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Immigrant Legalization in the United States and European Union:
Policy Goals and Program Design

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SUMMARY

Immigrant legalization is a critical and widely used — but highly controversial — tool for managing illegal immigration on both sides of the Atlantic, particularly in a European policy context. Controversy is inevitable because legalization must balance competing goals. The primary purpose of legalization is to reduce the size of a country's unauthorized population, so successful systems must be broadly inclusive. But successful legalizations also must also avoid rewarding bad behavior or undermining the rule of law in order to be seen as fair; and they must be cost effective and achieve a high level of compliance without admitting ineligible immigrants or encouraging future illegal migration.

Lawmakers seeking to design effective legalization regimes may pursue these goals by adjusting four sets of policy parameters which define the scope and shape of legalization: qualifications, requirements, benefits, and system design. These four parameters define who is eligible for legalization, what they must do to be legalized, what benefits legalization confers, and the process for managing legalization.

Fundamentally, policy choices reflect the trade-off between inclusiveness and perceived fairness, as legalization regimes that cover more unauthorized immigrants also engender more controversy. While politics may therefore favor restrictive policy parameters, more inclusive systems are also easier to implement and, in the long run, more cost effective. Policymakers may address these tensions through careful design of legalization programs and mechanisms, including by placing more emphasis on prospective requirements than retrospective qualifications (a basic difference between "earned legalization," currently in vogue in the US policy debate, and "amnesty," which has been more prevalent in European policy circles), and by using provisional visas which initially offer temporary or conditional status but may be converted to permanent status over time.

Virtually every major migrant-receiving state has enacted some form of immigrant legalization in response to climbing rates of illegal immigration since the 1980s, with about 3.5 million Americans and 5 million Europeans gaining legal status through those programs and mechanisms. Yet legalization remains a controversial approach to managing illegal migration.

I.   Introduction

Legalization (or regularization as it is more commonly referred to in European policy circles) is a persistent — and persistently contentious — issue in the contemporary immigration debate. Virtually every major migrant-receiving state has enacted some form of immigrant legalization since the 1980s, whether through program or mechanism, in response to climbing rates of illegal immigration. Yet legalization remains a controversial approach to managing illegal migration with publics and policymakers; and how legalization regimes are designed may have important implications for addressing these concerns.

II.   The Legalization Debate

The primary argument in favor of legalization is that it reduces the size of a country's unauthorized immigrant population at an acceptable cost. Legalization is a pragmatic and efficient alternative to interior enforcement, which requires a costly outlay of resources to identify, detain, and remove individual migrants — often with limited effect. In contrast, a well-designed legalization regime should entice eligible immigrants to identify themselves voluntarily, at much lower cost to the government. And whereas migration enforcement efforts push existing unauthorized immigrants and their employers deeper underground, legalization creates a "clean slate" within existing immigrant communities and facilitates compliance with

future migration enforcement requirements. Indeed, given the complexity of modern immigration systems and the resilience of unauthorized immigrant communities — factors which have resulted in steady growth of the unauthorized immigrant populations in the United States and the European Union since the 1980s despite three decades of increasingly robust enforcement[1] — legalization is an essential and widely used tool for managing illegal migration, and often the only realistic way to reduce the existing stock of unauthorized immigrants.

Legalization programs also offer important economic and social benefits. By moving immigrants from the informal economy to the formal one, legalization may result in wage increases and greater tax payments, giving a boost to the economy and benefiting both native and foreign-born workers. Reducing the informal economy also eliminates unfair advantages for those who hire unauthorized immigrants, and provides a level playing field for all employers. Conversely, tough immigration enforcement measures raise the cost of doing business and reduce employment, especially where unauthorized immigrants fill specialized niches in the labor market, as in most advanced economies.[2]

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Second, legalization enhances security and reduces crime. Unauthorized immigrants undermine security by using fraudulent identity documents, but legalization requires them to register with government agencies and gives law enforcement and intelligence services reliable information about the actual foreign-born population. And even though legalization is administratively complex and requires substantial identification and screening efforts, it allows law enforcement resources to be shifted from garden-variety immigration status enforcement to more pressing public safety and counterterrorism priorities. Legalization also improves relations between immigrants and law enforcement, as migrants are often less fearful of authorities and more likely to report crimes and suspicious activities once they have legal status.

