

U.S. Immigration Policy

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Summary

Immigration policies are the mix of international, national and local rules and programs that aim to facilitate the admission and integration of some foreigners and prevent the entry and stay of others. Making durable immigration policies is difficult because immigration involves trade-offs between competing rights or goods, but immigration debates are often conducted in starkly absolute terms. Positions are characterised as pro-immigration or anti-immigration with little consideration to nuance. Moreover, the debate is marked too often by exaggerated claims that make it hard to win broad public support for any sensible immigration policies.

There has been dissatisfaction with immigration and integration policies and policy making in both Europe and the U.S during recent decades. The concerns about immigration tend to heighten during difficult economic times, with tensions lessening significantly during periods of economic growth. The US and Europe can benefit from a more nuanced exchange that permits full discussion of the trade-offs inherent in immigration as well as the global contexts in which 21st century immigration policies will be made. In particular:

- Changing global contexts - such as increased economic integration, new geopolitical relationships generated by the end of the Cold War, and growing transnationalism (manifested, for example, in dual nationality) - mean the U.S. and European countries face new challenges and must begin to think more creatively about international migration.
- Because immigration and integration involve trade-offs between competing rights or goods, it can be very difficult to make policies that garner broad public support. We would expect policies to differ in countries shaped by immigration, such as the U.S., and countries shaped by emigration, such as many European countries.
- Immigration results from a combination of push, pull and network factors that are dynamic, evolving in a manner that requires flexible policies - fixed policies cannot respond quickly to unanticipated responses of migrants, employers, and intermediaries.
- Fears that immigration will get out of control, and that a failure to integrate newcomers could fragment society, opens the door to demagoguery. Durable policies are more likely to lie in the middle of the spectrum than toward either the 'no borders' or the 'no immigrants' extremes.
- Immigration is more than a purely national issue. Just as trade policies have become more than national, so immigration countries are seeking to cooperate with each other, and with emigration and transit countries, especially to deal effectively with the worst aspects of illegal migration, such as trafficking and smuggling.

Introduction

About 88,000 foreigners arrive in the United States on a typical day. Most are welcomed at airports and borders, and most do not intend to stay in the U.S.— 82,000 non-immigrant foreigners a day come to the U.S. as tourists, business visitors, students and foreign workers. Another 2,200 arrivals are immigrants and refugees, persons that the U.S. has invited to join American society as permanent residents. The other 4,100 are unauthorized or illegal foreigners—some enter legally as tourists and then stay in the U.S., but most enter the U.S. unlawfully by eluding Border Patrol agents or using false documents to get by border inspectors.

The United States is a nation of immigrants. Under the motto '*e pluribus unum*,' from many one, U.S. presidents frequently remind Americans that they share a common experience: they or their forebears left another country to begin anew in the United States. Immigration permits immigrants to better themselves and strengthens the U.S., which is why the U.S. Commission on Immigration Reform spoke for most Americans when it asserted in 1997 that: 'a properly regulated system of legal immigration is in the national interest of the United States (U.S. Commission, 1997).'

Despite the generally rosy view of America as a land of immigrants, the arrival each day of the equivalent of a small city has become a contentious policy reflecting basic ambivalence about current immigration. Often forgetting how contentious immigration was when their ancestors arrived in the U.S., many Americans fear that the US has lost its absorptive capacity.

Immigration often becomes an issue in which the loudest voices often come from the extremes of *no immigrants* and *no borders*. Yet, middle-of-the-road remedies for immigration problems are generally preferable. We argue that a better understanding of the facts promotes fine-tuning rather than radical changes in immigration policy. Towards that aim, this paper outlines specific issues to be considered in six principal areas: legal immigration including permanent and temporary admissions; refugee and asylum policy; unauthorised migration; integration of immigration; the administrative system for managing migration; and relations with source countries of immigration.

Legal Admissions

Immigrants are persons who are entitled to live and work permanently in the U.S. and, after five years, to become naturalised U.S. citizens. The four principal bases or doors for admission are family reunification, skills, diversity and humanitarian interests. During the 1990s, the United States admitted about 800 thousand legal immigrants each year, up from about 600 thousand a year in the 1980s (not counting those legalised under the 1986 amnesty), 450 thousand a year in the 1970s, and 330 thousand a year in the 1960s. As immigration was increasing, the major countries of origin changed, from Europe to Latin America and Asia.

Immigration can be most effectively seen as a series of trade-offs between competing goods. For example, it is often argued that large-scale immigration is necessary to 'save' social security systems in the industrial countries. Immigration can play a role in increasing social security revenues by adding more taxpayers than beneficiaries, but much higher levels of immigration would be needed to make a difference in the demography of the country. Yet, if the composition of the immigrant flow remains unchanged, and many more unskilled immigrants enter, immigration may make it harder for some disadvantaged U.S. workers, including the immigrants already in the U.S., to climb the job ladder. In this case, the competing goods are high levels of benefits for retired persons who are living longer, versus the competing good of restricting immigration to protect especially low-wage workers. Deciding how to weigh the competing goods of benefits for retirees and protecting U.S. workers can be a contentious issue.

