



Revue européenne des migrations internationales

vol. 32 - n°3 et 4 | 2016

30ème anniversaire. Renouveler la question migratoire

American Immigration Politics: An Unending Controversy

Les politiques américaines de l'immigration : une controverse sans fin

Políticas de inmigración estadounidenses: una controversia sin fin

James F. Hollifield



Electronic version

URL: <http://journals.openedition.org/remi/8349>

DOI: 10.4000/remi.8349

ISSN: 1777-5418

Publisher

Université de Poitiers

Printed version

Date of publication: 1 December 2016

Number of pages: 271-296

ISBN: 979-10-90426-29-0

ISSN: 0765-0752

Electronic reference

James F. Hollifield, "American Immigration Politics: An Unending Controversy", *Revue européenne des migrations internationales* [Online], vol. 32 - n°3 et 4 | 2016, Online since 01 December 2018, connection on 18 March 2021. URL: <http://journals.openedition.org/remi/8349> ; DOI: <https://doi.org/10.4000/remi.8349>

© Université de Poitiers

American Immigration Politics: An Unending Controversy

James F. Hollifield¹

Introduction

Recent debates about immigration policy in the United States can be framed by three events. The first is the passage of Proposition 187 by California voters in November, 1994. Known as the “Save our State” or “SOS initiative”, Proposition 187 was intended to prevent illegal immigrants in California from gaining access to social services, ranging from basic health care to primary and secondary education. The measure required local officials to cooperate with federal authorities in the enforcement of immigration law, from the cop on the beat to the teacher in the classroom. State employees were supposed to report anyone suspected of being an illegal immigrant to federal authorities. The measure passed handily by a two to one margin, garnering most support in rural and suburban areas, and among less educated white voters. However, Proposition 187 was never implemented because most of its provisions were deemed unconstitutional. In “League of United Latin American Citizens (Lulac) v. Wilson” (1995) a US District Court judge ruled that Proposition 187 violated the long established “plenary power” doctrine whereby the federal government has sole authority in making and enforcing immigration policy. Proponents of the measure argued that by failing to control the border with Mexico the federal government had abdicated its responsibility and that power should devolve to the states.

The second event is the terrorist attack of September 11, 2001 (9-11) which changed the terms of the debate about immigration, shifting it from an almost exclusive focus on the economic and social effects of immigration to a concern over security and protecting the homeland from another terrorist attack. Even greater emphasis was placed on border control and advocates for a more restrictive immigration policy were given new ammunition with which to make their case, and the entire immigration control bureaucracy in the U.S. was reorganized and given a new mission – to make sure that terrorists would never again be able to slip into the country undetected. In 2001, with the election of two border-state governors as President of the U.S. (George W. Bush from Texas) and

¹ Professor of Political Science, Ora Nixon Arnold Chair in International Political Economy; Director of Tower Center, SMU, Dallas, Texas USA; Public Policy Fellow, Woodrow Wilson International Center, Washington, DC; james.hollifield@wilsoncenter.org

President of Mexico (Vicente Fox from Guanajuato), there were high hopes that an agreement could be reached between the two countries for sweeping immigration reform. But these hopes were dashed by the 9-11 attacks, and immigration reform lost critical momentum. Still the US Congress tried unsuccessfully to tackle the immigration issue at the beginning of George W. Bush's second term.

Hence the third event, which helps to frame contemporary debates over US immigration policy, was the passage by the US House of Representatives in December, 2005 of the "Border Protection, Anti-terrorism, and Illegal Immigration Control Act" (HR 4437), also known as the Sensenbrenner Bill, after its primary sponsor, Representative James Sensenbrenner, Republican of Wisconsin. The bill contained a number of controversial provisions, such as the construction of a new wall along the US-Mexico border to deter illegal crossings, and it would have made illegal immigration and aiding or assisting illegal immigrants a felony, punishable by stiff fines and imprisonment. Like Proposition 187, the Sensenbrenner bill was designed to deter illegal immigration. Even though the bill easily passed the House with a vote (239 to 182) largely along party lines (92% of Republicans in favor and 82% of Democrats opposed) it failed to become law, because the US Senate in 2006 opted for a different, more comprehensive approach to immigration reform that included measures for a guest worker program and legalization of the large population of illegal immigrants, estimated at 10 to 12 million. In the end Congress failed to pass immigration reform during the presidency of George W. Bush – partly because the terrorist attacks of September 11, 2001 pushed immigration reform off the agenda for several years – but the immigration genie was out of the bottle.

