

The Immigration Crisis of Our Making (Pt. 1)

Nicolas Vargas, an immigration attorney and former prosecutor, joins host John Matze to break down the thorny issue of immigration in the United States today – how the system has become broken and overburdened under years of policy failures, how the U.S. incentivizes asylum seeking over visa applications and why the answer to this decades-long problem might just be to open the doors a little wider.

John Matze, Host of *Greater Perspectives*

Hello and welcome to another episode of Greater Perspectives.

This week we have [Nicolas Vargas](#), an immigration attorney with a background in political science. He's an ex-prosecutor in Manhattan and is, himself, a Colombian immigrant who knows the trials and tribulations firsthand of immigration.

Welcome, Nicolas. We're so glad to have you.

Nicolas Vargas, Immigration Attorney

Very happy to be here. Thank you for having me.

John Matze

When we were talking behind the scenes here, you had mentioned that most of what you do now is immigration with regards to employment.

Nicolas Vargas

Yes, mostly employment-based immigration. It's for mostly professionals outside of the U.S. that want to find a lawful way to come here and either start businesses or contribute to the U.S. in some way.

John Matze

I work with people from all over the world and we've had a few that immigrated here. We've gone through the H-1B process and we've gone through the O-1 process.

Maybe you could describe what that [process] looks like for people.

Nicolas Vargas

There are multiple employment based visas.

Some of them have a yearly cap. So even though there might be millions of people applying for them, only a few thousand can get them.

It can be very difficult for many people to find a way to stay here in the U.S – even people that come here, who study and want to find a job here. Many employers are not willing to do employment based applications.

The ones that are run into a lot of issues such as caps and also different costs to be able to do that process

John Matze

Yeah, it is a pretty expensive process. I'd say, at minimum, five thousand dollars if you're looking at bringing somebody in.

With regards to the two major visa types that I've seen, there's H-1B, which is a lottery-based system. If you have a bachelor's degree, you qualify for one lottery. If you have a master's degree, you get to be in two lotteries annually.

Nicolas Vargas

That's right. And if you are able to get an H-1B, you have to renew it after a certain period of time.

But there's a lot more demand than there is availability when it comes to H-1Bs and other employment visas. One of the things that my office does is work with something called the employment-based visa, the [EB-2 national interest waiver](#). It doesn't require an employer to sponsor someone or to sponsor a professional in order for them to come to the U.S.

We work with a lot of people who are frustrated, perhaps because they weren't selected in the H-1B lottery, but they're extremely impressive people that want to come to the U.S. and contribute. They have to find another way to be able to come here legally. But yes, the employment based visa process can be very time consuming. And there's a lot of hoops that applicants have to jump through in order to be able to come and stay lawfully here in the U.S.

John Matze

What was the visa you mentioned?

Nicolas Vargas

It's called the national interest waiver because the U.S. is going to give them a green card if they're able to do something, if they're able to show that what they're going to do in the U.S.

The [specialty] that they have, is it of national interest? It's something that's going to help the U.S.? Because they're coming do something beneficial for the country, the country is going to reward them with a green card.

John Matze

What's the difference between that and like, [a O-1](#), the visa for people who are top engineers in the field or whatever it might be.

Nicolas Vargas

There's different visas— like an [EB-1, an employment-based visa](#) that has higher requirements. It's a lot more selective in terms of who can apply for it. And because it's more selective, there's less of a waiting time for them than there is for other employment-based visas.

Unlike the vast majority of employment visas where you're depending on an employer to sponsor you, [the EB-1 visa] is a self-petition. So you don't have to depend on an employer. You don't have to have a job offer in order to apply for it. That's really what sets it apart from the vast majority of employment based applications.

John Matze

OK, and so that's for highly skilled people who are career or industry leaders.

Nicolas Vargas

It can be industry leaders. It could also be people who want to do some really important work. For example, doctors and dentists that aren't able to practice here in the U.S., but they can still do prevention campaigns, educational campaigns to help people in rural areas have better lifestyles and reduce medical expenses that way.

John Matze

I've always found that these processes are really difficult and very time consuming. Almost disincentivizing if you are a career professional because it's so difficult, and I feel like that's the opposite of the spirit of our country.

Nicolas Vargas

I completely agree with you. The way that the system is today is too complicated, too underfunded, and it's not incentivizing enough people who want to come here and contribute by opening businesses or investing in the country.

We have too many barriers for entry at the moment as far as legal immigration.

John Matze

There's also, I think, a certain amount of luck to it.

Nicolas Vargas

There's a lot of luck involved. The H-1B is a lottery. There's also something called a [diversity lottery](#). It allows people from certain countries to apply.

We have about 11 to 12 million people who apply for the diversity lottery. Only 50,000 of them are able to get it every year. We're talking about much less than 1% of people who are able to obtain it this way.

There's a lot of luck [involved]. It's a lottery. It really shouldn't be that way.

John Matze

My ex-wife was an immigrant and it took years to get the visa and to get the green card and to have her come out here.