Finally, legalization brings significant benefits to legal immigrant communities, with spillover gains for the health and vibrancy of the broader society. Whereas tough migration enforcement divides families and often leaves citizens and legal residents with family members stuck outside the country, legalization promotes family unity. And the certainty that comes with legal status encourages language acquisition, investment in education and career development, and other activities associated with immigrant integration and social cohesion.

There are, of course, important counterarguments against legalization that have been made during policy debates on both sides of the Atlantic. The first is that legalization would undermine ongoing migration control efforts and encourage illegal immigration in the future. In the short term, ineligible migrants may avoid deportation by fraudulently participating in a legalization regime and taking advantage of the generous due-process mechanisms and legal protections which are needed to encourage registration by eligible unauthorized immigrants.[3] And in the longer term, legalization may create a type of moral hazard problem by encouraging "speculative" illegal immigration in anticipation of a future legalization program.

Second, on a deeper level, legalization strikes

many observers as "unfair" — an important factor driving political opposition to legalization. Unauthorized immigrants who participate in a legalization program are rewarded (with legal status) for their illegal behavior. In a world of scarce visas, legalization favors unauthorized immigrants over others who have "played by the rules" to apply for legal visas; and in an era of belt-tightening, voters also may be reluctant to make unauthorized immigrants eligible for social services.

Taken together, these arguments for and against legalization suggest four standards against which to judge the success of a legalization system:

- *Inclusiveness*: Does the program cover as many existing unauthorized immigrants as possible?
- *Fairness*: Does the program avoid unduly rewarding bad behavior?
- *Cost effectiveness*: Does the program have a positive economic impact?
- *Self-enforcement:* Does the program achieve a high level of compliance without admitting ineligible immigrants or encouraging future illegal migration?

III.   Policy Parameters

Lawmakers considering legalization may answer these questions by adjusting four sets of policy parameters which define the scope and shape of legalization: qualifications, requirements, benefits, and system design. These parameters define who is eligible for legalization, what they must do to be legalized, what benefits legalization confers, and the process for managing legalization.

A.   *Qualifications*

Qualifications are the rules defining who is eligible for legalization, either on an individual basis or as a class. These rules commonly fall into one or more of three categories:

- *Migration history.* Legalization is typically limited to immigrants who arrived before a particular date — a date which must be set no later than the beginning of the legalization process to avoid attracting new unauthorized immigrants. In many cases, legalization is further limited to long-term unauthorized residents, such as in the United States' 1986 legalization (limited to immigrants who arrived before 1982), Germany's legalization programs in 1996 (for those who entered before 1990) and 1999 (for pre-1993 arrivals), and France's 1997-98 Chevenement Laws (for those who established residence before 1988).[4]
- *Employment record.* Legalizations in Austria, France, Greece, Italy, the Netherlands, Portugal, Spain, and the United States have targeted immigrant workers. In the US and Italian cases (the 1986 Special Agricultural Worker program and the 2002 Bossi-Finni Law), legalizations were further targeted to agricultural and domestic workers, respectively.[5]
- *Humanitarian basis.* Many European legalizations, including in Austria, Belgium, Denmark, France, Germany, the Netherlands, Sweden, and the United Kingdom, have focused on war refugees (especially refugees from the former Yugoslavia), asylum seekers, and other unauthorized immigrants with humanitarian claims.[6] Applicants may also qualify on the basis of a

family connection or "substantial ties to the community," including in Belgium, France, Spain, and the United States. The United States also offers "Temporary Protected Status" to unauthorized immigrants from nationalities ineligible for political asylum, but for whom conditions in the country of origin make repatriation dangerous, often following a natural disaster. And legislation recently proposed in the United States would offer legalization to unauthorized immigrants who entered as children and completed high school (or received an equivalent diploma) in the United States.[7]

Along with these grounds for inclusion, lawmakers often specify various grounds for exclusion, such as a record of criminal behavior, appearance on security watch-lists, or certain types of previous migration violations.