As is often the case in immigration politics, the reform was initiated by the President, who early in 2005 proposed a comprehensive reform, only to see the issue become highly politicized once Congress took it up. The Sensenbrenner bill provoked the largest protests in the United States since the civil rights movement of the 1960's. Millions took to the streets in cities across the country, marching to the rallying cry of "*¡Hoy marchamos, mañana votamos!*" ("Today we march, tomorrow we vote!"). Cardinal Roger Mahony of Los Angeles led some of the protests and called for civil disobedience, arguing that if the Sensenbrenner Bill became law it would make the most basic provision of charitable and religious assistance to illegal immigrants a crime. Asked if he would obey the law, he said that he would answer to a "higher authority".

The "Illegal Immigration Reform and Immigrant Responsibility Act" (IIRIRA) was the last major reform of federal immigration policy. It was passed by a Republican-controlled Congress in 1996 in part as a response to Proposition 187 and the popular backlash against rising levels of (illegal) immigration. IIRIRA was signed reluctantly by Democratic President Bill Clinton, who vowed to roll back the more severe limitations that the bill imposed on the rights of legal and illegal immigrants. With the number of illegal immigrants soaring in the first decade of the twentieth century and in the absence of federal action, literally thousands of state and local bills were proposed with hundreds becoming law. Some of these measures involved Section 287g of the IIRIRA, which authorized local law enforcement agencies to enter into agreements with federal authorities to arrest and detain illegal immigrants. Other laws involved state and local enforcement of sanctions against employers who hire illegal immigrants, penalties for landlords

renting to illegals, as well as laws designed to exclude illegals from receiving in-state tuition benefits at state-run colleges and universities, and from getting drivers licenses. In 2009 the Development Relief and Education for Minors (DREAM) Act was introduced in Congress to allow some illegal immigrant students, who were brought to the country as children but graduated from high school in good standing, to gain temporary residency and ultimately a green card, with the proviso that they attend college or serve in the military. Through executive action in 2012 President Obama moved to protect illegal immigrants who were brought to the United States as children (before their 16th birthday), an estimated 1.7 million people, who would be protected from deportation and granted two-year work permits – the so-called Deferred Action for Childhood Arrivals or DACA program. And in 2014 Obama announced another executive plan to protect from deportation illegal immigrants who have US-born children, dubbed Deferred Action for Parents of Americans or DAPA. Both actions were subsequently blocked by federal courts following a suit filed by the Governor of Texas and twenty five other Republican governors against the Obama administration, and the case (“United States v. Texas”) is currently pending before the US Supreme Court. As these recent developments in American politics illustrate, immigration is an issue that sharply divides the American electorate, and it is an unending controversy in US politics and society (Tichenor, 2002; Zolberg, 2006).

Yet despite the controversy and the soaring anti-immigration rhetoric in the 2016 presidential elections, and unlike in other western democracies where immigration has transformed the political landscape (Norris, 2005), immigration has yet to emerge as a “wedge issue” in American national politics. How can we explain this disjuncture between large segments of the American public – which, according to opinion polls taken from 1965 to the present, wants illegal immigration stopped, illegals removed, and lower levels of legal immigration (Fetzer, 2000) – and national election outcomes which have stymied major immigration policy reforms? To address this question we need to put contemporary immigration debates into historical perspective, to look more carefully at how immigration has shaped and reshaped American politics and society in recent decades, and how immigrants and their offspring have become actors on the political stage, thus changing the nature of the electorate and the terms of debate. What we shall see is that public attitudes towards immigration, ethnicity, and race are constantly evolving and that they are more nuanced than a cursory reading of the headlines (and opinion polls) might lead us to believe.

The Historical Context: *E Pluribus Unum*

In 2004 one of the most respected political scientists of his generation, Samuel P. Huntington of the “clash of civilizations” fame, published what would be his final major work, a book entitled “Who Are We? The Challenges to America’s National Identity”. In this book Huntington argued that American national identity, and by extension US national interests, are threatened by a growing wave of Hispanic immigration, and that Mexican immigrants in particular are engaged in “*la Reconquista*” or a re-taking of territory lost during the Mexican-American War not through military conquest but through a peaceful “invasion”, the result of which has been to undermine Anglo-Protestant (Puritan) values of hard work, loyalty to the “founding principles” of the US Constitution,

and rule of law. Huntington decries the wave of illegal immigration of impoverished and poorly educated Mexicans and Central Americans, the rise of dual citizenship, bilingualism, and what he sees as the loss of a clear national identity and purpose – all the result of too much immigration. He begins the book by outlining three waves of immigration in US history, first in the mid-19th century with the Irish and Germans and continuing through the late 20th and early 21st centuries with Hispanics and Asians. He omits the first wave of immigration from the British Isles in the 17th and 18th centuries, because he views this wave as a period of settlement and founding during which the new American nation was created with a fundamentally Anglo-Puritan outlook.

