

SHOULD CITIZENS, LEGAL IMMIGRANTS, AND ILLEGAL ALIENS RECEIVE DIFFERENT BENEFITS?



Cecilia Muñoz and Paul Gottfried Have Two Views



A national consensus has evolved around the notion that the nation must, at long last, find effective ways to control undocumented immigration. This sentiment is expressed, even by immigration restrictionists like California Gov. Pete Wilson, in terms of closing the “back door” to undocumented immigrants so that the nation can keep the “front door” open to those who seek to enter legally.

But the longer the debate rages, the more clear it becomes that this relatively clear-cut goal is muddled by extraordinary levels of misinformation. Take, for example, the recent *USA Today* poll, which shows 63 percent of non-Californians agreeing that aid to undocumented immigrants should be eliminated. I suspect many of those poll respondents would be surprised to learn that, under current law, undocumented immigrants are already barred from receiving most public benefits. In fact, the law requires administrators of the major programs like AFDC to use a government citizenship database to check for fraudulent applications from undocumented immigrants. (It costs more to run the database than any actual savings that result—such is the price of security.) Despite the widespread perception that national policy does not distinguish between undocumented aliens and everyone

else, in fact the law has long denied the undocumented not only eligibility for most benefits, but also authorization to work in the United States.

The only chinks in the wall separating the nation’s estimated 4 million undocumented residents from the rest of the country were carved by rather sacred

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hands. A decision by the Supreme Court in 1982, based in part on the Constitution’s equal protection doctrine, provided that the nation would be ill-served by barring undocumented children from school, thereby punishing them for the sins of their parents. Our common sense of morality and de-

The current hierarchy of advantages leading up to acquisition of full American citizenship is wholly defensible, and indeed the distinctions between various statuses of residency in this country may need to be made clearer. Citizens should receive the most privileges; illegal residents, by contrast, should be given none at all.

This view has become controversial. Immigrant advocacy groups and the media object to what they see as invidious distinctions being drawn between American citizens and other residents. The protest against these distinctions found expression last fall in demonstrations by opponents of California’s Proposition 187. Californians who wished to stop the flow of public benefits to illegal residents—financed mostly by Californians—were condemned as xenophobic, mean-spirited, and against “human rights.”

It is unfair to force citizens of any country or state to provide public benefits to those who have no legal right to be there. The mass of illegal aliens in California, Texas, and Florida now numbers in the millions; it dramatizes the need not for bigger social budgets but for effective border control. Former Supreme Court Justice William Brennan and other imaginative judges have claimed that the Fourteenth Amendment’s equal protections apply to illegal residents. This is an exercise in hallucination. The Fourteenth Amendment explicitly protects “citizens of the United States,”

and in particular their “property.” It therefore does not authorize that citizens be deprived of their earnings to pay for those who enter the country without legal rights.

We belittle the honesty of those who immigrate legally, sometimes after years of waiting, when we blur the distinction between them and illegal aliens. Why should both groups draw some of the same benefits, even though one group comes legally and pays income taxes while the other does neither? Such an injustice sends the wrong message to both groups, and so it is not surprising that many naturalized immigrants support stricter controls on illegal entry.

An apparently more difficult problem is justifying the disparate rights and benefits awarded to citizens and resident aliens. Why do we distinguish at all between those who come legally, accept our financial burdens, and often intend to become American citizens, and those who happen to be born in this country? Why do resident aliens have fewer rights and benefits than those who are Americans by birth or naturalization?

There are several answers to these questions, all of which seem valid. First, American citizens, even those who are such merely by accident of birth, are subject to greater obligations by virtue of their citizenship than resident aliens. In time of war or national crisis, citizens, unlike resident aliens, can be re-

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gency have prevented us, at least for now, from denying the most basic services, like emergency food and shelter, to undocumented immigrants in need. We are, on occasion, tempted to undermine our basic national values in our quest to rid ourselves of the less than 2 percent of the population that is undocumented, but we do ourselves a great injustice in the process.

For example, some zealots in California have begun to ask native-born Americans for their papers at the supermarket and the hamburger stand, simply because they look like they might be Mexican. The nation may have an interest in separating the undocumented from the rest of us; but we must stop when drawing that line means undoing the Constitution, or the values that make us great.

