PF December 2013
Pro Analysis

The current NFL Public Forum resolution, **Resolved: Immigration reform should include a path to citizenship for undocumented immigrants currently living in the United States**, invites debaters to join in on an extremely timely and complex political issue: how should the United States deal with the vast numbers of undocumented immigrants who seek to make America their home?

In this resolution, the pro side is asked to defend that immigration reform legislation should contain a **path to citizenship** (P2C) for existing undocumented immigrants. What exactly does this means?

Put most broadly, a path to citizenship is a legal provision that allows undocumented immigrants who are already living in the United States to remain here as they pursue legal citizenship. This kind of policy is sometimes referred to as "**amnesty**," because it allows existing undocumented immigrants to stay and avoid legal problems. However, be aware that "amnesty" is generally considered to be a politically-loaded, pejorative term that might not capture the nuances of what a P2C actually entails. While amnesty typically conveys that breaking the law would lead to no consequences whatsoever, P2C takes a more balanced approach: not deporting, but placing substantial regulations on undocumented immigrants who want to stay. Evidence discussing amnesty may therefore be applicable to some discussions of a P2C, but not all of them. Do not outright dismiss opponents' evidence containing this term, but do interrogate it to determine whether it's talking about the correct type of provisions.

The best way to define P2C, though, is according to what congress is working on now. Using the same interpretation of what constitutes a P2C ensures you will always be speaking to the most current,

contextual evidence on the topic. That is good practice and will improve the overall quality of your debates.

In June, the Senate passed a comprehensive immigration reform bill that included a P2C. Specifically, this path allows undocumented immigrants already living in the United States to apply for a green card after an initial ten year provisional period, provided that they are employed; speak or are learning English; study American history; can pass a background check; and pay a processing fee, a fine, and back taxes. After three years of lawful resident status, they may then apply to become naturalized American citizens. The House of Representatives has so far failed to act on this legislation, so it is not the law yet. Nevertheless, you should keep this in mind as the current interpretation of "path to citizenship" that most evidence will be referring to.

You can find an excellent introduction to what P2C provisions in current legislation would do here: http://jakemanlaw.com/provisional-legal-status-and-beyond-many-hurdles-in-a-long-path-to-citizenship/

A P2C, of course, functions in contrast to the normal process by which a prospective immigrant would become an American citizen. The most significant difference is that the normal system requires the applicant to receive lawful status prior to entering the country. However, it's good practice to familiarize yourself with all elements of the system you are debating about, so I would encourage you to do some background research on status quo American immigration policy. Check out USCIS.gov for a good place to start.

It is crucial to remember that a P2C is a specific type of approach to immigration reform. You will not win many debates by broadly defending that immigration reform is good without focusing on P2C. Likewise, you should not allow con teams to advance general arguments against immigration. For example, they should not get to leverage arguments like "we don't have enough jobs for Americans already, why should we encourage new people to enter the job market?" That is a reason why

immigration in general is problematic, but it isn't what this debate is about. You can argue that **immigration is inevitable** in the status quo; the only relevant subjects for debate are *how to deal with that immigration*.

Additionally, note that the resolution only asks the pro team to affirm that immigration reform should "*include*" a P2C. You do not have to win that is the *only* method, or even the *absolute best* method. You only have to win that it is more desirable to include it than to leave it out. A P2C could be a part of a broader comprehensive immigration reform effort (which might include increased border security, etc.), but as long as the P2C is in there, you're meeting your burden as the pro team. To borrow a term from our friends in CX, you can essentially "perm" your opponents' arguments—that is, you can argue that it is possible to do other types of immigration reform while also doing P2C, meaning reasons why other reforms are good are *not offense* against your case.

So, winning pro teams on this topic will advance well-developed and impacted arguments about why a P2C is a desirable component of immigration reform. Let's look at some of the ways you might go about it.