If somebody is dating somebody from a foreign country, they need to make a decision – either leave the U.S. to go be with that person, where the other country probably has a much better immigration policy than what we have, or choose to get married in order to bring that person to the United States. That's a huge decision. And the government almost incentivizes that of people who are in international relationships.

Nicolas Vargas

I see it a lot with my work as well with employment-based visa applications.

There's also family-based [visas], but there's also [a huge backlog](#) – millions of family-based petitions that are still waiting to be adjudicated. I think there's about a 200,000 per year cap on family-based petitions with over 8 million waiting.

So even though family-based petitions are another way for people to come to the U.S., it's still severely limited and takes a really long time.

John Matze

It is quite intrusive because you know – somebody from the government is going through all of your pictures, your text messages, your emails, your family visits, to determine whether or not you are in a legitimate relationship.

Nicolas Vargas

I had to do it recently for my wife, who is Colombian. She was here in the U.S. with an H-1B and we did a family sponsor application for her. We had to literally submit hundreds of photos between the two of us throughout the years to show and try to convince this stranger that our relationship was real.

John Matze

It gets increasingly more difficult for people who don't have a really good grasp on the English language as well.

Nicolas Vargas

Yes, exactly. A lot of the forms are fully in English. It's not as accessible as it should be.

Nicolas Vargas

We're also seeing it a lot with international students that come to the U.S.

They do their master's degree here, they do their bachelor's degree here, and they really want to stay here and work. But because the employment-based immigration system can be really difficult for them, they're forced to either go back to their own country or go somewhere else, be it Canada or somewhere in Europe, to be able to pursue [employment].

I've known many people who come here and they do [OPT \[optional practical training\]](#) for one year. After a while, they're not able to find someone to sponsor them. So they have to go back to wherever they're from or find, you know, a different country that gives them a better opportunity than back home.

John Matze

Some countries around the world have what's called a golden visa program, I guess, where if you're wealthy enough, you can buy your way into a country or at least get residency through buying a house or something. Does the U.S. have anything like that?

Nicolas Vargas

There are different investment visas. [There's one that's an E-2](#). Typically you will need between \$50,000 to \$100,000 to be able to apply for that. And then there's another one, [the EB-5](#), that requires closer to \$1 million.

We're seeing this extremely high barrier for investors to come here. They might not have that money, but they could still have really great business ideas that they want to pursue, and they're not able to do that.

John Matze

Well, \$50,000 to \$100,000 for a golden visa or at least some kind of residency permit, that's pretty much in line with the industry standard.

Nicolas Vargas

Yes. The E-2 doesn't grant permanent residency. It just allows people to come here for a certain number of years. It could be four years, depending on the treaty that the U.S. has with them. and they can renew it, but it doesn't actually give them permanent residency.

John Matze

Both sides –left, right, whatever– should agree that we need to create a better system that's actually effective at processing people legally.

Nicolas Vargas

Exactly. It's very important because we're seeing, you know, a lot of issues with certain professions.

For example, pilots. We're having a huge problem with pilots. There's a pilot shortage because a lot of the older pilots are retiring and we don't have enough younger pilots to take over. Making it easier for established pilots from all over the world to come here and lend a hand and work would be extremely beneficial.

There's a lot of other professions that are facing significant shortages, especially in information technology, and finding ways for foreign engineers to come to the U.S. is really important. I don't

think anyone's really going to be against finding a way for highly educated and professional people to come to the U.S. and help us with some of the labor shortages that we have.

John Matze

I absolutely agree on both fronts. My instructor at my pilot school, he has to get 1,500 hours before he can take any kind of professional job at a minimum. And it wouldn't be something like flying on Spirit or anything. It would be something along the lines of flying a private charter or something like that.

To get to 1,500 hours doesn't sound like a lot, but you're paying \$200 to \$1,000 an hour to get those 1,500 hours.

Taking foreigners who have that experience abroad and can apply it here domestically would be really nice.

Nicolas Vargas

I've worked with pilots that through the national interest waiver are able to come here and help train the next generation of pilots.

I worked with a guy, super interesting guy, who created his country's— essentially Top Gun program, like the one that we have here in the U.S. He basically created that in his country and he was able to come here.

He already has his business up and running. He's training younger pilots.

John Matze

If he was the one who created another country's version of Top Gun, I would imagine he can get an O-1 visa or some kind of really highly specialized visa, right?

Nicolas Vargas

Right, exactly. But we've also helped some other pilots that are still impressive, but not necessarily created their country's Top Gun program.

The good thing about legal immigration is that you can see, with time, the people that come here, the results that they're getting. It's really encouraging to see all the great work that they're doing for the country.

And I think that's one of the biggest misconceptions that people have. People think that immigrants are draining the country. They drain resources.

But really, it's the other way around. They're really benefiting the country, giving us a lot of innovation, starting a lot of new businesses. So I see that as a net positive.

John Matze

I'm also thinking, you know, the U.S. has a big problem in that we have trained a lot of people with university careers who have a lot of debt for that university career. They're highly specialized in certain fields. These are more or less office fields that we've told an entire generation to go to college and to do this.