In general, more restrictive qualification requirements address concerns about fairness. Unauthorized immigrants with longer-standing ties to the community are generally recognized as having more legitimate claims to legalization.[8] Humanitarian claims further strengthen the normative claim to legalization, as do connections to the community in the form of employment or family relations.

More restrictive time-, employment-, and family-based criteria also enhance the economic benefits of legalization, because immigrants with longer and deeper connections have higher incomes and greater ability to successfully integrate into host societies, increasing the state's return on its legalization investment. These immigrants are also less likely to leave on their own, making their deportation more likely to require expensive enforcement proceedings. On the other hand, the exclusion of any class of unauthorized aliens, by definition, restricts the scope of legalization and works against the goal of inclusiveness. In the US case, for example, a legalization limited to immigrants who arrived at least five years ago — the same standard provided by the 1986 US legalization — would exclude about one-quarter of the estimated 11 million unauthorized immigrants now resident in the United States. And a legalization limited to immigrants who had been employed the previous year would exclude about one-fifth of existing unauthorized immigrants, including almost half of unauthorized women in the United States, many of whom are out of the workforce to care for their families.[9]

A final concern about qualifications is that they are generally *retrospective,* which makes enforcement difficult because many unauthorized immigrants lack a paper trail and are unable to prove their illegal immigration, residence, and employment histories.[10] Even proving humanitarian claims and family relationships requires identity documents that may not be available. Conversely, because proof of these qualifications typically relies on documents, these rules also are vulnerable to fraud, as ineligible immigrants may use fake documents to claim a benefit.[11] In general, the longer the historical period covered by a qualification, the less reliable the system will be at distinguishing between eligible and ineligible immigrants and the greater the administrative costs of enforcement.

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B.   Requirements

A second set of policy parameters concerns additional requirements imposed on immigrants during the legalization process. These may include paying fines, fees, and back taxes; passing a language proficiency test or other assessment of immigrant integration; and making an additional contribution to the community, including by remaining employed for a sustained period of time. Some recent US proposals also would require legalizing immigrants to exit the country and reenter as part of the legalization process and/or to be processed through the criminal justice system, though none of these proposals have been enacted.[12]

While the qualifications discussed in the previous section are primarily *retrospective*, these requirements are primarily *prospective*, defining additional criteria immigrants must meet at the point of legalization or during the legalization process. In general, systems that combine retrospective qualifications and prospective requirements can be described as "earned legalization" — a process in which eligible unauthorized immigrants must earn legal status by fulfilling various criteria.

Tough prospective requirements impose a burden on beneficiaries and are designed to address the concern that legalization unfairly rewards unauthorized immigrants. The more burdensome these requirements, the less an earned legalization program resembles an "amnesty," a term which is politically toxic in some countries.

Well-designed prospective requirements also may make legalization more cost effective. Legalization fines and fees generate revenue, which may be used to fund the administrative tasks associated with legalization, as well as to pay for services for legalizing immigrants, including social services and language classes. Requirements that immigrants work and learn the host-state language are also cost effective because they increase the likelihood that immigrants will become successfully integrated, increasing the future gains from legalization.

Yet as with restrictive qualification rules, overly burdensome requirements will result in less inclusive outcomes, undermining the direct benefits of legalization, raising enforcement costs, and reducing economic gains. Over one-third of immigrants who received temporary legal status in Greece's 1998 legalization and a majority of those in Italy's legalizations between 1986-1994, for example, were unable to renew their status or apply for permanent status, in part because of challenges meeting and documenting prospective work requirements.[13] In the US case, recent proposals that would require immigrants to speak English as a condition of legalization could exclude between one-third and half of otherwise eligible immigrants.[14]

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As these cases illustrate, prospective requirements are characterized by a degree of uncertainty: how far will immigrants be willing and able to go to meet tough requirements in an earned legalization program? Policymakers cannot know in advance what costs people will bear (in the form of fines, language acquisition, etc.) to earn legalization — questions which depend in part on immigrants' subjective assessment of the benefits of legalization and the threat of

enforcement.

