



Free Trade Bulletin

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Comprehensive Immigration Reform: Finally Getting It Right

by Daniel Griswold, director, Center for Trade Policy Studies, Cato Institute

Democratic leaders in Congress have been negotiating with their Republican counterparts and the Bush administration to craft a proposal to address the growing problem of illegal immigration. In the previous Republican Congress, the Senate passed a comprehensive immigration reform bill in May 2006, but the effort died in the House. With Democrats now in charge of Congress, Senate Majority Leader Harry Reid has stated his intention to schedule two weeks of debate on immigration reform in coming days. Congress and the president should seize this opportunity to fix our nation's dysfunctional immigration system in a way that guards our security, enhances our market economy, and upholds our ideals as a nation.

According to the most widely accepted estimates, about 12 million foreign-born people are living in the United States without authorization, and that number is growing by 400,000 to 500,000 a year.¹

Any lasting solution to the challenge of illegal immigration must recognize the important contribution that immigrants have made and continue to make to the success of America's free-market economy. To succeed, comprehensive reform must accommodate the legitimate need of American employers to hire the workers they require to meet the demands of their customers. Reform must also address the legitimate expectation that the rule of law will be respected and that illegal immigration will be replaced by legal immigration.

The challenge for Congress and the president is to enact a comprehensive reform of U.S. immigration laws that is not only politically salable but also consistent with the realities of the American labor market.

Immigration and the American Workforce

Despite the claims by critics of immigration reform, America is not being "flooded" with immigrants. When we consider the rate of immigration—the number of immigrants entering the United States each year as a share of our population—the current inflow of immigrants is well within American historical norms. Since 2000, the annual number

of legal and illegal immigrants joining the U.S. population has averaged 5.1 per 1,000 U.S. residents. That compares to a rate of 10.4 immigrants per 1,000 in the decade of 1901–10 at the peak of the Great Migration. In fact, today the immigration rate is lower than during any decade between 1840 and 1920 (Figure 1).²

The number of foreign-born residents as a share of the U.S. population is also below historical highs. Today, foreign-born residents are 12.7 percent of the population, below the peak of 14.7 percent in 1910.³ A higher share of U.S. residents was foreign-born in every decade from 1860 through 1920 than is today. If we are an immigrant nation today, we were more of an immigrant nation a century ago.

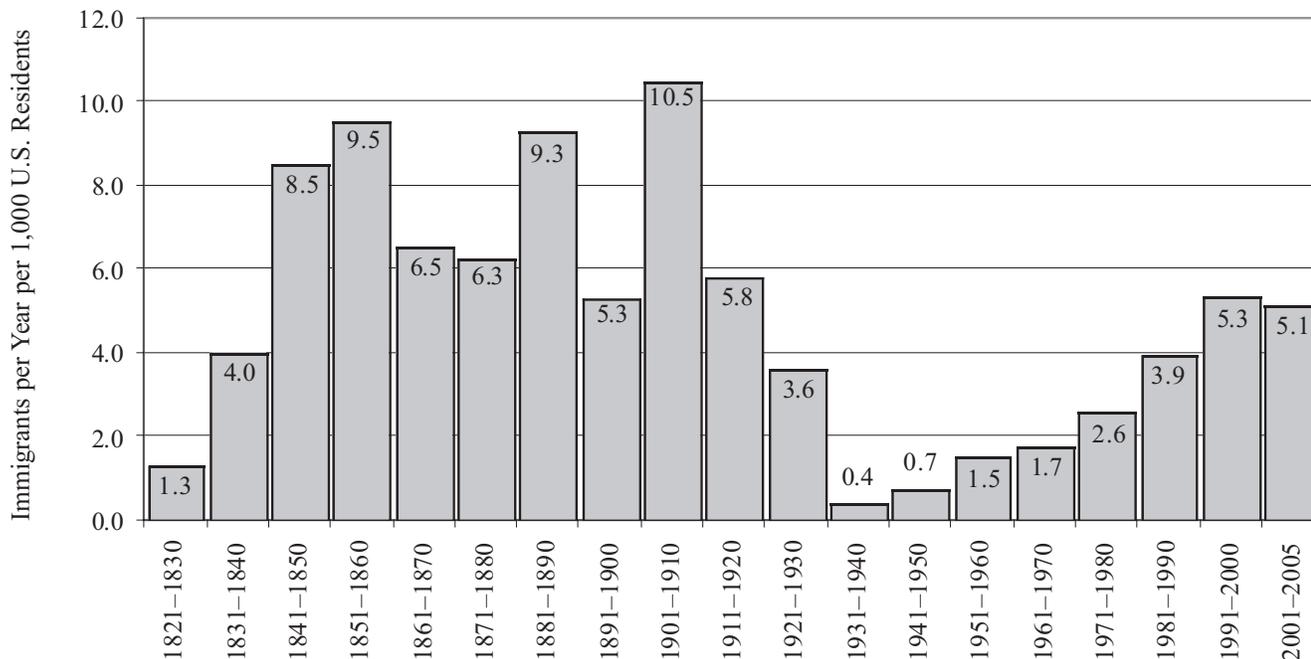
Immigration has allowed the U.S. population to maintain a modest and in fact declining rate of growth. During the 20th century, from 1900 to 2000, America's population growth averaged 1.32 percent per year. Since 1980, even with growing numbers of immigrants, our annual growth rate has slipped to 1.07 percent, and since 2000, it has actually fallen to slightly below 1 percent. Only one other period in U.S. history has witnessed slower population growth than we have seen in the past 26 years, the Great Depression of the 1930s.⁴