Many of those concerned about immigration are more concerned about the composition of the flow than the number of immigrants. Most immigrants are chosen on the basis of family, humanitarian or

other criteria that do not consider labour market factors. During the past twenty years, there have been persistent calls for a shifting of admission numbers from family categories, under which many immigrants with less than a high school education enter, to skills-based ones that attract more highly educated immigrants.

A partial response to the quest for more highly skilled immigrants occurred in 1990 when the quota on immigrants admitted for economic reasons was raised to 140,000 a year, including the family members of immigrants admitted for economic reasons. U.S. employers choose most of the immigrants admitted for explicit economic reasons, a demand-side approach, which results in high rates of employment, since the newcomers have job offers and, generally, a supportive employer who is often in the best position to judge the economic contributions an individual can make. A supply-side approach to selecting economic immigrants, as exemplified by a point system or checklist, may identify would-be migrants with education and other personal characteristics, but these individuals may not have the more difficult to measure capabilities, such as an ability to work in teams, that employers find valuable.

Temporary work categories are increasingly important as the vehicle for admission of foreign workers, particularly professionals, executives and managers. The US issues about 500,000 visas a year to temporary workers and their family members, plus 500,000 or more visas to foreign students and exchange visitors, many of whom work in the US. On the one hand, more foreign professionals reflect global economic trends that reward nimble industries that can draw the best teams from the world's labor market, such as in information technology, as well as the desire of many multinationals to transfer personnel across borders for work and training. On the other hand, companies wanting workers willing to put in long hours at relatively low wages might prefer to hire foreigners whose motivation to work is not just wages and stock options, but also the employer's sponsorship for an immigrant visa.

Temporary workers may help increase business productivity and even generate job growth, but they also make the foreign worker dependent on the local employer, which may depress wages and undermine working conditions for local workers--loss of employment may also mean the threat of deportation. Since the temporary visa is so often a testing period, the foreign professional may put up with any conditions imposed by the employer, fearing loss otherwise of the chance at permanent resident status.

These trade-offs are even more apparent with unskilled foreign workers. In the US, it has proven to be impossible to operate programs for unskilled foreign workers that are free of abuse, in the sending country and in the US. The flexibility permitted by allowing employers facing labour shortages to tap foreign labour markets is useful, but large-scale programs tend to take on a life of their own, and often promote illegal immigration—during the 1942-64 Bracero program with Mexico, some 4.6 million Mexican farm workers were admitted legally, but 5.3 million unauthorized Mexicans were apprehended (both data series double count individuals).

Refugees and Asylees

The United States remains one of the major countries offering permanent resettlement to refugees in third countries as well as asylum to those arriving directly. The number of refugees resettled in the U.S. varies each year, determined annually by the president in consultation with Congress.

There are no limits on the number of persons who may be granted asylum if they meet the criteria. US asylum applicants may apply directly to the INS (called affirmative applications) or during a removal hearing in immigration court when apprehended at a port of entry or in the interior of the U.S. (called defensive applications). In the case of affirmative cases, INS may grant asylum or refer the case to an immigration judge for further adjudication. If the immigration judge rejects the application, the asylum-seeker may appeal to the Board of Immigration Appeals and then to the

federal judiciary. The initial determination is to take no more than six months and, since 1995, the asylum seeker is not eligible for work permits or public assistance. The aim of the reforms was to deter abuse but more expeditiously grant asylum to those with legitimate claims. These changes proved effective; the number of new asylum applications was halved, and approvals doubled.

Many of those denied asylum because they do not have a well-founded fear of persecution nevertheless can not return home. At times, the U.S. has chosen to temporarily suspend deportation or to provide temporary protected status because the return would be destabilising to a country rebuilding after conflict or natural disaster. It has proven to be difficult to manage TPS effectively, and to develop programs to permit migrants to return home when protection is no longer needed, or integrate permanently if return cannot take place within a reasonable timeframe.

Unauthorised Migration

There are an estimated 8-10 million unauthorised migrants in the United States, including 5-6 million who arrived in the 1990s. The U.S. has tried a number of measures to control illegal immigration, but has not yet found an effective formula for reducing unauthorised entry and employment. Two extremes mark the ends of the control spectrum. At the one end are so-called island strategies, in which control efforts are focused on borders and ports of entry, and there is little enforcement inside the country. At the other extreme are the continental strategies that evolved in western Europe, in which border controls are buttressed by internal residence and work permit systems.

External/island controls dominate in the U.S. The INS has requested a budget of \$5.5 billion for FY 2002, which will support 32,000 employees, of whom the majority work in enforcement, including about 10,000 as Border Patrol agents. Most INS enforcement efforts are aimed at deterring illegal entries along the Mexico-U.S. border. Enforcement of sanctions against employers who hire unauthorised workers was reduced significantly during the economic boom of the late 1990s, with almost all interior controls shifted to the removal of criminal aliens from the United States.