On the other hand, while the enforcement of retrospective qualifications is prone to errors of inclusion (fraud) and exclusion (eligible immigrants who lack documents) as discussed above, the prospective requirements discussed in this section are generally easier to observe, making enforcement more reliable. Applicants either make required payments and pass mandatory tests, for example, or they do not. Prospective requirements also are more broadly self-enforcing because once unauthorized immigrants sign up to participate in a legalization, they have strong incentives to comply with requirements to remain in legal status. And while retrospective identification is problematic, as discussed above, prospective identification is more secure because governments can take advantage of biometric technology to tie each legalizing immigrant to a single identity going forward, and thereby establish reliable, fraud-resistant mechanisms to monitor compliance with prospective work and residency requirements.

C.   Benefits

The core question with respect to legalization benefits concerns the type of visa conferred, with policies falling into four categories: strictly temporary status, temporary status with the possibility of renewal, temporary status with the possibility of adjustment to permanent status (so-called "provisional visas"), and permanent status.[15]

Temporary visas generate less opposition from those who favor reduced immigration; and a legalization program or mechanism that leads to a temporary visa may be viewed as more fair than other alternatives.

Thus, political conditions may permit a broader legalization (i.e., more generous qualifications and requirements) if benefits are limited to temporary visas, while a legalization leading to permanent visas may need to be more limited in scope in order to gain public support and political approval.

Yet temporary visas (whether or not they can be extended) confront three disadvantages compared to permanent visas. In general, temporary visas are economically inefficient because they discourage immigrants from making long-term investments (e.g., as entrepreneurs or homeowners) or from investing in their own education and becoming fully integrated members of host-state societies and economies. Such visas also discourage employers from investing in immigrant workers and may contribute to churn in immigrant labor markets. Permanent or provisional visas are more cost effective for these reasons.[16]

By the same logic, a legalization which only confers temporary visas may be unsuccessful in attracting widespread participation, especially if it is combined with relatively burdensome qualifications and requirements. Permanent visas, or provisional visas with a clear and predictable path to permanent status, create much stronger incentives for unauthorized immigrants to assume the costs and risks associated with participating in a legalization program or applying for a visa.[17]

The other disadvantage of any type of temporary or provisional visa is that some immigrants will move in and out of legal status because their visa expires (in the case of a strictly temporary visa) or because they are unable to renew their visa or to adjust to permanent status. The combination of short-term legalization visas, burdensome procedures for renewing legal status,

ineffective bureaucracies, and poor communication between immigration authorities and immigrant communities has caused a substantial portion of legalized immigrants across southern Europe to fall back into unauthorized status.[18]

D.   Program Design and Implementation

A final set of policy considerations concerns the structure of the legalization process, including the following choices:

- Specialized "one-off" programs vs. permanent legalization mechanisms
- One-stage vs. phased legalization
- Centralized vs. decentralized institutional structure.

1. Specialized "One-Off" Programs vs. Permanent Legalization Mechanisms

Most large-scale legalizations have been the result of discrete, one-off legalization programs which are time-limited and/or target a specific group of unauthorized immigrants. Examples include the 1986 US legalization (2.6 million immigrants), five programs in Greece 1998-2007 (650,000 immigrants), six programs in Italy 1986-2006 (1.6 million immigrants), five programs in Portugal 1992-2004 (300,000 immigrants), and six programs in Spain 1985-2005 (1.1 million immigrants).[19]

Permanent legalization mechanisms, on the other hand, are simply a subset of visas or benefits within the overall immigration

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system for which unauthorized immigrants may be eligible. Permanent mechanisms do not usually impose an application deadline. Twenty-one out of the 27 European Union (EU) countries have used mechanisms in the past, including the United Kingdom, which grants long-term residence to migrants who have been in the country for 14 years and to those with children who have been in the country seven years; and France, which grants long-term residence to students who have been in the country 15 years, families with children who have been in the country three years, and other immigrants who have been in the country ten years.[20] The United States has half a dozen ongoing visa categories for which unauthorized immigrants from particular countries are eligible, and also has ongoing mechanisms to provide permanent visas to immigrants who entered the country before 1982 or 1972.[21]