Rising levels of immigration have only partially offset the steep decline in the natural population growth of births over deaths. The natural rate of growth of the U.S. population has plunged by more than half since the early 1960s, from about 1.4 percent per year to below 0.6 percent during the last decade. Net foreign migration has edged up slightly as a share of population growth, but not enough to reverse the long-term downward trend of the overall growth rate.⁵ Immigration has not spurred a population explosion in the United States; it has saved the United States from a population implosion.

The Economics of Low-skilled Immigration

Low-skilled migrant workers enter the United States in response to demand in our labor market. The continuing inflow of unskilled immigrants to the United States has been driven by two powerful economic and demographic trends.

Figure 1
American Immigration in Perspective, by Decade, 1820–2005



Sources: U.S. Census Bureau; *2005 Yearbook of Immigration Statistics*, U.S. Office of Immigration Statistics; and Pew Hispanic Center.

On the demand side, the U.S. economy continues to create hundreds of thousands of net new jobs each year that require relatively low skills. Although the fastest-growing categories of new jobs being created in our increasingly sophisticated economy require at least some specialized skills, training, and education, jobs are also being created in lower-skilled, mostly service sectors that complement the higher-end jobs.

According to the U.S. Department of Labor, between 2004 and 2014, the U.S. economy will add several million net new jobs that require only short-term, on-the-job training. The largest growth is occurring in the categories of retail salespersons; janitors and cleaners; waiters and waitresses; food preparation and serving workers, including fast food; home health and personal care aides; laborers and hand-movers of freight, stock and other materials; and landscaping and groundskeeping workers. Net new jobs to be added during the decade in those categories alone will amount to 3.4 million, according to Department of Labor estimates.⁶

Meanwhile, on the supply side, the pool of native-born Americans who have traditionally filled such jobs continues to shrink as we become older and better educated. According to the Labor Department, the median age of Americans in the workforce has been rising as the Baby Boomer cohort moves through middle age toward retirement. As a result, the median age of U.S. workers will soon reach 41.6 years, the highest in American history.⁷

As American workers have been growing older, they have also become better educated. In the early 1960s, fully one-half of adult Americans in the workforce did not possess

a high school diploma. By 2004, only 6.6 percent of native-born American adults were laboring without a high school education.⁸ In absolute numbers, the number of high school dropouts in the workforce declined by 4.6 million between 1996 and 2004.⁹ Looked at another way, in the 1960s, high school dropouts outnumbered college graduates four to one; today, college graduates outnumber dropouts five to one.

A better educated labor force is a profoundly positive development for our country, but it also means that there are fewer workers available who are willing to claim the still growing number of jobs in our economy that require few skills and minimal formal education.

Immigrants fill the growing gap between the expanding number of low-skilled jobs and the shrinking pool of native-born Americans who would want such jobs. By filling this gap, immigrant workers enable important sectors of the U.S. economy, such as retail, construction, landscaping, restaurants, and hotels, to continue to grow and meet the needs of their customers. Because of low-skilled immigrants, those sectors have been able to expand, attract investment, and create middle-class jobs in management, bookkeeping, marketing, and other areas that employ native-born Americans.

