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Article

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IZA World of Labor

Provided in Cooperation with:

IZA – Institute of Labor Economics

Suggested Citation: Bansak, Cynthia (2016) : Legalizing undocumented immigrants, IZA World of Labor, ISSN 2054-9571, Institute for the Study of Labor (IZA), Bonn, <https://doi.org/10.15185/izawol.245>

This Version is available at:

<https://hdl.handle.net/10419/148470>

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Legalizing undocumented immigrants

While legalization benefits most undocumented immigrants, deciding how to regularize them is challenging

Keywords: legalization, regularization, immigration

ELEVATOR PITCH

Addressing unauthorized immigration is controversial. Countries have adopted a variety of legalization programs, ranging from temporary visa programs to naturalization. Research in the US focused on past amnesty programs finds improved labor market outcomes for newly legalized immigrants. Findings are more mixed for European countries. Studies suggest that regularization of undocumented immigrants can result in increased use of public benefits and reduced formal labor market participation. Despite widespread disagreement, legalization is widely used in practice.

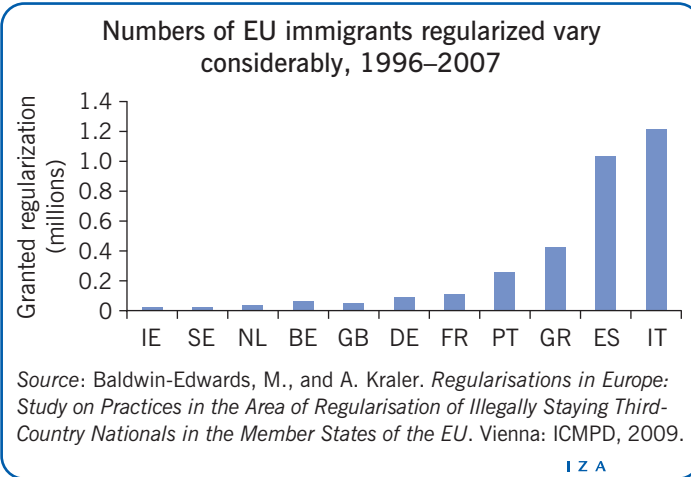
KEY FINDINGS

Pros

- + Legalization allows previously undocumented immigrants to come out of the shadows, reducing risks of workplace exploitation.
- + Better job matches may result, potentially increasing wages, non-pecuniary benefits, and returns to skills, education, and language ability.
- + Legalization can address some humanitarian and political concerns by allowing access to social services, higher education, and equal protection under the law.
- + Tax revenues may rise as more immigrants, particularly the high-skilled, start paying taxes, and those already paying taxes contribute more as their incomes rise.
- + Legalization may result in increased investment in education and health.

Cons

- Legalization programs may attract more illegal immigration.
- Legalization may have negative consequences for workers who compete with newly regularized immigrants, through increased competition for jobs and lower wages.
- Firms may see a reduction in the responsiveness of the available workforce following legalization.
- Government budgets may be negatively affected through increased spending on social services, especially if newly legalized immigrants are relatively poor.
- Issues of fairness make legalization a contentious tool for dealing with undocumented immigrants.



AUTHOR'S MAIN MESSAGE

Legalization allows undocumented immigrants greater mobility, access to health and social services, and equal protection under the law. It can increase tax revenues, as more immigrants pay taxes or pay more taxes when incomes rise. Comprehensive legislation can bring undocumented immigrants into the mainstream and deter new unauthorized immigration. Legalization should be phased in, beginning with temporary work and residence rights and moving to permanent residency for workers who meet requirements. Such balanced programs can boost net benefits to the receiving country while reducing security concerns.

MOTIVATION

Understanding what prompts people to migrate in an undocumented status and how they perform after legalization is vital for designing effective immigration policy. Countries are motivated to legalize migrants when they have a large stock of unauthorized immigrants within their borders. Policy options to address and reduce the level of illegal immigration range from stepping up border enforcement and deportation to granting temporary access or providing a path to citizenship. Proponents of legalization believe that it can help migrants who are “living in the shadows,” boost tax revenues, regulate the shadow economy, prevent worker exploitation, reduce crime, and support national security. Furthermore, legalization is a humanitarian action that can keep families together and improve access to social services.