First, it will be helpful for you to articulate a reason why status quo methods of legal immigration are insufficient. This will help you hedge back against opponents who claim that immigration policy should focus on enforcement of existing law, and that those who wish to immigrate should simply use existing legal channels. Below is some **evidence** about this point:

> *[Jordan Fabian, political editor, Fusion Media Network, "the 'special' pathway to citizenship isn't so special," http://fusion.net/leadership/story/special-pathway-citizenship-isnt-special-12304, October 14 2013]*
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> Advocates don't have specific figures on hand, but they believe that only a small sliver of the estimated 11 million undocumented immigrants in the country would be eligible under existing

paths to permanent residence. Plus, current immigration laws make it difficult or impossible for immigrants without proper status status to become legal without first leaving the U.S.

"Some of the undocumented would be eligible under existing pathways," said Kamal Essaheb, an immigration attorney at the National Immigration Law Center, which backs a path to citizenship. "But the vast majority wouldn't. Even the ones who are eligible under existing pathways are just going to add to the existing backlog."

In some cases, the backlogs -- or "the line" -- for visa holders to obtain green cards are decades long. Adding more immigrants under existing pathways could create even bigger backlogs.

That would undercut a major objective of the Senate bill, which is to clear those backlogs and make it easier for foreigners to use the legal immigration system to move to the U.S. Even Republicans who oppose the Senate bill -- but back expanded employer-based immigration -- have said that's an important goal.

"We have backlogs in the case of the family system that are up to 20 years long," Essaheb said. "Even in the employment system we have years-long backlogs because there aren't enough green cards to accommodate the demand. So forcing 11 million people to use an already narrow pool of green cards is not a serious attempt to solve the problem."

This card is helpful because it supports the idea that reforms are necessary, and that funneling more people through the current system will not solve the problem. When confronted with the reality of 11 million existing undocumented immigrants who must be dealt with, this sets up a **clear division of ground**: either we implement a P2C, we allow the problems with the status quo to continue, or we deport all 11 million people. If you set up the round this way, you are making it easy on yourself to explain why P2C is the least painful of those three options.

Here is **evidence** that sets up this calculus:

> *[Marshall Fitz, Director of Immigration Policy, Center for American Progress, "The costs of mass deportation,"*
> *http://www.americanprogress.org/issues/immigration/report/2010/03/19/7470/the-costs-of-mass-deportation/, March 19 2010]*
>
> That legislative battle for immigration reform now looms again on the horizon. There are three options for restoring order to our immigration system:
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> - Live with the dysfunctional status quo, pouring billions of dollars into immigration enforcement programs at the worksite, in communities, and on the border without reducing the numbers of undocumented immigrants in the country
> - Double down on this failed enforcement strategy in an attempt to apprehend and remove all current undocumented immigrants
> - Combine a strict enforcement strategy with a program that would require undocumented workers to register, pass background checks, pay their full share of taxes, and earn the privilege of citizenship while creating legal channels for future migration flows

Most con teams will not want to defend that the status quo is good. They will agree that reform is necessary, but disagree that P2C should be a component. That means you can try to paint them into defending that all 11 million individuals currently making their home in the United States should be deported. This would be *extremely* costly—to the tune of $285 billion in direct costs, and $2.6 trillion in ripple effects on the economy over ten years.

Evidence supporting those figures:

[Jana Kasperkevic, staff writer, Business Insider, "Deporting All Of America's Illegal Immigrants Would Cost A Whopping $285 Billion," http://www.businessinsider.com/deporting-all-of-americas-illegal-immigrants-would-cost-a-whopping-285-billion-2012-1, January 30 2012]

However, a 2010 report by Center for American Progress and Rob Paral and Associates took a close look at all the budget appropriations for ICE and broke down the costs per person for each one of the four stages of deportation process: apprehension, detention, legal proceeding and transportation. The whopping cost of deportation per person that they came up with is $23,480.

The report states that ICE and US Customs and Borders Protection budgets have increased by 80% since 2005, amounting to $17.1 billion in FY2010. If US were to undertake a mass deportation campaign its cost over five years would be **$285 billion**, which "would mean new taxes of $922 for every man, woman, and child in our country. $5,100 fewer dollars for the education of every public and private school student from prekindergarten to the 12th grade."