The U.S. and Mexico have greatly increased their co-operation to reduce crime in border areas, to discourage the transit through Mexico of non-Mexicans attempting to illegally enter the U.S., and to better understand the dynamics and characteristics of Mexicans in the U.S. The U.S. and Mexico have co-operated on a public affairs campaign that warns of the dangers of attempting illegal entry through the desert. A high-level working group is exploring other areas of possible cooperation to address unauthorised entries, ranging from a temporary work alternative to regularisation of the status of Mexican working illegally in the U.S.

Integrating Immigrants

The U.S. has tended to have explicit policies regarding *immigration* but a laissez-faire attitude regarding *immigrants*. Family, ethnic organisations, religious institutions and other private sector groups have the principal responsibility to help immigrants after arrival. Except for refugees, there are few federal programs that target newly arrived immigrants for assistance, although some programs aimed at particular groups have become, in effect, federal immigrant assistance programs.

Three issues highlight the U.S. debate on immigrant integration: economic integration, English language acquisition, and naturalisation. The labour market is the major economic integration mechanism. Immigrants tend to find jobs without much difficulty, but many of the jobs they find do not pay a 'living wage' or offer health and other benefits. The keys to success in the U.S. labour market are education and English. About 40 percent of recent immigrants did not finish high school, versus 16 percent of the U.S.-born, and are unable to compete for well-paid jobs in the new information economy.

How English is most effectively taught, particularly to children, has become a point of contention in many U.S. communities. Public education for immigrant children has been a particular flashpoint in California. Almost half of the state's budget is devoted to education, and a major point of controversy has been bilingual education programs for limited-English speakers - critics say that, if children are taught math and science in Spanish rather than English, they will not learn English and will be handicapped in the labour market. California's Proposition 227 ended bilingual education in 1998, although studies show that most children of immigrants follow the traditional three-generation process of language adaptation - the third generation speaks only English.

In the mid-1990s, there was an explosion of interest in obtaining U.S. citizenship for many reasons, including a change in Mexican law that permitted dual nationality. The U.S. does not encourage dual nationality, but it does not prevent it either. At present, dual nationality has not become a significant issue in the U.S. national debates on immigration.

Administration, Relations with Source Countries

In the United States, immigration is a federal responsibility, and the major agency is the Immigration and Naturalisation Service, a part of the Justice Department, which has the responsibility for conferring immigration benefits and enforcing laws to prevent illegal immigration.

Many analysts have concluded that the INS's benefits and enforcement missions are in conflict. The INS in 2001 proposed separate benefits and enforcement offices within the same agency. Other proposals would make more radical changes, including establishing an independent, Cabinet-level department with responsibility for all parts of immigration policy (along the lines of the Canadian and Australian models).

The U.S. approach to source countries, as exemplified in NAFTA, emphasises trade, not aid to promote stay-at-home development. The U.S. is not seeking full integration with Mexico or with Caribbean nations under the Caribbean Basin Initiative, only free trade and investment. The underlying assumption is that freer trade and investment will eventually reduce migration pressures, and hence unauthorised migration, although these agreements have not dealt with how to manage migration during the transition period. Several bilateral, regional and hemispheric fora have developed to discuss problems that arise from migration: North and Central American migration officials meet regularly in the Puebla process--the first meeting was held in 1996 in Puebla, Mexico, to facilitate e.g. the return of criminals deported from the U.S.

The EU approach links aid, economic integration and free migration to ensure that there is relatively little migration before a country is accepted for EU membership. The EU typically provides regional aid and requires nationals of newly entered countries with significant emigration pressures to wait seven or more years for full freedom of movement.

Table 1. Alien Entrants to the US: 1996-2000

	1996	1998	1999	2000
Immigrants	915,900	660,477	NA	NA
Immediate relatives of U.S. Citizens	300,430	283,368	NA	NA
Other family-sponsored immigrants	294,174	191,480	NA	NA
Employment-based	117,499	77,517	NA	NA
Refugees and Aslyees	128,565	54,645	NA	NA
Diversity immigrants	58,790	45,499	NA	NA
Other Immigrants	16,442	7,013	NA	NA
<i>Estimated emigration</i>	<i>220,000</i>	<i>220,000</i>	<i>220,000</i>	<i>220,000</i>
Nonimmigrants	24,843,503	30,715,000	31,446,054	33,651,072

Visitors for Pleasure	19,109,944	23,254,000	24,104,371	
Visitors for Business	3,770,326	4,413,000	4,592,540	
Temporary Workers/Trainees	254,427	371,653	525,700	634,788
Foreign Students and Dependents	459,388	564,683	603,787	676,283
Illegal Immigration				
Alien apprehensions	1,649,986	1,679,439	1,714,035	1,814,729
Aliens deported	69,588	172,547	180,346	184,775
Alien smugglers located	13,458	13,908	15,755	14,406
Unauthorized foreigners (October 1996)	5,000,000			8,500,000
Annual Increase (1992-96)	275,000			