Much of the political debate in the US and Europe has focused on how to address the large stocks and persistent flows of undocumented immigrants. Legalization is often contentious as many people believe that immigrants can hurt the labor market prospects of native-born workers and impose costs on government and society. In addition, opponents feel that legalization encourages additional illegal immigration and rewards law breaking.

Studies use multiple terms for migrants who cross borders without authorization: “illegal”, “undocumented”, “irregular”, and “unauthorized immigrants”; and for adjustment of legal status: “legalization”, “regularization”, “normalization”, and “amnesty”.

Unauthorized immigrants

People who entered a country without permission—either by crossing the border surreptitiously or by using false documents—or people who entered legally but then “fell out of status” by overstaying their visa, or going beyond the scope of their visa. This latter group may include students, temporary workers, tourists, and those ultimately denied asylum status.

DISCUSSION OF PROS AND CONS

Key trends in unauthorized immigration and legalization programs

Millions of migrants cross borders without authorization each year. The global stock of illegal immigrants has been estimated in the tens of millions. The largest share, approximately 11.3 million, live in the US. There were also an estimated 1.9–3.8 million irregular migrants in the EU as of 2008, with large stocks in Greece, Italy, Spain, and the UK [1].

Legalization efforts in the EU and the US have been wide-ranging and numerous. For example, in the 1970s, Belgium, France, the Netherlands, and the UK used regularization programs to address unauthorized migration that occurred after guest worker programs were terminated [2]. After economic growth prompted irregular migration to Greece, Italy, Portugal, and Spain, legalization programs were introduced in the 1980s and 1990s [3]. Between 1996 and 2011, an estimated five million or more immigrants were regularized in the EU [2].

In recent years, there has been a divide between policies enacted in northern and southern Europe. Programs in the north have been more focused and typically limited to migrants seeking asylum for humanitarian reasons, while programs in the south have been broader. Northern EU member states have been particularly opposed to large-scale regularization

Legalization and regularization of immigrants

Legalization, the term commonly used in the US, confers authorized immigration status on people previously categorized as unauthorized, undocumented, or irregular immigrants. In the US, legal status is typically adjusted to legal permanent resident status, with the potential of eventually becoming US citizens.

Regularization, the term commonly used in Europe, grants either temporary or permanent legal status, through programs or mechanisms, to people previously categorized as unauthorized, undocumented, or irregular immigrants. Programs are one-time measures, while mechanisms are part of a more comprehensive policy. Other terms also used in connection with regularization are normalization, adjustment of status, and toleration.

Source: Kerwin, D., K. Brick, and R. Kilberg. *Unauthorized Immigrants in the United States and Europe: The Use of Legalization/Regularization as a Policy Tool*. Washington, DC: Migration Policy Institute, 2012.

programs, while recent legalization programs in southern European countries such as Greece, Italy, and Spain have been economically focused and accounted for 84% of known applications for regularization in the EU between 1997 and 2007 [4]. Nonetheless, a policy in one country can have a direct impact on others, because the EU allows free movement of labor within its borders. Immigrants who are regularized in one EU country are eligible to move, reside, and work in other EU countries.

The US experienced similar increases in inflows of undocumented economic migrants in the 1980s. In 1986 it passed its most recent comprehensive immigration reform legislation, the Immigration Reform and Control Act (IRCA). The act included two amnesty programs granting almost three million immigrants legal permanent residency and a path to citizenship. One program, a general amnesty program, granted legal permanent residency status to immigrants with long-term ties to the US. The second program was population-specific and directed mostly toward agricultural workers and allowed for shorter stays in the US. Since the 1986 legislation, the US has introduced smaller-scale programs, such as the Nicaraguan Adjustment and Central American Relief Act, in addition to strengthening its borders and interior enforcement. One of the most prominent proposals for legalization at the federal level is the Development, Relief, and Education for Alien Minors Act. Introduced in 2001, it offers to adjust the legal status of approximately 2.1 million children who arrived in the US as unauthorized immigrants. While this act is unlikely to pass in the near future, states have granted their own in-state tuition waivers to undocumented youths, and President Obama issued an executive order in 2012 to grant Deferred Action to Childhood Arrivals (DACA). Those granted DACA status are no longer at risk of deportation and have been granted temporary work authorization status. The annual number of deportations of undocumented immigrants has been at or above 400,000 since 2008, according to the US Department of Homeland Security. Nonetheless, the number of undocumented immigrants stands at a near record level, and many people view past immigration policies, especially the 1986 IRCA, as failures.