More:

[Marie Diamond, political reporter with poli sci degree from Yale, Center for American Progress, "Bachmann's Plan To Deport 11 Million Undocumented Immigrants Would Cost U.S. Economy $2.6 Trillion," http://thinkprogress.org/justice/2011/11/28/376903/bachmanns-plan-to-deport-11-million-undocumented-immigrants-would-cost-us-economy-26-trillion/, November 28 2011]

Despite the sheer impracticality (and sinister connotations) of somehow identifying, rounding up, and transporting each and every undocumented immigrant to their country of origin, experts say that such a radical move would be utterly calamitous for the U.S. economy. A Center for American Progress analysis estimated that the cost of deporting the undocumented population would total $285 billion over five years.

It costs $23,148 for each person to be apprehended, detained, legally processed, and transported out of the country. A deportation-only policy would amount to $922 in new taxes for "every man, woman, and child in this country" — an exorbitant price tag for the satisfaction of appearing tough on immigrants.

Furthermore, mass deportation would reduce the country's GDP by 1.46 percent, which would amount to **$2.6 trillion** in cumulative losses over 10 years. It would also cripple several essential industries, like agriculture, that depend on immigrant labor — which is why the farmers and business owners Bachmann claims to represent have been vehemently opposed to such a plan.

Further, there is much evidence to suggest that **enforcement-only strategies fail to curtail illegal immigration**. Despite recent increases in border patrol funding, the undocumented immigrant population continues to rise. This suggests that we can continue to throw money at the problem in the form of enforcement, but will not see any improvement. Clearly, that is bad public policy. Here is **evidence** on this point, which concludes by favoring a P2C:

[Marshall Fitz, Director of Immigration Policy, Center for American Progress, "The costs of mass deportation,"
http://www.americanprogress.org/issues/immigration/report/2010/03/19/7470/the-costs-of-mass-deportation/, March 19 2010]

The worst economic downturn since the Great Depression has clearly diminished the number of people attempting to enter the country illegally–the absence of jobs eliminates the predominant incentive to migrate. And yet, even with diminished pressure at the border, the dramatic increases in spending on immigration enforcement have not significantly altered the net number of undocumented immigrants in the country. In fact, the U.S. Department of Homeland Security, or DHS, reports that the undocumented immigrant population as of January 2009 stood at 10.8

million, or 300,000 more than it was in 2005. In other words, the massive outlays in enforcement resources are barely making a dent in the current population.

That leaves the third course, comprehensive immigration reform, as the only rational alternative. The solution to our broken immigration system must combine tough border and workplace enforcement with practical reforms that promote economic growth, protect all workers, and reunite immediate family members. Among other things, that means we must establish a realistic program to require undocumented immigrants to register with the government while creating legal immigration channels that are flexible, serve the national interest, and curtail future illegal immigration.

And, a tremendous number of undocumented immigrants who are deported come right back. This means enforcement alone cannot solve the problem long-term, even when it appears to achieve some measure of success. **Evidence** on this that suggests 56% of deportees illegally reenter the United States:

[Peter A. Schulkin, PhD in economics from Harvard, Center for Immigration Studies, "The Revolving Door," http://cis.org/revolving-door-deportations-of-criminal-illegal-immigrants, November 2012]

Out of the 188,382 criminal aliens deported in 2011, at least 86,699, or 46 percent, had been deported earlier and had illegally returned to the United States. We know this because 86,699 is the number of criminal alien deportations resulting from "reinstatement of final removal orders" ("reinstatement" for short) for 2011.[14] A deportation by reinstatement can be initiated when an alien departed under order of removal and subsequently is found to have illegally reentered the United States. It cannot be ascertained from the available data how many of the 86,699 previously deported criminals committed new crimes other than their illegal return, but unless they were detained shortly after reentering the United States, it is likely that they came to the attention of the immigration authorities as a result of new crimes (committed after their

illegal reentry) for which they were convicted or arraigned. And there may be other previously deported criminals who are not included in the 46 percent because they were not deported by reinstatement. The 46 percent may also be understated due to reclassification of criminal deportees.[15] Thus, existing data indicate that a *minimum* of 46 percent of the 2011 criminal deportees were previously deported and returned to the United States.