The main advantage of one-off programs is that they may be highly targeted in their scope and timing. As a result, a well-designed program may be inclusive of intended beneficiaries while excluding other unauthorized immigrants for whom legalization is seen as unfair or not cost effective. Strict time limits may avoid attracting future unauthorized inflows. Specialized bureaucracies charged with implementing one-time programs also may be more accurate in their enforcement of legalization qualifications and requirements than the general immigration bureaucracies which enforce ongoing mechanisms. Yet the same transparency which allows one-off programs to be more targeted also makes them more controversial, especially

when public opinion is divided about the merits of migration and of legalization in particular. Most European countries now reject this approach. Ongoing mechanisms may offer legal status to a substantial number of unauthorized immigrants while attracting far less attention. And while creating a specialized legalization bureaucracy for a one-off program may produce more accurate and inclusive outcomes, creating the needed short-term surge in administrative capacity is expensive and probably less cost effective than relying on career civil servants.

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2. One-Stage vs. Phased Legalization

A second design question concerns whether to grant the full benefits of legalization immediately or to confer legal status in two or more stages. In a one-stage system, immigrants fill out an application and demonstrate to authorities that they are qualified to participate and have fulfilled the requirements for legalization, and they receive their visa in return. In a phased system, immigrants receive their benefits in two (or more) stages: an initial registration stage leads to temporary or conditional status, and immigrants must reapply after a period of time to renew the visa and possibly to qualify for permanent residency. One-stage systems have the advantage of greater simplicity, and may be more cost effective for that reason. Yet a phased system may be better able to accommodate the complex and often competing goals of a legalization program because it can employ different standards and offer different benefits at each stage of the process.

Recent proposals for a legalization program in the United States would be structured in two stages. Unauthorized immigrants who meet the basic qualifications for legalization would be permitted — or required — to register during an initial period and would receive conditional legal status in return. Conditional status would protect the immigrant from deportation and permit work and travel, but would not guarantee a permanent visa. Immigrants would be eligible to adjust to lawful permanent resident (LPR) status, and eventually to apply for US citizenship, only after a waiting period of several years, and their applications for LPR status would be contingent on meeting additional requirements at that time.[22]

Thus, a phased legalization program can accommodate more demanding and more thoughtful legalization requirements, such as a long-term work-requirement or fines and fees spread out over time. Lawmakers may establish relatively generous qualifications and requirements during the initial registration period, maximizing the number of immigrants who would participate in the program, and more stringent requirements during the conditional period and at subsequent stage(s) of the program, including when immigrants apply for permanent status. Thus, even though proposed two-stage systems would require additional rounds of screening,[23] they may result in a more fine-tuned outcome, and so may recoup those economic costs.

3. Centralized vs. Decentralized Institutional Structures

A third design question concerns the institutional structures for managing legalization. In a federal system or any system with robust subnational institutions, state, local, and other government agencies may be assigned a role in the legalization process. And regardless of how government agencies

manage legalization, nongovernmental organizations (NGOs) such as religious organizations, community groups, and immigrant service providers may play an important role in support of a legalization process, either informally or in an official capacity.

The argument for delegation from the central government to subnational actors is that these agents are closer to immigrant communities and may expand the reach of the legalization process. Indeed, subnational governments already play an important role in US immigration enforcement —in some cases as a result of a formal delegation of federal authority and in others over the objections of the federal government.[24] Nongovernmental actors were formally tasked with advertising and helping to administer the US legalization program in 1986.[25] On the other hand, any delegation of authority runs the risk of deviating from its intended direction, and oversight and quality control are problematic.[26]

IV.   Conclusions

Policymakers considering legalization must begin by confronting a basic question about how to define a successful regime: is the primary measure of success the proportion of unauthorized immigrants that is legalized or the extent to which the legalization is viewed as fair and politically painless? The goals of inclusiveness and fairness are fundamentally in tension — especially to the extent that fairness is defined to mean excluding certain unauthorized immigrants. There is no objective answer to the question of how to weight these competing priorities, but lawmakers and others who favor an inclusive regime may build support for legalization by directly confronting the fairness question. Where illegal immigration is the result, at least in part, of dysfunctional

visa rules, there is certainly a rationale that it would be fair to give immigrants a chance to regularize their status. Any form of legalization is especially controversial during an economic downturn, however, and Americans in particular remain deeply divided about immigration reform at the present time.