Failures to Curb Illegal Immigration

Despite those powerful economic and demographic realities, our immigration system contains no legal provision for lower-skilled foreign-born workers to enter the country legally to fill the jobs that an insufficient number of Americans want. Visa categories such as the H1-B program exist for highly skilled foreign-born workers such as comput-

er scientists, physics professors, and even think tank policy analysts. Other categories exist for close relatives of immigrants already in the country legally. But a peaceful, hard-working 24-year-old in Mexico or Central America who knows of a job in the United States for which no Americans are available simply has no legal means of entering the United States. The result of this missing channel in our immigration system, unfortunately, is wide-scale illegal immigration.

For the past 20 years, the U.S. government has pursued a policy of “enforcement only” in its effort to curb illegal immigration. Since the late 1980s, spending on border enforcement has grown exponentially. The number of Border Patrol officers grew threefold between 1986 and 2002 and will double again before President Bush leaves office.¹⁰ Various operations at the busiest crossing points on the U.S.-Mexican border have resulted in miles of fencing being built through urban areas and into the surrounding desert.

Since 1986, U.S. employers have been subject to fines for knowingly hiring undocumented workers. Interior enforcement of those laws has waxed and waned over the years. In the late 1990s, the Clinton administration raided hundreds of workplaces and detained thousands of illegal workers, and the Bush administration has recently stepped up such raids again. There is no evidence that more vigorous interior enforcement has had any long-term effect on the number of illegal workers entering the country, however.

In addition to being futile, the policy of interior enforcement also threatens to draw resources away from policing employment at such “critical infrastructure” as airports and nuclear power plants. In the aftermath of the September 11, 2001, terrorist attacks, the U.S. government rightly refocused its enforcement efforts away from chicken processing plants and discount stores to protect the American homeland from people who intend to do us harm.

Perverse Consequences of “Enforcement Only”

Our enforcement-only efforts have failed to stem the flow of illegal immigrants, but they have yielded three perverse and unintended consequences:

One, enforcement efforts in urban areas have diverted the inflow to more remote desert regions where the rate of interception has actually dropped. Because of more sophisticated smuggling operations through more remote regions, an individual attempting to sneak into the country is actually more likely to succeed today than when border enforcement was more lax in the early 1990s.¹¹

Two, immigrants entering the country illegally are more likely to die in the attempt. The death rate of migrants crossing our border with Mexico tripled during the 1990s.¹² Last year, more than 400 people died horrible deaths along the border from heat stroke and dehydration. The death toll during the past decade has reached 3,500.¹³ Unclaimed and unnamed bodies have accumulated in morgues and makeshift refrigerator trucks along the border.

Three, illegal immigrants entering the country today stay longer than they did before we began more aggressive enforcement at the border. Because our enforcement-only

efforts have raised the cost and risk of crossing the border, those who successfully enter are more inclined to stay. As a result, the average length of stay for a Mexican entering the United States has doubled, from 2.6 years in the 1980s to more than 5 years now.¹⁴

Our current policy has perversely interrupted what had been an established circular pattern of migration from Mexico to the United States. From the mid-1960s to the mid-1980s, during a time of relatively relaxed border enforcement, an estimated 80 percent of Mexicans who entered the United States illegally eventually returned to Mexico.¹⁵ The federal government’s ramped-up border enforcement turned a temporary and circular flow into a permanent and growing settlement of illegal immigrants.

Ending Illegal Immigration

The most rational, cost-effective way to reduce illegal immigration is comprehensive immigration reform, including a sufficiently accommodating temporary worker program. Enforcing a fundamentally flawed system is a recipe for frustration and wasted tax dollars. The law must be changed to reflect the fundamental realities of our nation’s labor market and economy.

The key to successful reform will be the temporary worker program. Any real hope of reducing illegal immigration will depend on allowing a sufficient number of foreign-born workers to enter the United States legally to fill the growing gap at the lower rungs of the labor ladder. Without a workable temporary visa program, workers will continue to enter the United States illegally, with all the consequences that flow from an illegal workforce.