Moreover, the total number of deportees who were deported by reinstatement was 130,006 for 2011 and yet only 86,699 of the reinstatements were categorized as criminals.[16] This means that 43,307 of the 2011 deportees had been deported previously and were not categorized as criminals. Since illegal reentry to the United States by a deportee is a felony under federal law (Title 8 U.S.C. 1326), the 43,307 must have been deported again without being charged with the reentry felony because they were not considered "criminal" deportees in the 2011 data. Also, the 43,307 must have been previously deported with no prior criminal record or their earlier crimes were disregarded in arriving at the total of 188,382 criminal deportees for 2011. If the 43,307 "non-criminals" who were deported by reinstatement are counted as criminals, as they would have been if they had been charged and convicted of illegal reentry in federal court, then the number of criminal deportees would jump to 231,689 and the number of criminals who had been previously deported would rise to 130,006, or 56 percent of the total number of criminal deportees.

The above evidence is helpful for you because it offers a good defense against any solvency benefits con teams may try to claim from deportation and enforcement. It's also an independent reason why enforcement alone is bad policy: it doesn't fix anything. They simply come right back. It also incurs a number of significant costs, both the monetary ones we've already discussed, and human costs we'll talk about later on.

You may hear con teams argue that there is a middle ground between P2C and deportation/enforcement, which is essentially just doing nothing. They may argue that the Obama administration has already pledged to not pursue deportation against undocumented immigrants who have not been charged with any otherwise criminal activity. However, this ignores the facts. If you do any research on this point, you will find that, despite such promises, plenty of non-criminal undocumented immigrants continue to be deported every year. You should argue that the immigration

system cannot simply exist in this kind of magical limbo indefinitely. Moreover, failing to deport is de facto P2C.

If you're concerned about this type of argument, there is plenty of evidence out there about why this approach is not realistic. Additionally, all of your reasons why P2C is uniquely good are still offense against this claim.

Now, we have set up a division of ground (pro: P2C, con: status quo or enforcement only) and established some reasons why the current system and enforcement alone are doomed to fail. To really build a great pro case, though, we also need examples of some benefits of P2C.

One argument along these lines is that P2C **benefits the economy**. This has already been touched on above, but it's an important one. You will probably hear this argument a lot, because there is plenty of literature supporting it and it has big, easily quantifiable impacts. Most of you are probably very experienced at discussing why the economy is important. Let's put those skills to work!

There are a number of reasons that P2C might boost the economy. One common reason immigration reform is believed to be beneficial has to do with growing the **labor pool** for tech and science work. However, you should be aware that these are typically actually arguments in favor of increasing the number of highly-skilled visas the U.S. makes available. While this is an interesting element of the immigration reform debate as a whole, it doesn't have much to say about a P2C. That's because highly-skilled visas bring people into the country, whereas P2C deals with people who are already here. Keep this distinction in mind as you navigate all of the complexities of this resolution.

A more directly relevant argument about immigration and the economy is the need for **agricultural laborers**, of whom many are undocumented immigrants. Numerous studies suggest that losing this

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labor pool would severely disrupt a number of important industries, most notably agriculture. Here is **evidence** about that:

> [Marie Diamond, political reporter with poli sci degree from Yale, Center for American Progress, "Bachmann's Plan To Deport 11 Million Undocumented Immigrants Would Cost U.S. Economy $2.6 Trillion," http://thinkprogress.org/justice/2011/11/28/376903/bachmanns-plan-to-deport-11-million-undocumented-immigrants-would-cost-us-economy-26-trillion/, November 28 2011]
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> Furthermore, mass deportation would reduce the country's GDP by 1.46 percent, which would amount to $2.6 trillion in cumulative losses over 10 years. It would also cripple several essential industries, like agriculture, that depend on immigrant labor — which is why the farmers and business owners Bachmann claims to represent have been vehemently opposed to such a plan.
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> Harsh immigration laws in states like Alabama have already resulted in a mass exodus of migrant workers that many farmers say will drive them out of business by next year. Crops are rotting in the field without migrant workers to harvest them.