Questions about cost effectiveness and the degree to which a legalization regime can be successfully implemented may help resolve the tension between inclusiveness and fairness. In general, inclusive legalization rules are easier to implement than exclusive rules because inclusive regimes tend to be self-enforcing. Unauthorized immigrants will want to opt in to a generous program, but will be deterred by (or denied access to) overly restrictive systems. For this reason, inclusive regimes are less expensive to implement and generally promise greater long-term economic gains.

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In the US case, where 5 percent of the entire workforce is unauthorized, millions of immigrants, employers, and lawfully resident families of unauthorized immigrants have a personal stake in legalization. These benefits loom especially large when weighed against the high direct costs of enforcement and the negative impact of tough immigration enforcement on the currently fragile US economy.

Lawmakers may be better able to manage the trade-offs among competing priorities through careful design of a legalization regime — addressing the four policy

parameters identified earlier in this paper: who is eligible for legalization; what criteria are they required to fulfill; what are the benefits of legalization; and how will they be processed? Where it is important for political or other reasons to exclude certain immigrants, exclusions should be designed to boost cost effectiveness by basing qualifications and requirements on immigrants' integration into host-state economic and social/political systems.

Proposals for earned legalization shift the focus from retrospective qualifications to prospective requirements. In general, prospective requirements are a more efficient way to screen immigrants into or out of a legalization system because they are easier to enforce and more reliable than retrospective qualifications, which tend to rely on error- and fraud-prone historical documents. And well-designed regulations may be more effective than strict requirements at increasing the cost effectiveness and perceived fairness of a legalization system. Provisional visas, which initially offer temporary or conditional status but may be converted to a permanent benefit, provide the "best of both worlds" by combining relatively generous qualifications for participation and generous long-term benefits with more burdensome requirements for completing the legalization process, though enforcement of restrictive requirements may also result in a substantial number of immigrants reverting into unauthorized status (or leaving the country).

Endnotes

1   In the US case, the estimated stock of unauthorized immigrants increased from 2.5
    million in 1989 to a high of 12.4 million in 2007 before declining to 11.1 million in 2009; see
    Jeffrey Passel and D'Vera Cohn, *Trends in Unauthorized Immigration: Undocumented Inflow Now
    Trails Legal Inflow* (Washington, DC: Pew Hispanic Center, 2009), http://pewhispanic.org/reports/
    report.php?ReportID=94; Jeffrey Passel and D'Vera Cohn, *US Unauthorized Immigration Flows Are
    Down Sharply Since Mid-Decade,* (Washington, DC: Pew Hispanic Center, 2010), http://pewhispanic.
    org/files/reports/126.pdf. During the same period, annual US spending on immigration enforce-
    ment increased from an estimated $570 million to about $12.5 billion, based on calculations from
    published budget data for the US Immigration and Naturalization Service (INS) and the Department
    of Homeland Security (which absorbed the functions of INS upon its creation in 2003). The Europe-
    an Union (EU) and its Member States have focused increasing attention on external border enforce-
    ment in the past five years, establishing the European Agency for the Management of Operational
    Cooperation at the External Borders (Frontex) in 2005 as an independent agency to coordinate
    Member State cooperation on border security, and the External Border Fund in 2007 to reimburse
    Members States with external borders for their investment in border security. Since its creation
    in 2005, Frontex's budget has increased from 6 million euros to 88 million euros, and the External
    Border Fund's budget for 2007-13 is 1.8 billion euros. These figures do not include national
    spending by EU Member States on border enforcement or other migration-control measures.

