

Lenni B. Benson

*Breaking Bureaucratic Borders: A Necessary Step Toward Immigration Law Reform*

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Abstract by Carl Tugberk

Although the issue of immigration in the United States invokes the idea of the physical borders with Canada and Mexico, there are other existing borders which have the largest impact on potential immigrants. Specifically, Congress has established the general policies governing immigration law and has given agencies the power to enforce this law. Consequently, agencies have created significant process borders which greatly affect the ability of immigrants to enter, live, and work in the United States. Lenni B. Benson examines these procedural borders and the impact they have on immigration law in this country.

Benson argues that procedural borders too frequently dictate who is and who is not allowed to immigrate into the United States. He attributes these obstacles to several sources in the immigration system. First, all immigrants are confronted with multi-year processing delays. These delays are the direct result of the bureaucratic nature of the immigration system in which three separate federal agencies can potentially be involved in adjudicating one individual's petition for immigration. Specifically, the Immigration Naturalization Service, the Department of Labor, and the Department of State can all take part in immigration adjudication. This bureaucracy is further enhanced by subsequent delegations within each of these agencies, which have their own internal rules, receive little congressional guidance, and lack coordination. As a result, the bureaucratic nature of the immigration system creates unclear standards and the potential for redundant or conflicting adjudication. Lastly, Benson suggests that both the substantive and procedural requirements of immigration law are opaque, creating multiple pathways to immigration, which in turn prevents most immigrants from a direct path and causes them further delay. This delay can be so substantial in cases that are age and/or relationship sensitive that it precludes an individual from successful immigration.

Overall, Benson contends that process borders excessively complicate immigration. He suggests that the sources of these borders must be examined and comprehended so that the borders are ultimately eliminated, proposing several reforms to achieve this end.