Huntington's argument underscores the enduring controversy over immigration as a force shaping and reshaping American society (Higham, 1955; King, 2005). His critics accuse him of being a latter day nativist and "know nothing"² echoing the controversy in earlier periods of American history when immigration was seen as a threat to basic "American" values (Tichenor, 2002; King, 2000). In the 18th century, for example, Benjamin Franklin was very concerned about German immigration in Pennsylvania, because he thought that the largely illiterate German peasants who were coming from a semi-feudal society had little understanding of what it was like to live in a Republic based on rule of law and individual liberty. Later in his political career Franklin changed his views on German immigration, as German-Americans became an increasingly important part of the electorate in Pennsylvania; and less than two centuries later a descendant of those German immigrants, Dwight Eisenhower, was elected President of the United States. It is important to keep in mind that immigration from the colonial period through the Civil War and Reconstruction (roughly the first hundred years of US history) was controlled by the individual states, to the extent that it was regulated at all (Zolberg, 2006). Immigration was largely driven by the demand for labor to fuel the fires of industrialization – as in later periods private employers were instrumental in recruiting immigrants – by westward expansion, and by a seemingly unlimited supply of labor displaced by the industrial revolution and the concomitant rural exodus in Western Europe.

In *The American Kaleidoscope: Race, Ethnicity, and the Civic Culture* (1990) the historian Fuchs argues that three ideas have dominated the American approach to immigration and citizenship. They are the Massachusetts and Virginia models, dating from the early colonial period, and the Pennsylvania model, which took shape in the early years of the Republic. He admits that these are "ideal types"; but he contends that traces of each model can still be found in contemporary debates. The "Massachusetts model" most closely conforms to Huntington's ideal of Anglo-Puritanism (what might be called a White Anglo-Saxon Protestant or WASP view of American national identity). In this view immigrants are to be welcomed if they are willing to assimilate, learn English, and adopt the dominant religion and culture. In colonial Massachusetts that meant conformity to ascetic Puritan ideals, and in the contemporary debates Huntington clearly wants to

²The so-called "Know Nothings" were part of a secret political movement in the 1840's and 1850's who were opposed to the largely Catholic German and Irish immigration of the second wave. When asked about membership in the organization, members were instructed to say "I know nothing". The movement had some successes in state and local politics but eventually fell apart largely because of divisions between its members over the issue of slavery.

make respect for Anglo-Puritan values the basis for selecting and naturalizing immigrants. The “Virginia model” revolves around the demand for labor. In the early colonial period (17th and 18th centuries) the Virginia and Carolina planters needed stoop labor to pick tobacco and cotton. They acquired this labor initially through coercion — the forced labor of Native Americans and the enslavement of Africans brought to the New World in bondage. Since both groups were considered to be sub-human, no thought was given to their naturalization and assimilation. Indeed many Europeans were brought to work on the plantations and in shops and factories as indentured servants with limited rights. We hear echoes of the Virginia model in contemporary debates about guest worker programs whereby foreigners are brought as bonded workers on a temporary basis with no right to settle or naturalize.

Finally, the “Pennsylvania model,” which Fuchs sees prevailing in the Congressional Act of 1790 establishing a uniform rule of naturalization, calls for equal treatment of newcomers, welcoming them to settle, live, and worship as they see fit so long as they respect the law and the basic values of the Republic. It should be noted, however, that the same act limited naturalization to “free ‘white’ persons of good moral character,” thus enshrining race (and to some extent class as it excluded indentured servants) into US immigration law (Fitzgerald and Cook-Martin, 2014). Still the first President of the Republic, George Washington, reflected an expansive ideal of citizenship when he said, “the bosom of America is open to receive not only the Opulent and respectable Stranger, but the oppressed and persecuted of all Nations and Religions; whom we shall welcome to a participation of all our rights and privileges.” The Pennsylvania model was reinforced and after the Civil War with the ratification in 1868 of the Fourteenth Amendment to the Constitution, which extended citizenship to “all persons born or naturalized in the United States”³. The Amendment was intended primarily to overturn the *Dred Scott* decision of the Supreme Court (1857) and to grant citizenship to former slaves, but in so doing it codified birthright citizenship with far-reaching implications for immigration policy (Kettner, 1978). Barely two decades after the end of the Civil War, the Statue of Liberty — a gift from one fledgling Republic, France, to another, the United States — was erected in New York harbor (1886); and it would become the most visible symbol of an open and tolerant America, welcoming immigrants from the four corners of the globe. Inside the pedestal of the statue is inscribed the most famous immigration sonnet in American history, *The New Colossus*, by Emma Lazarus, which reads in part

“Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!”