Skeptics of immigration reform point to the 1986 Immigration Reform and Control Act as evidence that reform and legalization cannot work. The 1986 act contained two major provisions: It offered “legal permanent resident” status (i.e., a “green card”) to 2.7 million illegal workers who had entered the country before 1982 and to certain agricultural workers, and it significantly ramped up enforcement efforts, including making it illegal for the first time in U.S. history for employers to knowingly hire illegal workers.

Notably missing from IRCA, however, was any provision to expand the opportunity for low-skilled workers to enter the country legally. The pool of illegal workers was drained temporarily by the amnesty, but it soon began to fill up again as the economic pull of the U.S. labor market overwhelmed even the stepped-up enforcement efforts. IRCA failed to recognize the reality that low-skilled workers play an important and legitimate role in the U.S. economy.

Large-scale illegal immigration will end only when America’s immigration system offers a legal alternative. If foreign-born workers are allowed to enter the country by a safe, orderly, and legal path, the number choosing to enter illegally will drop sharply. When given the choice of paying a smuggler \$2,000, risking robbery and death in the desert, and living a shadowy existence in the underground U.S. economy, unable to leave and return freely to visit home, or entering the United States through a legal port of entry with legal documents, enjoying the full responsibility and protec-

tion of the law, and the freedom to visit home without fear of being denied reentry, the large majority of potential entrants will chose the legal path.

We know from experience that legal immigration, if allowed, will crowd out illegal immigration. In the 1950s, the *Bracero* program allowed Mexican workers to enter the country temporarily, typically to work on farms in the Southwest. Early in that decade, illegal immigration was widespread because the program offered an insufficient number of visas to meet the labor demands of a growing U.S. economy. Instead of merely redoubling efforts to enforce a flawed law, Congress dramatically increased the number of visas to accommodate demand. The result: apprehensions of illegal entrants at the border soon dropped by more than 95 percent.¹⁶ Back then, as we could expect now, foreign-born workers rationally chose the legal path to entry when it was available. When the *Bracero* program was abolished in 1964, illegal immigration began an inexorable rise that continues to this day.

Issue Enough Visas to Meet U.S. Labor Demand

If the goal is to curb illegal immigration, any temporary worker program must offer a sufficient number of visas to meet the legitimate demands of a growing U.S. labor market. The fact that 400,000 to 500,000 foreign-born workers join the U.S. labor force each year indicates the general magnitude by which the demand for exceeds the supply of available, legal workers. A temporary worker program should offer at least that number of visas to allow the revealed demand of American employers to be met legally.

Capping the number of visas much below that level will be self-defeating. In May 2006, the Senate approved an amendment offered by Sen. Jeff Bingaman (D-NM) that would have reduced the annual number of temporary visas to 200,000. That number would still leave a large number of jobs in the United States without sufficient legal workers available to fill them. A similar cap this time around will almost certainly guarantee a continued inflow of illegal workers, defeating one of the central goals of immigration reform.

Fears that the United States will be overwhelmed by a “flood” of immigrants if the temporary visa numbers are not tightly capped are unfounded. First, legalization does not necessarily mean more immigrants entering the United States. The most likely consequence of a temporary worker program, as with expansion of the *Bracero* program in the 1950s, would be the transformation of an illegal flow into a legal flow. The number of workers entering the country illegally has already been effectively “capped” by the demand in the U.S. labor market. If there are not jobs available, the workers will not come.

Second, a workable legalization program could be expected to restore the traditional circularity of Mexican migration to the United States, increasing the number of foreign-born workers who leave the country after a temporary period of work. Many low-skilled workers enter the U.S. labor market to solve temporary problems back home. They send remittances home to help pay medical bills, upgrade

housing, raise capital for a business, or smooth the family’s income during an economic downturn. Once such goals are achieved, a large share of workers has chosen in the past to return home. On the basis of that experience, we could expect that an increase in the number of workers entering the country after legalization would be largely or wholly offset by an increase in the number leaving.

Third, any fears of “chain migration” can be addressed by restricting the ability of immigrants to sponsor extended family members. One possible compromise would be to restrict or eliminate quotas for parents, adult siblings, and adult children of legal permanent residents in the United States. The ability to sponsor relatives could be limited to the “nuclear family” of spouses and minor children. The result would be to allow nuclear families to remain intact, while at the same time incrementally moving the U.S. immigration system from one that is primarily family based to one that is employment based.