Check out http://www.ufw.org/pdf/FarmworkersFactSheetImmPolicyCenter.pdf for a useful fact sheet providing statistics about immigration and farm labor. Notably, this report suggests that as much as **75% of seasonal agricultural laborers are undocumented immigrants.** If you're planning to discuss the economy in your case, I highly recommend consulting the fact sheet. Nearly every section of it is bursting with useful evidence. Rather than summarizing the whole thing here, you should go read it yourself!

Moreover, undocumented immigrants do not currently pay income **taxes**, due to their status as undocumented. P2C corrects this, resulting in greater tax revenue for the government, which helps to

correct some of our budget troubles. If you want to make this argument, be sure you include a discussion of *why* increasing tax revenues is good for the economy.

Here is **evidence** on this point:

[Matthew Staver, founder and chairman of Liberty Counsel and chief counsel for the National Hispanic Christian Leadership Conference, "Is there a moral approach to immigration reform?", The Washington Times, http://www.washingtontimes.com/news/2013/nov/24/staver-seeking-a-moral-approach-to-immigration-ref/, November 24 2013]

The American economy benefits greatly from immigrants on all levels — from lower-skilled agriculture work to the high-skilled technology sectors. According to the Congressional Budget Office, the proposed fixes to our immigration laws not only would grow the economy and labor pool, creating new wealth, but also would decrease the federal deficit. Many bipartisan policy studies and think tanks point to immigrants as a vital part to our economy, not only as laborers and workers, but as consumers and taxpayers.

Here is another piece of **evidence:**

[Cesar Vargas and Joseph Mercurio, co-founders of the Staten Island DREAM Coalition, New York Daily News, "Prospects for immigration reform brighten with support from Congressman Michael Grimm," http://www.nydailynews.com/new-york/guest-grimm-reality-immigration-reform-article-1.1527461, November 24 2013]

The fact that immigration is vital to our nation's economy is spelled out in countless studies. For example, a study by the conservative-leaning American Action Network indicates that immigration reform would bring about 15,000 jobs to Staten Island. At a time when our local economy is recovering, these jobs are critical to our borough.

From New Dorp to Silicon Valley, immigrants are starting new businesses. Immigrants file for business incorporation and patents at a much higher rate than their native-born counterparts; the Congressional Budget Office has found that modernizing the immigration system would increase federal revenue by $48 billion while costing only $23 billion in increased public services; 90% of native-born Americans with at least a high-school diploma have seen wage gains as a result of immigration.

As the American Baby Boom generation on Staten Island ages, we will need a younger workforce. Immigration reform brings in a younger demographic that will increase tax revenue and keep Medicare, Medicaid and Social Security running for years to come.

Both of these cards support of immigration reform more generally, not just P2C. However, they certainly advance a number of ideas that can be used to support P2C specifically. They argue that injecting new people into the market is beneficial for a number of reasons (they work jobs, pay taxes, start businesses, etc.). You can extrapolate that P2C is thus good, because keeping these producers here is much better than deporting them. Combine this with earlier analysis about why deportation is bad, and you're in business (pun intended).

But economics are not the only consideration. Another important dimension of the P2C debate concerns itself with the so-called "**human cost**." In other words, how are people hurt by enforcement-only tactics? You can use these types of concerns to argue that P2C is a **moral/ethical obligation**.

One significant ethical concern is the loss of human life. Many people die attempting to cross the border, and the number continues to grow as the United States focuses more and more on enforcement techniques. The below **evidence** is great, because not only does it establish this compelling argument, but it also suggests that a feasible legal option would solve the problem:

[Stuart Anderson, Executive Director of the National Foundation for American Policy and Executive Associate Commissioner for Policy and Planning and Counselor to the Commissioner at the Immigration and Naturalization Service from August 2001 to January 2003, National Foundation for American Policy, "How many more deaths? The moral case for a temporary worker program," March 2013]