As countries consider introducing new programs, it is important to review the possible mechanisms through which legalization affects newly legalized immigrants, their labor market competitors, and government budgets.

Economic theory: Framework for analysis of labor markets

Labor supply and demand of newly legalized immigrants

Under certain assumptions, neoclassical economic theory predicts that legalization will improve job matches, increase labor mobility, and result in higher earnings of newly legalized immigrants by allowing them to come out of the shadows. Previously undocumented immigrants would thus have more job opportunities, as evidenced by higher reservation wages (the lowest wage at which someone is willing to take a job) and a stronger incentive to invest in education and language skills.

In a labor-leisure choice model, legalization may have several potential outcomes on wages and employment, depending on skill level and preferences. In one potential outcome, a newly legalized worker who stays employed may earn higher wages after legalization. This outcome could result from increased bargaining power at a current job as employers are faced with meeting legal employment practices. In addition, newly legalized workers may increase their search efforts and move to higher paying jobs and jobs that better reward their skills.

Second, some newly legalized workers may become eligible for government benefits, which could encourage them to stop working or to work less and consume more leisure time, thanks to the higher wages earned on the job. Other legalized workers may search more intensively for a job while receiving social welfare benefits or choose to stay at home to care for their family while a spouse continues to work. Whether the exit from employment is permanent or temporary may be determined by the skill level and household responsibilities of the newly legalized worker [5].

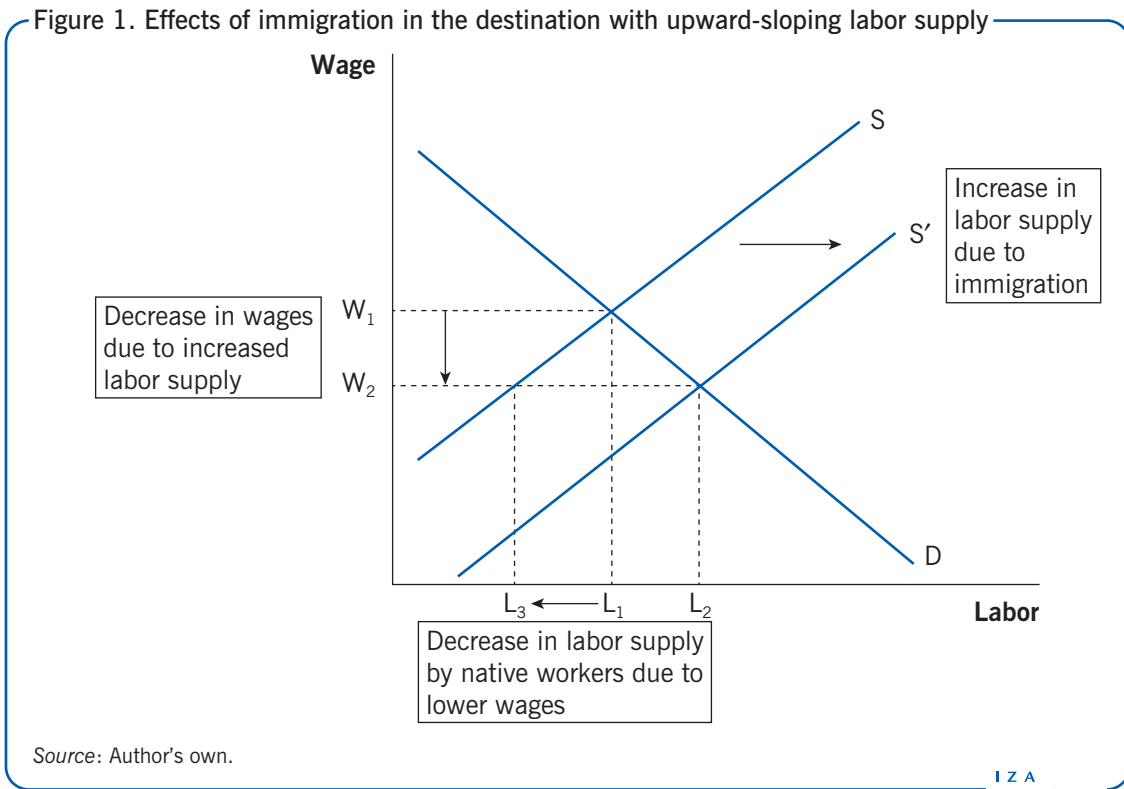
Third, some previously non-working immigrants may join the labor market after being legalized. This is more likely to occur in the case of refugees and of migrants reuniting with family members than in the case of people who had migrated earlier for economic reasons. Taken together, these three potential outcomes suggest that the actual impact on the overall labor supply and wages depends on a complex interplay of forces and on the size of the various transmission mechanisms.