Meanwhile, the trades are extremely high paying – electricians, plumbers, anyone who can do anything with their hands is highly valuable here. And if we're bringing in people from foreign countries who might not have a college education – maybe they do, but if they don't – going right into the trade seems like a good fit. There's a huge market there.

Nicolas Vargas

With everything that's happening nowadays with AI, the trades are really going to be the fields that are going to be most protected from losing their jobs to AI.

John Matze

I didn't mean to imply that all immigrants are somehow in the trades, but I just see a huge gap in the trades. If we can find a way to onboard people who might not have a college education into those, we could alleviate a huge expense and make life better for a lot more Americans.

John Matze

I don't know if you've seen this, but the birth rates are actually going down, but it's the rate of the immigration that's keeping our population up. Otherwise we'd be going down.

Nicolas Vargas

Yeah, and you're seeing it a lot with countries like Japan that traditionally have not allowed much immigration at all. They're facing a big crisis because of that. And one of the ways that they can solve it is by being more pro-immigration.

John Matze

Did you see what President Biden said recently? I think he called Japan xenophobic.

Nicolas Vargas

Historically, they have been an isolationist country. It's a very popular country for young Americans to study the language, whether they're exposed to it via movies or manga or anime or whatever it might be. But generally, it's a country that is very difficult to [migrate to].

There's also this perception that you're never going to be Japanese enough for the locals.

John Matze

I had a friend who was stationed in Japan for a while. He was really romanticizing the whole thing. He loved Japanese cars. He's into anime. So he was expecting to go over there and really love it. And I think he did actually end up having a good time.

But it shocked him the first time he went to a tea house and they had a “No White People” sign. And it was like “Japanese-only.” And he got kicked out of a tea house. He's like, what the heck is this? This is crazy.

They're not really open to foreigners or foreign cultures.

Nicolas Vargas

You see it also in South Korea – I had a friend that lived there for many years. And there are certainly karaoke bars and restaurants that don't allow foreigners inside.

John Matze

Can you imagine the outrage in America if somebody had that sign? Not necessarily for any specific race. I think everyone in America would be in arms. It would be a national story.

Nicolas Vargas

Yeah, that would be crazy. I can't even imagine.

John Matze

I guess the xenophobic comment probably fits, to be honest. But I don't think calling them xenophobic is somehow going to make Japan want to take in more immigrants. I don't see what that's accomplishing.

Nicolas Vargas

No, I don't think so either. But I think eventually they're going to have to realize that they really need to grow their population. And immigration is a great way to do that.

Europe, you know, you're also seeing lower birth rates in Europe – except for in the countries that have a lot of immigrants like France, Germany, Sweden. But overall, across Europe and across Asia, you're seeing lower and lower birth rates.

John Matze

I don't think we should look at Europe as an example of doing immigration properly.

Back when Merkel had started telling the Germans that, “Hey, we should start importing anybody who wants to come here free, open border, come on in,” I remember seeing these infographics where they had these empty job positions. And it was like, you know, we need a person to scoop ice cream. We need a person for this. And it showed these immigrants just fitting into these slots. And I was like, well, that's an interesting infographic.

I just don't think it's going to work out that way. And I think we saw Europe very much unprepared for all the different cultures being introduced so fast.

Nicolas Vargas

Yeah, it's been very difficult for certain countries to deal with. We generally are very fortunate here in the U.S. that a lot of the immigrants that come here do want to assimilate. Whereas in Europe, it's a bit more difficult for them to do so.

But yeah, I think that's one of the biggest differences that we see between immigrants in Europe and immigrants here in the U.S.

John Matze

Immigration to the U.S., I think, is a little bit like...people can come to the U.S., keep their culture, but still adopt American values and American culture. If you go into Europe, you're fighting thousands of years of history and culture that you have to somehow fit in.

And they are very different, too, in that the cultures could be very specific – like saying the proper greeting before you start eating every single time or when you ask somebody in public saying the correct phrase to acknowledge in a friendly way that the person went by and all these little things just adding up. And if you don't do it, you know, you're not welcome there in that society.

Nicolas Vargas

Historically, the U.S. is a country of immigrants from all over the world, from Europe when they first came here and from everywhere. That's why you have so many big ethnic groups. There's the Irish Americans, Italian Americans, German Americans.

It's not like everyone came from one place the way that it is in, say, Holland or Germany or Spain. I think the U.S. is very unique in that way.

And I think it's really important for the U.S. to continue to embrace the fact that it is a country of immigrants.

John Matze

Yeah, it is. There's too many people out there today that are oversimplifying every argument. They're trying to make it a...you accept everybody or the other argument is you accept nobody. Making immigration harder legally is only going to incentivize more illegal immigration.

It seems very clear based on our conversation the first step is fixing legal immigration before you can address anything else. Otherwise it just makes the problem worse.

Nicolas Vargas

Yes, I think it would be a really great start. Increasing the cap, making it easier for people to come here to the U.S. We're definitely going to see a decrease in illegal immigration if we make employment based or family-based immigration much more accessible.