The confusion between illegal and legal migration has resulted in calls to further divide U.S. citizens from immigrants whom we have welcomed into our country. Such calls, manifested most strongly in a legislative proposal to bar non-U.S. citizens from some 60 federally funded programs, do violence to the nation's cherished traditions as expressed through our policy of reuniting families and revitalizing ourselves with the energy of immigrants who choose to join their futures with ours.

The nation's immigration policy is based on the notion that once we accept you into the United States, you become one of us. You are expected to learn English, to pay taxes, to fight in time of war, and to support yourself without reliance on publicly funded programs. The good news is that immigrants do all of these things. Their economic and social contributions are well documented, from high workforce participation to strong family values and eagerness to learn English and teach it to their children. Not only do immigrants contribute youth, vigor, and en-

ergy to the labor market, even when they fall on hard times they use public benefits less than the native population.

Immigrants' desire to naturalize is going up, if the number of applications filed with the Immigration Service is any measure. This process, which requires 5 years of legal residence in the United States and demonstrated proficiency in English and civics, is looked upon with a great deal of reverence by newcomers. It is a sacred and meaningful step, one which confers the right and the duty to vote, the ability to reunite with family members, to hold jobs reserved for citizens, and the obligation to relinquish ties—always emotional and often material—with one's former home. To those who believe that becoming a U.S. citizen is too small a step, I invite you to attend a swearing-in ceremony or to talk to someone who has taken the oath. Americans by choice are surely among the proudest of Americans.

Proposals that seek to widen the divide between U.S. citizens and legal residents are doing more than simply telling hard-working taxpayers that their contributions will not be there to aid them if they fall on hard times. At best, they create unnecessary dissonance at a time when the country badly needs harmony. At worst, they cynically capitalize on concern about undocumented immigrants and deliberately blur an important line between them and their legal immigrant counterparts. Either way, they do grave harm to the many contributions that immigrants make to this country, and to the welcoming spirit that has done so much to make the United States what it is.

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quired to risk their lives. Second, most American citizens are not simply citizens by accident. They live in their country, speak its language, and are familiar with its laws and customs. By and large, citizens are more acculturated than resident aliens, who typically have strong ties with their native land. Though there is nothing wrong with that, it does justify the perception that citizens have integrated themselves more fully into American life than noncitizens.

Third, as disagreements erupt over the distribution of publicly financed benefits of all sorts, noncitizens will in any case be affected. Fights over such benefits have occurred in France, Germany, and Italy as the costs of maintaining a welfare net have risen. The struggle over social benefits has triggered angry outbursts against "foreigners," who in some cases happen to belong to the same nation, such as East Germans in Munich or Sicilians in Milan. In the United States, welfare and social benefits are also under reconsideration as American voters rebel against expensive, intrusive government. In all likelihood, resident aliens will lose some public aid in the coming months, and they should take their lumps gracefully. American citizens have been remarkably generous to them by the standards of any other country, and they will still be allowed, no matter what, to attend our universities, practice commerce, exercise their religion, and express their views (the last two within reasonable limits).

Fourth, the right to differentiate between citizens and noncitizens is essential to self-government. Once such a right is disallowed, what remains is not a political community but a subject people. When judges and public administrators on their own authority invoke "human rights" to break down the

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customary distinctions between citizens and noncitizens, it bodes ill. If unchallenged, this form of super-legality will deprive Americans of the power to define what it means to be an American. It will not be possible to keep noncitizens from enjoying constitutional protections that were clearly intended only for American citizens. In a timely study, *Citizenship Without Consent*, Rogers M. Smith and Peter H. Schuck stress the pivotal right to restrict citizenship in a self-governing society. Being a citizen of a democracy necessarily entails the right to decide who can or cannot assume an equal status. Citizens must be able to exclude as well as to accept additional members. Otherwise, it is not they but those who seize that power who become the rulers. This is the situation that prevailed in imperial Rome, as opposed to the Roman Republic.

As we now try to reform our straying republic, it may be useful to ponder this argument.