The effect on demand is also uncertain. On the one hand, demand for newly legalized immigrants may fall because firms could incur higher labor costs as a result of the increased bargaining power of workers and more emphasis on compliance with the law. On the other hand, demand could rise if hiring costs fall as a result of lower turnover among now-legal workers and less risk of fines for hiring potentially unauthorized workers.

The impact of legalization on native-born workers and other immigrants

As undocumented immigrants adjust their legal status, they may begin to compete in the labor market with native-born workers or legal immigrants already in the country. The basic neoclassical model predicts that the wages of native-born workers would fall in the education and experience groups in which immigration inflows are concentrated because of an increase in labor supply in these markets. If native-born workers do not move to different locations or occupations, their wages will fall and some of them will be crowded out of the labor market.

Figure 1 depicts the labor market where immigrant and native-born workers are perfect substitutes for each other. Immigration causes the labor supply curve to shift to the right, from S to S' . Wages fall from W_1 to W_2 . Total labor (employment) rises from L_1 to L_2 . The number of immigrant workers rises and is equal to the rightward shift of the labor supply curve, or $L_2 - L_3$.



With an upward-sloping labor supply curve, employment of native-borne workers falls from L_1 to L_3 because only L_3 natives are willing to work at the new, lower wage, W_2 .

The overall change in labor supply could actually be smaller than depicted (or even negative). If native-born workers are mobile and move out of the area where they face competition and if newly legalized immigrants reduce their labor supply, overall employment could fall and wages could rise for competing workers. Thus, the actual impact is an empirical question.

Earning and employment effects for newly legalized immigrants

Earning effects

Studies of legalization of immigrants in the US have consistently found that newly legalized immigrants benefit from higher wages; evidence for the EU is not as definitively positive.

In the US, researchers estimate that the average wage increase after the 1986 IRCA was 6–13% for Latin American immigrants who legalized their status. Larger effects were found among women than men, and among immigrants with more education and better English proficiency [5], [6]. It is possible that these immigrants had more to gain and more bargaining power since they had larger investments in their human capital. A study of another legalization program, the Nicaraguan Adjustment and Central American Relief Act of 1997, found increased earnings of newly legalized male immigrants in the US [7].

In seminal work in this area, researchers examined the impact of the IRCA on a group of legalized male immigrants and a comparison sample of native-born men using data from two surveys, the Legalized Population Survey and the National Longitudinal Survey of Youth–1979 [6]. The study found that following legalization, male immigrants with better English

proficiency and more education had higher wage growth. A follow-up study found gains for female immigrants that were even larger than those for their male counterparts [5]. In line with these results, researchers have found that these gains may have been due to changes in occupations from lower to higher paid jobs.

In Europe, however, the research testing for wage effects is sparse and inconclusive, possibly due to the limited mobility granted under legalization programs and the large role of the informal sector in European economies [3]. A recent study of newly legalized immigrants in Spain finds that a 10% increase in the share of legal immigrants boosts immigrant earnings by 3.3% [8]. In an earlier study of France, results suggested that wages did not change much after the 1998 regularization program, a result the study attributed to the lack of mobility of workers, who most likely stayed in their original job [9].

Employment effects

With respect to the employment effects of legalization, studies have found evidence that labor force participation may fall for some groups after legalization, possibly due to higher reservation wages, better access to social benefits, increased costs for firms, and discrimination. Economic theory is ambiguous regarding the overall impact of legalization on employment. Two studies of the US IRCA found that male immigrants were more likely to move into the pool of unemployed workers as they searched for better jobs while female immigrants left the labor force [5]. The study of the Nicaraguan Adjustment and Central American Relief Act also found that legalized male immigrants experienced a decline in employment rates [7].

Studies of EU countries with large informal sectors have found no reduction in employment in the shadow economy. If anything, evidence suggests an increase in day labor and irregular labor [9]. For example, after the 1996 regularization program in Italy, a third of newly legalized immigrants were no longer employed within a few months [9]. It is possible that these immigrants preferred their informal job or were unable to remain in the formal sector. In addition, employers may have fired previously undocumented workers who were transitioning to legal status because the cost of this legal labor was higher. In Spain, evidence suggests that the 1985 regularization program led to discrimination, involuntary job separations, and continued exploitation by employers [9].