2   Business groups which depend on immigrant workers have been especially vocal opponents of
    migration enforcement and are supporters of legalization, for that reason. In the US case, targeted
    immigration enforcement operations against Nebraska meatpackers and Georgia onion growers
    during the 1990s threatened business interests in both states and member of Congress intervened
    to terminate the enforcement initiatives. More recently, national agricultural industry associations
    have lobbied for legislation to legalize unauthorized farmworkers, the Agricultural Job Opportuni-
    ties, Benefits and Security Act (AgJOBS) bill.

3   Any legalization program must include a mechanism for unauthorized immigrants to show that
    they meet residency and other requirements, and must grant some form of protection from depor-
    tation while these claims are considered. Lawmakers can encourage participation by strengthening
    these protections — for example, by not providing application information to enforcement authori-
    ties, and/or by creating a right for the applicant to appeal a rejected application — but doing so also
    makes legalization more vulnerable to fraudulent claims.

4   Here and throughout, information about European legalization regimes derives from Kate E. Brick,
    Regularizations in the European Union: A Contentious Policy Tool (Washington, DC: Migration Policy
    Institute, forthcoming); the REGINE research project, in particular: Martin Baldwin-Edwards and
    Albert Kraler, *Regularisations in Europe. Study on practices in the area of regularisation of illegally
    staying third-country nationals in the Member States of the EU* (Vienna: International Centre for Mi-
    gration Policy Development, 2009), Appendix A: Country Studies and Appendix B: Country Profiles
    of 22 EU Member States and the USA, http://research.icmpd.org/1184.html; Amanda Levinson, *The
    Regularisation of Unauthorized Migrants: Literature Survey and Country Case Studies*, (Oxford: Uni-
    versity of Oxford Centre on Migration, Policy and Society, 2005), www.compas.ox.ac.uk/fileadmin/
    files/pdfs/Non_WP_pdfs/Reports_and_Other_Publications/Regularisation%20Report.pdf.

5   Brick, *Regularizations in the European Union;* Donald M. Kerwin, *More than IRCA: US
    Legalization Programs and the Current Policy Debate* (Washington, DC: Migration Policy Institute,
    2010).

6   Brick, *Regularizations in the European Union.*

7   The Development, Relief, and Education for Alien Minors Act (DREAM Act) was first proposed in
    the United States in 2001, and has been a mainstay in the US legalization debate ever since. The

legislation passed the US House of Representatives in 2010, but fell short in the US Senate in December 2010. Under the proposal, unauthorized immigrants would be eligible for conditional legalization if they entered the United States as children (16 or younger), have been continuously present in the United States for at least five years, and have obtained a high school (secondary) degree or passed a high school equivalency exam. Immigrants would be required to complete additional schooling or serve in the military to receive permanent legal status. See Jeanne Batalova and Margie McHugh, *DREAM vs. Reality: An Analysis of Potential DREAM Act Beneficiaries,* (Washington, DC: Migration Policy Institute, 2010), www.migra-tionpolicy.org/pubs/DREAM-Insight-July2010.pdf.

8   Rainer Bauböck, "Migration and Citizenship: Normative Debates," in Marc R. Rosenblum and Daniel J. Tichenor, eds., *Oxford Handbook on International Migration* (New York: Oxford University Press, forthcoming).

9   Marc R. Rosenblum, Serena Yi-Ying Lin, and Randy Capps, *Earned Legalization: Effects of Proposed Reforms on Unauthorized Men, Women, and Children,* (Washington, DC: Migration Policy Institute, forthcoming). Both estimates are based on data collected in 2008, prior to the full effects of the current economic downturn and reduced illegal inflows during this period. Most unauthorized women who were out of the workforce were married to immigrants who were employed, and so could be included in a program that offered derivative benefits to the families of unauthorized workers.

10   Most employers of unauthorized immigrants refused to cooperate with immigration authorities during France's 1981 legalization program, for example, forcing authorities to rely on third-party documentation of immigrants' work histories as a result; see Levinson, *Regularisation of Unauthorized Migrants,* 45.

11   In the US case, the 1986 Special Agricultural Worker (SAW) program targeted unauthorized immigrants who had performed seasonal agricultural work, but the standard for proving an eligibility claim was based on an affidavit from the immigrant and a former employer, labor contractor, or union official; and many ineligible immigrants were legalized through the SAW program; see Susan Gonzalez Baker, *The Cautious Welcome: The Legalization Programs of the Immigration Reform and Control Act,* (Washington, DC: RAND Corporation and Urban Institute, 1990).