Immigrant deaths at the border rose by 27 percent in 2012, according to U.S. Border Patrol data obtained by the National Foundation for American Policy. The 477 immigrant deaths in 2012 represent the second highest recorded total since 1998, eclipsed only by the 492 deaths in 2005.1 Most troubling, the rise in immigrant deaths comes at a time when fewer people are attempting to enter illegally, as measured by the significant drop in apprehensions at the border over the past several years. The evidence suggests an immigrant attempting to cross illegally into the United States today is 8 times more likely to die in the attempt than approximately a decade ago. Over the past 15 years more than 5,500 immigrants have died trying to enter America. This tragic loss of life is a direct result of the absence of legal avenues for foreign nationals to work at jobs in hotel, restaurants, construction and other industries. The current visa categories for agriculture (H-2A) and nonagricultural work (H-2B) are considered cumbersome and are only for seasonal work, not the type of year-round jobs filled by most illegal immigrants in the United States. How many people have to die? That is the question grieving mothers, spouses and children must ask when yet another son, daughter or father dies while entering the United States seeking work. So many people are dying that in Brooks County, Texas, NBC News reports, "The rising number of unclaimed corpses marks a growing crisis for this cash-strapped county."2 We know based on the experience of the Bracero program that if provided a legal option workers would make the rational choice to work legally than attempt a dangerous trek across the desert, often led by unscrupulous guides. Due to the lack of legal temporary visas for lower-skilled jobs, the significant buildup of Border Patrol and border enforcement has pushed those who want to work in America into increasingly remote and dangerous areas. Pointing to a rise in immigrant deaths, the Congressional Research Service (CRS) concluded, "This evidence suggests that border crossings have become more hazardous since the 'Prevention through Deterrence' policy went into effect in 1995, resulting in an increase in illegal migrant deaths along the Southwest border."3 Due to concerns about illegal

immigration, the U.S. Congress and the last three administrations have supported greater enforcement at the border. As a result, the number of Border Patrol agents deployed nationwide has seen a five-fold increase over the two past decades. In FY 1993, there were 4,208 Border Patrol agents, a number that increased to 10,045 by FY 2002, and to 17,499 by FY 2008. At the end of FY 2012, the number of Border Patrol agents stood at 21,394.4 Given that Border Patrol agents go through rigorous language and law enforcement training, it is not easy to retain this level of agents, as they are attractive recruits for other federal, state and local entities.

More **evidence** that concludes in favor of P2C:

[Adriana Maestas, contributing editor, NBCLatino, "Border surge" amendment passes, activists concerned over human impact along border," http://nbclatino.com/2013/06/26/border-surge-amendment-passes-activists-concerned-over-human-impact-along-border/, June 26 2013]

Arizona based border advocacy groups, including No More Deaths, are calling on Congress to step away from the negotiating table to try to find a pathway to citizenship that is not dependent upon further criminalizing of immigrants and additional militarization of the border.

Sarah Launius, a spokeswoman for No More Deaths, said, "Congress is talking about "militarizing" the border, as though that were a good thing. We know exactly what these provisions will do — they will cause more deaths here on the border."

Clearly, eliminating preventable deaths ought to be a concern for any human being. You can explain this purely as a utilitarian concern, or you could spin it out into an argument about morality. Either way, it's a problem that P2C can help correct. Remember, your argument is that 1. P2C is the only realistic alternative to pure enforcement, 2. pure enforcement causes more deaths, 3. Many immigrants who are deported attempt to return to the United States, and 4. A legal alternative would stymie this constant

flow. Do not let the con team argue that P2C won't affect the borders because it only applies to immigrants already here. Again, you should be arguing that there *is no alternative* to P2C that isn't based on deportation and enforcement, and those who are deported tend to try to come back.

That wraps it up for this month. Of course, there are countless other arguments you could make that are not discussed here. You are encouraged to do your own research, pursue your own ideas, and get creative! But this guide will hopefully offer you a solid footing on which to begin.

Now you should be ready to go craft an excellent case and win all of your pro debates! As always, you can email completed cases to **Rachel.Stevens@NCPA.org** for a free case critique. Don't forget to also join the discussion in the comments below, and keep checking back for more Debate Central postings about this month's PF topic. Good luck!