As in the US, it is possible that lack of information about eligible jobs, confusion, and uncertainty over enforcement has limited the employment effects in the EU, especially since European regularization programs tend to be on a smaller scale and the informal sector is much larger in several countries. A recent study finds a large and significant increase in employment resulting from an amnesty for unauthorized immigrants in Italy, but the program required immigrants to be employed in order to qualify for legal status [10].

National Longitudinal Survey of Youth–1979

The National Longitudinal Survey of Youth–1979 is a longitudinal project that follows the lives of a sample of American youth born between 1957 and 1964. The cohort originally included 12,686 respondents aged 14–22 when first interviewed in 1979; after two subsamples were dropped, 9,964 respondents remain in the eligible samples. Data are now available from Round 1 (1979 survey year) to Round 25 (2012 survey year).

Source: <https://www.nlsinfo.org/content/cohorts/nlsy79>

Effects on native-born workers and earlier immigrants

Most empirical work has examined the impact of new immigration on earlier immigrants and native-born workers rather than the impact of newly legalized immigrants on earlier immigrants and native-born workers. While studies reach different conclusions on the effects on native-born workers, there is more agreement on the impact of new immigrants on earlier immigrants. This literature seems the most relevant to providing insights into the impact of the newly legalized immigrants on other labor market participants.

Most studies of the impact of new immigrants on earlier immigrants find adverse wage effects. They suggest that immigrant inflows to the US during 1990–2006 reduced the wages of earlier immigrants by about 6.7% [11]. These results are not surprising since immigrants are likely to enter the same labor market, based on their similar educational experiences, language abilities, occupations, and (diaspora) settlement patterns.

There is also potential for discrimination against legal immigrants who may be mistaken for undocumented immigrants. This confusion was found to be the case in the US when the IRCA amnesty programs were coupled with new sanctions on employers for hiring undocumented workers. The wages of all Latino workers fell an estimated 8%; employment rates also fell [12].

Fiscal impacts

Immigrants who were granted legal status likely become eligible for some social welfare programs, depending on the country's eligibility rules. In such cases, fiscal costs rise. In addition to the costs of programs such as social security, unemployment, and welfare, some countries grant or require access to language and civics classes for immigrants. For example, some regularization programs in Europe include social programs aimed at integrating migrants into society and offer active labor market programs to prepare immigrants for jobs. While costly, such programs could have a positive impact on long-term economic outcomes of immigrants. If other family members migrate to join the newly legalized immigrants, additional costs may be incurred for their education and health care, although in the US education from kindergarten through grade 12 and emergency medical services are provided regardless of immigration status. Administering legalization programs entails additional fiscal outlays.

Some or all of these additional costs may be offset by increased tax revenues. While some undocumented immigrants may already pay income and payroll taxes using fraudulent documents and pay sales or value added taxes at retail establishments, moving workers into the formal job market will boost payroll taxes, especially if wages rise for newly legalized workers. In addition, higher skilled immigrants pay even more in taxes. In the US, groups such as Partnership for a New American Economy support high-skilled visa programs as a way to pay for entitlement programs. On the other hand, tax payments will fall if legalization of immigrants has negative wage impacts on native-born workers or other immigrants.

Consequences beyond the labor market

The debate over legalization also goes beyond labor market and fiscal impacts. Some people believe that regularization will encourage rule breaking and is unfair to immigrants who have applied for legal status through regular, official channels. Others believe that there is no alternative, that mass deportation programs violate human rights and are impractical. Research has also begun to document links between legalization and remittances, consumption decisions, educational investment, and criminal behavior.

LIMITATIONS AND GAPS

It is difficult to measure the impact of legalization on labor market outcomes. There are advantages and disadvantages to legalization programs, and more work needs to be done to understand the net effects. In particular, research on the effects of legalization on other labor market participants is a fertile area requiring further study.

Most studies focus on the US and on the impact of two large-scale amnesty programs that resulted from the 1986 IRCA. Research on EU countries is sparse due to the lack of good data sets with information on immigrants' legal status, employment, and earnings. Most large-scale programs in the EU took place in the recent past, and data are not readily available. Also, counting and tracking undocumented and regularized immigrants is complicated. Many representative surveys do not include questions on legal status, which is a sensitive topic; inclusion may result in unanswered questions and unreliable responses. As a result, researchers often create a proxy variable for legal status based on demographics of the typical unauthorized immigrant [5]. For country-level data, the Migration Policy Institute in the US publishes country profiles, and the Migration Policy Group in Belgium has collected case studies on migration policies in all European countries.