Fears about chain migration tend to be exaggerated. A Web Memo published in May 2006 by Robert Rector of the Heritage Foundation estimated that the original version of the Senate immigration reform bill, S. 2611, would increase U.S. immigration by a whopping 103 million during the next 20 years.¹⁷ But we know from our experience with the 1986 Immigration Reform and Control Act that nothing like a flood of new immigration occurred.

As mentioned earlier, IRCA legalized 2.7 million undocumented workers. In the 20 years since IRCA was enacted (by coincidence the same time frame as the Heritage study), the United States has accepted an average of 950,000 legal immigrants per year. Subtracting the baseline annual immigration of 600,000 in the decade before IRCA and the 2.7 million workers directly legalized by the IRCA amnesty, the annual increase since then amounts to fewer than 200,000 a year from pre-IRCA levels.¹⁸ That is an increase of about four million over a 20-year period, and a significant share of that increase can be attributed to a 1990 immigration bill that raised quotas for legal immigration. Obviously, the 1986 amnesty did not cause anything like a flood of chain migration. There is no reason to believe that a comprehensive immigration bill would either.

A far more credible and objective study by the Congressional Budget Office estimated that S. 2611 would increase the U.S. population by 7.8 million in the first 10 years. Although more chain migration would be expected in the second decade after the original temporary workers achieve citizenship, the rate of 800,000 immigrants per year is far more in line with recent history and the expected need of the U.S. economy for new workers.¹⁹

An analysis by the Immigration Policy Center exposed a number of flaws in the Heritage study. The IPC found that the study double counted millions of new immigrants, first as guest workers, then again as new green-card holders. It substantially overestimated the number of illegal immigrants who would remain in the United States permanently as well as the number of parents of newly naturalized citizens who would immigrate, while ignoring millions of immigrants who would later choose to leave.²⁰

Visa Must Include Maximum Mobility, Minimal Red Tape

Any temporary worker program must also include complete worker mobility. The best protection for legalized workers is the freedom to change jobs if pay or conditions are unsatisfactory. The fatal flaw of the *Bracero* program was the fact that it tied workers too closely to specific employers as a condition of the visa. That gave employers too much leverage and encouraged the kinds of abuses that, when they became public, spurred Congress to shut the program down. A portable visa that allows temporary workers to freely chose whom they work for with a minimum of red tape would enhance their bargaining power in the marketplace, improving their pay and working conditions.

Worker mobility would also benefit the economy overall. It would allow workers to shift from one region of the country or sector of the economy to another in response to changing conditions. When the housing sector turned down, temporary workers would be free to shift to the retail or hospitality sectors, for example.

Legalized workers with full freedom to change jobs would not need a raft of new labor laws to protect their rights. True reforms must avoid stifling labor regulations that discourage legal hiring. Union leaders are pressuring Democrats to require that temporary workers be paid “prevailing wages”—that is, artificially high, union-level wages rather than market wages. That would be a recipe for failure, since many of the jobs filled by immigrant workers are low-skilled, low-wage jobs that would simply not exist in the legal economy if union-level wages were mandated. Adding cumbersome labor rules will only perpetuate the underground labor market that has been created by the current system.

Mandating that employers pay above-market wages for low-skilled workers would only reduce growth and opportunities in the affected sectors of the economy. Pay earned by low-skilled workers is determined and limited by their productivity. Wages paid to low-skilled workers tend to be low because their productivity is low. If pay were to rise above productivity, prices would need to rise, consumer demand would fall, and investment and employment in the affected industries would slow or shrink. Ultimately, there would be fewer jobs available in the affected sectors for native- and foreign-born workers alike.

Also unfounded are the claims that increased legal immigration will drive down wages and working conditions for a broad swath of American workers. Only a small and declining share of the American workforce competes against low-skilled immigrant workers. According to *The New Americans*, the authoritative 1997 National Research Council study of immigration, the only two groups of Americans who face downward wage pressure from immigration are other recent immigrants and native-born Americans without a high school diploma. The wage impact on the affected American workers is not large. “The weight of the empirical evidence suggests that the impact of immigration on the wages of competing native-born workers is small—possibly reducing them by only 1 or 2 percent,” the authors concluded.²¹