12   The only general legalization program in US history was included in the Immigration Reform and Control Act (IRCA) of 1986, which ultimately permitted about 2.6 million immigrants to regularize their status, though several additional legalization mechanisms have been included in US law since the 1920s; see Kerwin, *More than IRCA.* Proposals for a broad legalization program have been at the center of the US immigration debate since 2005, but the US Congress failed to pass proposed legislation in each of its last three sessions, and the prospects for passing a broad legalization appear limited following the 2010 congressional election.

13   Levinson, *Regularisation of Unauthorized Migrants.* Greece's legalization programs in 1998 and 2001 also struggled with poor government implementation and oversight and ineffective communication with unauthorized immigrant communities.

14   Rosenblum et al., *Earned Legalization.* The 1986 legalization allowed immigrants to satisfy a similar requirement by enrolling in a class, rather than passing a test.

15   Two additional questions about benefits are the extent to which legalizing immigrants are eligible for social services and whether (and when) the families of legalizing immigrants become eligible for legalization. In general, programs with more generous benefits will be more inclusive and easier to enforce, but also more expensive in the short run and more controversial because of concerns about fairness.

16 Demetrios G. Papademetriou, Doris Meissner, Marc R. Rosenblum, and Madeleine Sumption, *Aligning Temporary Immigration Visas with US Labor Market Needs: The Case for a New System of Provisional Visas,* (Washington, DC: Migration Policy Institute, 2009, www.migrationpolicy.org/pubs/Provisional_visas.pdf.

17 Recent legalization proposals debated in the United States in 2006 and 2007 would have created provisional visas in which unauthorized immigrants would have received temporary legal status and been eligible to apply for "green cards" (permanent visas) after a number of years. In the 2006 bill, all immigrants who met the requirements for the legislation's earned legalization program would have received green cards; but in the 2007 bill, immigrants meeting the bill's requirements would have been forced to apply for green cards under revised quotas for family- and employment-based migration.

18 Levinson, *Regularisation of Unauthorized Migrants.*

19 REGINE research project findings cited in Brick, *Regularizations in the European Union*; Kerwin, *More than IRCA.*

20 Brick, *Regularizations in the European Union*; Levinson, *Regularisation of Unauthorized Migrants.*

21 Kerwin, *More than IRCA.*

22 Recent legalization proposals in the United States have followed a two-stage structure along these lines; see Donald M. Kerwin and Laureen Laglagaron, *Structuring and Implementing a Legalization Program: How the United States Can Register its Unauthorized Population as the First Step Toward Legalization* (Washington, DC: Migration Policy Institute), www.migrationpolicy.org/pubs/legalization-registration.pdf.

23 A two-stage screening system would be only slightly more expensive than a one-stage system because there are economies of scale in establishing the screening infrastructure, because some immigrants will leave the country (or drop out of the program) before the second stage, and because some identification and screening practices will not be repeated.

24 Randy Capps, Cristina Rodriguez, Marc R. Rosenblum, and Muzaffar Chisti, *Delegation and Divergence: A Study of 287(g) State and Local Immigration Enforcement* (Washington, DC: Migration Policy Institute, forthcoming, 2011).

25 Kerwin and Laglagaron, *Structuring and Implementing a Legalization Program*.

26 For example, while officially sanctioned NGOs helped expand the reach of the 1986 US legalization, some private agents took advantage of immigrants going through the legalization process, often by falsely claiming to be officially sanctioned agencies.

About the Author

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Dr. Rosenblum is the author of *The Transnational Politics of US Immigration Policy* (University of California, San Diego Center for Comparative Immigration Studies, 2004) and has also published over 30 academic journal articles, book chapters, and policy briefs on immigration, immigration policy, and US-Latin American relations. He is the coeditor (with Daniel Tichenor) of *The Oxford Handbook of International Migration* (Oxford University Press, forthcoming).

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