Methodological issues also create limitations. Finding valid comparison groups or regions is difficult, while the assumption that becoming legal is an exogenous event may be too strong for modeling the true nature of the impact of legalization on labor market outcomes.

Many programs are difficult to assess directly because of implementation challenges. For example, lack of publicity and confusion can create delays or low take-up rates among immigrants eligible for legalization programs or mechanisms. Some studies have noted that the requirements for proof of eligibility were too strict. In the UK, very few eligible migrants actually applied for the Overseas Domestic Workers Concession program of 1998, possibly due to lack of publicity and concern for public backlash [13]. On the other hand, some countries were overwhelmed by applications for regularization programs, which caused backlogs.

Fraud and corruption can also plague the process and cloud the picture. Documents can be forged and fake applications may be submitted as some people learn what is needed to game the system. Some programs demanded evidence of work permits, and there have been allegations that public officials were selling these illegally.

SUMMARY AND POLICY ADVICE

Overall, it appears that the results of legalization programs have been more positive in the US than in Europe. It is possible that these observed outcomes are due to the smaller scale of the European regularization programs and the larger size of the informal sector in many European countries. Therefore, more comprehensive and publicized programs could result in bigger impacts going forward.

Currently, immigration reform has stalled in the US, and many US states have introduced anti-immigrant legislation to step up enforcement and encourage self-deportation. In the EU, despite being controversial, large-scale regularization programs were enacted in 2009 in Belgium and Italy. Thus, countries and localities continue to move forward despite the lack of consensus on immigration policy and how to address the stock of undocumented immigrants, especially in light of the recent global recession and the worldwide migrant crises.

The need for legalization programs will remain strong as long as the disparity in global standards of living persists and there are not enough visas for all who wish to migrate.

Policymakers who are seeking to reduce the number of unauthorized immigrants in their country often propose comprehensive legislation that is intended both to bring immigrants who are living in the shadows into the mainstream and to deter further inflows of unauthorized immigrants. Such balanced programs could minimize rule breaking, increase the net benefits to the receiving country, and keep security concerns in check. But achieving this balance is no easy feat.

While strengthening border enforcement may reduce the number of unauthorized immigrants entering a country, it may also have the unintended consequences of reducing return migration, increasing family reunification efforts, intensifying smuggling, and forcing migrants to cross borders at more dangerous and difficult locations. Raising penalties for hiring undocumented immigrants may reduce the demand-side or pull factor of undocumented immigration. However, higher penalties may result in more discrimination against legal immigrants if employers are worried about increased enforcement of immigration violations.

Providing amnesty or legalization to unauthorized immigrants gives them greater mobility and access to health care and other services. To minimize costs to the receiving country, regularization programs can impose waiting periods on eligibility for certain government services. Programs could be phased in so that individuals are initially granted temporary legal status to work and reside in the host country. In a second stage, immigrants who meet specific requirements could then move on to legal permanent residency. After receiving legal status, affected immigrants could be subject to a waiting period before being eligible to receive federal welfare and other benefits (for example, there is a five-year waiting period in the US under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996).

For countries with a heavy reliance on a low-skilled immigrant workforce, one way to achieve the goals of legalization would be to issue temporary work visas to coincide with demand for low-skilled labor services in periods of economic prosperity. To continue to provide a flexible pool of labor, immigrants with a temporary visa could be allowed to change jobs rather than being tied to a particular employer. For immigrants with special skills or long-time ties to a particular employer, a path to permanent residency could be provided as well. Countries should continue to consider legalization reforms, to reap its many benefits for immigrants and society as a whole.

Acknowledgments

The author thanks two anonymous referees and the IZA World of Labor editors for many helpful suggestions on earlier drafts. The author further acknowledges the exceptional research assistance provided by Adham Mousa and Freya Woods, whose assistance with the literature review and editing were invaluable. Previous work of the author, in particular [5], contains a larger number of background references for the material presented here and has been used intensively in all major parts of this article.

Competing interests

The IZA World of Labor project is committed to the *IZA Guiding Principles of Research Integrity*. The author declares to have observed these principles.

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