More recent studies confirm the small impact of low-

skilled immigrants on competing American workers. In an August 2006 study for the National Bureau of Economic Research, economists Gianmarco Ottaviano and Giovanni Peri found that immigration between 1990 and 2004 lowered the real wages of the least educated U.S.-born workers by 1.1 to 2.2 percent, consistent with the NRC findings of a decade earlier. The study found that for all other native-born American workers, that is, those with at least a high school diploma, in the long run immigration delivered real wage gains of between 0.7 and 3.4 percent through lower prices and a more efficient economy.²²

The key to raising wages for low-skilled American workers is to improve their levels of education and training. Americans with a high school education and no college earned a median annual income in 2005 of \$25,829 compared to median annual earnings of \$18,435 for workers without a diploma. That represents a 40 percent wage premium for finishing high school.²³ Enabling and urging young Americans to graduate from high school will do far more to raise the earnings of American workers than will barring low-skilled immigrants from the country.

A Path to Legality for Workers Already Here

Finally, any comprehensive immigration reform worth its name must offer a path to legal status for the millions of workers already here without authorization. It would be an economic and humanitarian disaster, as well as an administrative nightmare, to round up the 12 million people already here illegally and somehow deport them to their home countries.

Any realistic immigration reform must recognize that many undocumented workers have become valuable members of their workplaces and communities. Most have been in the country for five years or more, and 40 percent have been here for more than a decade.²⁴ Their contributions to the U.S. economy should be recognized and weighed against their violation of U.S. immigration laws.

Long-standing critics of comprehensive immigration reform will brand any legalization as an “amnesty.” But amnesty means a general pardon, in particular for political offenses. Legalization would not be a pardon or amnesty because, according to the most serious proposals put forward in Congress, undocumented workers would be expected to pay fines and back taxes. They would undergo security checks and could even be required to leave the country briefly before being allowed to enter legally. They would not be granted the automatic permanent legal status that was a core feature of IRCA but only temporary status to remain and work in the United States for a specified period of time.

Americans expect the law to be respected and obeyed and those who violate our laws to face the appropriate consequences. But at the same time, laws must be reasonable and not fundamentally out of step with how millions of peaceful and hardworking people arrange their lives. That was the fatal flaw of the 55-mile-per-hour speed limit in the 1970s and alcohol Prohibition in the 1920s and 1930s. Any punishment must also fit the infraction. In the case of immigration, several

million foreign-born workers are guilty of engaging in an activity that is not inherently criminal—crossing an international border to provide labor for willing employers and additional income for their families back home.

Legalization would not necessarily mean automatic permanent status and a path to citizenship. Most workers who enter the United States illegally intend to stay here temporarily. If workers allowed in under a temporary worker program or formerly undocumented workers who gain legal status want to become permanent residents, they should be required to wait their turn behind those who have applied under existing law. At the same time, the government should accelerate existing applications to reduce the backlog and expand the number of green cards available to accommodate the long-term labor needs of the growing U.S. economy.

Like the temporary worker program, the legalization of workers already in the United States must be workable. The penalties and procedures must not be so onerous that millions of illegal workers decide to continue their underground existence in the U.S. labor market. Immigration reform, to be successful, must balance the political demand that illegal workers pay a penalty for breaking U.S. immigration law with the reality that our nation would be better off without a large pool of illegal workers in our midst.

Conclusion

The 110th Congress, in cooperation with President Bush, can solve the vexing problem of illegal immigration now and into the foreseeable future. What is needed is comprehensive immigration reform that recognizes the fundamental realities of the U.S. economy and labor force.

Comprehensive immigration reform that followed the guidelines outlined above could be expected to dramatically lower illegal entries into the United States and the tragic death toll at the border. It would empower newly legalized workers to bargain more effectively in the workplace for better wages and working conditions, allowing those workers to enjoy the full protections and responsibilities of the law. It would free the Homeland Security Department to focus its resources on identifying and apprehending terrorists and criminals rather than waste billions of tax dollars chasing after peaceful, hardworking people seeking better jobs.

Comprehensive reform would provide a predictable, legal, and modestly growing labor force that would, in turn, allow our market economy to produce a wider and more affordable array of goods and services for American households, raising living standards for the large majority of American workers. It would reaffirm our ideals as a nation that has traditionally welcomed immigrants who come here to work hard and build better lives for themselves and their families.

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