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VIRGINIA'S EXUBERANT GOVERNOR GEORGE ALLEN AIMS TO CUT DOWN GOVERNMENT IN RICHMOND—AND IN WASHINGTON, TOO.

George Allen

One legislative critic has dubbed Virginia Governor George Allen “Baby Newt,” for the boyish governor seeks a radical overhaul of the government of his Commonwealth. He is engaged in a contentious fight with the General Assembly over his proposals for an income-tax cut, spending reductions, and a massive new program of prison construction.

Allen, who comes off as eager, garrulous, and friendly, is the son of legendary Washington Redskins coach George Allen, the man who took his “over-the-hill gang” to the Super Bowl in 1973. While still very much on this side of the hill, young George served in the Virginia legislature and the U.S. House of Representatives before his election as governor in 1993.

On the walls of his Richmond office, portraits of Virginians Thomas Jefferson and Patrick Henry contend with a boar's head and a stuffed baby armadillo. Over the mantle rests a picture of the Battle of New Market, where a group of adolescent cadets from the Virginia Military Institute won a stunning victory.

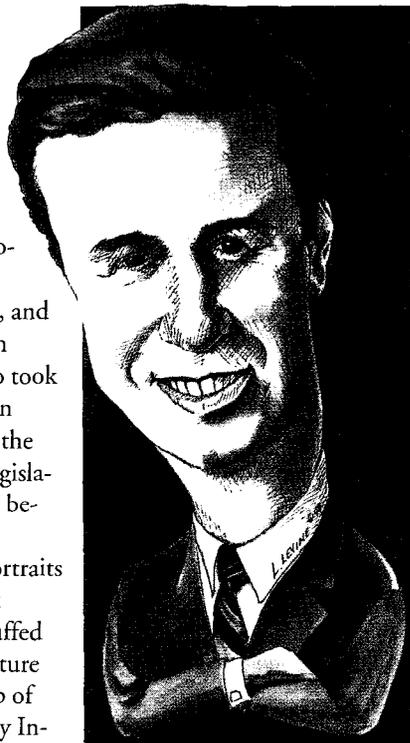
Allen is a leader of the movement among American governors to reclaim lost rights from Washington. He drafted the Williamsburg Resolve of November 1994 in which the Republican governors demanded that many powers now exercised by the federal government be returned to the states.

Virginia limits its governors to one four-year term. If Governor Allen succeeds in his aspiration to make Virginia a Republican showcase of streamlined government, his name may be bruited about on the national level come 1996.

Senior Editor Scott Walter conducted the interview with the assistance of reporter David Bovenizer.

TAE: Why do you call yourself a Jeffersonian conservative?

GOV. ALLEN: Jefferson was a revolutionary. He hated a centralized government. In his 1801 inaugural address, he described good govern-



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ment as a wise and frugal one that shall restrain men from injuring one another, but otherwise leave them free to regulate their own pursuits of industry and improvement. He said government should not take from the mouths of labor the bread it has earned. Those are the guiding principles of my administration as well.

On the restraint from injury side, we've abolished the lenient, deceitful parole system we had in Virginia, where violent criminals were being released after serving a quarter of their sentences. And now we have among the toughest penalties for violent offenders in the nation. If a jury gives a rapist 12 years, he's going to serve 12 years, not three. What we've done with truth in sentencing and abolition of parole is stated that folks are going to be held accountable for their acts.

As far as the freedom to regulate one's own pursuits of industry, we have been trying to curtail the regulatory burden. We have economic impact statements before any new regulations go into effect. And of course we're reducing the tax burden.

TAE: What do you think the constitutional relationship should be between the state and national governments? What areas do you think the Constitution reserves for the states?

GOV. ALLEN: The federal government was created by the people and the states, not the other way around, and its responsibilities are those that were delegated: interstate commerce, national defense, foreign policy, printing a common currency, delivering the mail.

Other than that, unless there's something that has national implications, I think it should be left to the wisdom and desires of the people in each state. State governments are much closer to the people and obviously more responsive.

The federal government has very defined and limited powers. In accordance with the Tenth Amendment, those powers not specifically delegated to the federal government are reserved to the people and the states. It's part of the Bill of Rights, but unfortunately federal judges and a