is in the low millions; in the last two categories, it is in the thousands.

4. **Abuse of Specific Groups of Aliens, Usually Workers.** By definition, despite the claims of employer groups, the overwhelming majority of nonimmigrant alien workers brought to this country are desired not because there is a labor shortage, but because the workers can be, and are, paid at below-market rates and are more subservient because of their indentured status. Employers use the subdued term “stable” to describe this workforce.
5. **Abuse of Specific Citizens, Usually Spouses of Aliens.** Some of the most painful impacts of our immigration policy are felt by citizens who marry aliens who abandon them once a green card has been secured, or shortly after marriage accuse the citizen of abusive behavior. The latter action then leads to a virtually automatic government decision — regardless of the merits — to give the alien legal status as an abused spouse, and rarely gives the citizen spouse a hearing.⁶
6. **Abuse of Alien Investors and Some Employers of Aliens.** Millionaires are not mistreated routinely and we need not feel sorry for them. But this does not always hold true in the EB-5 (immigrant investor) program, in which hundreds if not thousands of wealthy aliens have been cheated by U.S.-based middlemen, and either do not get their money back or do not get the visas that they thought they had purchased, or both.⁷ Finally, sometimes in the H-1B program for professional workers, employers are misled by aliens with phony resumes that have slipped by the immigration screening process.

We now turn from these clusters of abuses to the programs that allow (or facilitate) these abuses.

It is useful to distinguish three different classes of these migration programs:

Class A. These programs are appropriate in their design and are rarely abused. There are not many programs in this category, they all tend to be small, and they are likely to be protected from abuse by their very nature rather than by alert government action.

Class B. Each of the programs in this group meets a genuine public need, and should remain in place, but each of them should be better managed and, in some cases, reduced in size as major problems have arisen within them.

Class C. This third group of programs — such as most of the foreign-worker schemes, which have so many problems — should be abolished (though given the outsize influence of those who profit from the programs, that’s unlikely). In addition to bad design, there is also maladministration as in all too many cases, the built-in problems are festooned with additional abuse and fraud.

In the partial listing of migration programs on the next page, we start with nonimmigrant programs (in the order of their visa listings) and then move on to immigration (green card) programs. Given the literally hundreds of migration programs and subprograms, each with their own quirks and often with specialized problems, we have selected only some of them for treatment here.

My sense is that too much of the dialogue about specific immigration programs deals with particular abuses *within* the specific programs, as opposed to an open discussion of whether a program should exist at all. The green card lottery is a good example of a program that should simply be abolished.

Table 1. Anatomy of Immigration Programs and Problems (partial listing)

Program and Visa Categories	Nature of Problems
Class A: Useful Programs	Few problems, if any
A: Diplomats	Abuses are rare; if there are any they are in the A-3 class of “attendants, servants, and personal employees of diplomats”. ⁸
G: Staff of international organizations	Rare
I: Foreign media representatives	Rare
NATO: officials of that organization	Rare
EB-1: Aliens with extraordinary ability	Rare
Class B: Useful Programs	Major problems
F-1: Students (except for OPT)	Many individual students drop out of status and become illegal aliens; some “visa mills” facilitate group abuse of this visa.
J-1: Exchange visitors (except for summer work travel)	Some J-1 aliens drop into illegal status; others are financially abused by employers.
Spousal visas, both nonimmigrant and immigrant (K-1, V-1, immediate relative, etc.)	Immigration/marriage fraud allows some aliens to enter illegally, and a specific type of this fraud abuses the deceived citizen spouse; the government does nothing about the latter category.
Class C: Dubious Programs	Major problems
H-2A: Farm workers; H-2B: Non-farm manual workers	These programs take jobs away from U.S. workers, lower wages for all, and, in many cases, exploit alien workers in other ways.
H-1B: Professional workers	This program, in addition to taking jobs from U.S. workers, underpays alien workers, and there is some fraud on the part of aliens enhancing their resumes and labor brokers doing the same.
OPT: A portion of the F-1 visa program that permits alien graduates of U.S. colleges to work up to 29 months in the United States.	This is an unregulated foreign worker program that has taken jobs from U.S. workers and denies \$1 billion a year in payments that should go to the FICA and Medicare trust funds.
Summer Work/Travel Program, one of several J-1 programs	This program denies seasonal jobs to U.S. college-age workers, provides cheap labor to favored U.S. employers, and short-changes the FICA and Medicare trust funds.
Q-1: Cultural workers	A small nonimmigrant program designed specifically for Walt Disney & Co., which brings that company low-paid, indentured alien workers and thus takes jobs from college-age U.S. workers. ⁹
EB-5: Immigrant investors	This program, which adds very little to the capital available in the United States, has been used to defraud individual alien investors and U.S. middlemen, all based on the shaky premise that it is okay to sell permanent residency to the rich.
Diversity Visa (green card lottery): 50,000 visas awarded by chance to aliens from countries that do not have many immigrants here.	No other nation (except for a tiny scheme in New Zealand) uses such a program. It is not needed and there is a certain amount of applicant fraud within it.

End Notes

¹ EB-1, the first of the five employment-based permanent immigration categories, also facilitates the admission of multinational corporate executives and their families; while the first two subclasses in EB-1 are obviously valuable, this third subclass in this group is less so.

² For more on this subject, see the transcript of the CIS panel discussion on [“The Progressive Argument for Reducing U.S. Immigration”](#), May 2105.

³ See Steven A. Camarota, [“Welfare Use by Immigrant and Native Households”](#), *CIS Background*, September 2015.

⁴ See David North, [“Paying Illegals to Stay”](#), *CIS Background*, October 2013.

⁵ See Jerry Kammer, [“Cheap Labor as Cultural Exchange: the \\$100 Million Summer Work Travel Industry”](#), *CIS Background*, December 2011.

⁶ The number of citizens hurt in this way is not recorded for the first scenario, but is for the second, in which the alien claims to be abused by a citizen or resident alien spouse. The adjustments and admissions in this category have fallen from 6,278 in 2011, to 4,336 in 2012, and to 3,318 in 2013, according to Table 7 in the *Yearbooks of Immigration Statistics*. Typically, the number of aliens using a migration program remains steady or increases — why this did not happen in this field is unknown; perhaps there was a backlog of such situations that is now dissipating. For more on the techniques used to secure a green card in this way, see my CIS blog, [“An Emerging Victim Class: Citizens Hurt by Immigration/Marriage Fraud”](#), October 29, 2015.

⁷ See Peter Elkind and Marty Jones, [“The dark, disturbing world of the visa-for-sale program”](#), *Fortune*, July 24, 2014.

⁸ For a rare example of abuse in the category, see Ellen Barry and Benjamin Weiser, [“As Indian Diplomat Exits after Arrest, a Culture Clash Lingers”](#), *The New York Times*, January 10, 2014. The diplomat was expelled because she severely underpaid a personal servant; although both women involved were from India, the Indian press and the Indian government were clearly on the side of the oppressor, not the victim.

⁹ See Kit Johnson, [“The Wonderful World of Disney Visas”](#), *Florida Law Review*, Volume 63, Issue 4, February 2013.