All three “models” have been present historically in debates over immigration and citizenship, which have followed the unofficial national motto, e

³ Section 1 of the Amendment states that “all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”

pluribus unum (out of many, one). At times Americans, like Samuel Huntington, have been more concerned about the “*unum*” and the need to maintain a clear national identity and purpose; at other times Americans have hewed to the Pennsylvania model, showing a greater willingness to accept immigrants and celebrate diversity, the “*pluribus*.” As mentioned above, we can identify four waves of immigration in US history: the first from the British Isles before 1820 was made up largely of the English and Scots who came for a variety of religious, political (many of the early English settlers were dissenters), and economic (the promise of land and a new start) reasons. The second wave beginning around 1840 and running through the Great Depression of the 1870’s was more economic in nature (the Irish were fleeing starvation and deprivation during the potato famine) while other northern and west European groups like the Germans and Scandinavians were mostly farmers and artisans, attracted by land in the vast expanse of the Great Plains. Because many of the newcomers were Roman Catholic, the second wave provoked an anti-Catholic backlash, which found its greatest expression in the “know nothing” movement of the mid-19th century (Higham, 1955). The third wave started in 1880 and continued to 1914, when the Great War brought an end to the transatlantic migrations. This wave proved even more controversial than previous waves, because it was ethnically diverse (King, 2000). Male Chinese laborers were brought into the west to build the transcontinental railroad and to work in the mines; southern and eastern Europeans flooded into eastern cities, and into the mid- and southwest, increasing the Catholic and Jewish populations in these regions. It was during the third wave that the federal government began to assert control over immigration, starting with the Chinese Exclusion Act of 1882, which, like Proposition 187 over a century later, was the direct result of a nativist backlash in California against a rising tide of immigration and a seemingly complacent federal government.

By the early 1900’s political pressure was again building to slow the rate of immigration. The Dillingham Commission (see Zeidel, 2004) was set up by Congress in 1907 to study “the problem” and to recommend new ways of selecting immigrants. The pendulum was swinging back in favor of those concerned about national identity (the *unum*), and the Commission report issued in 1911 concluded that the U.S. was threatened by the increasing number of immigrants from “non-traditional” source countries. The Commission called for literacy tests and — relying on the pseudo-science of eugenics widely accepted at the time — argued in favor of a racially-based immigration policy (Fuchs, 1990; Smith, 1997; King, 2000). The Commission concluded that immigrants from southern and eastern Europe had more “inborn socially inadequate qualities than northwestern Europeans”⁴. After World War I inflows of immigrants from Europe recovered briefly, but in 1921 Congress enacted the first quantitative restrictions on immigration and in 1924 passed the National Origins Quota Act, which restricted immigration to northern and western Europeans, essentially locking out all other nationalities. Inflows fell rapidly and the onset of the Great Depression in 1929 brought a halt to immigration. The foreign population was quite large in the interwar period, but immigration (inflows) would not start again until after World War II. The 1924 National Origins Quota Act, based on

⁴ Taken from *The Dillingham Commission Reports*, available online at <http://library.stanford.edu/collections/immigration-commission-report-report-women-and-child-wage-earners>

a clear racial hierarchy, remained in effect until its repeal in 1965. During the turbulent decade of the 1930's through the Second World War avenues for legal immigration were restricted, and the U.S. had no official refugee policy. Refugee admissions were made purely on an ad hoc basis, and many European Jewish refugees fleeing Nazi persecution were turned away from American shores.

Notwithstanding the wave of nativism, racism and restrictionism in the 1920's, the American political landscape was transformed by the third wave of immigration (King, 2005). Attention shifted from stopping immigration to assimilating immigrants. This was the heyday of Tammany Hall⁵ and big-city political machines in places like New York, Boston, and Chicago where first the Irish, then the Italians, and eventually southern and eastern European Jewish immigrants would come to play a larger role in urban politics. The Democratic Party was the major beneficiary of the support of the newcomers and Franklin Roosevelt would forge a New Deal coalition between working class, largely Catholic and Jewish immigrants in the north, and poor whites in the Protestant south. Even though the muscle of the big city machines was not enough to overcome nativist politics in the interwar period, Americans had found a new metaphor to describe the assimilation of immigrants: the "melting pot" was popularized in a play by Israel Zangwill which premiered in 1908. The notion of immigrants from many different cultures melting into a new society would become synonymous with immigration and the "American dream." The protagonist in Zangwill's play proclaims "Germans and Frenchmen, Irishmen and Englishmen, Jews and Russians — into the crucible with you all! God is making the American!" But all was not love and light in immigration politics following the third wave. In a dispute in 1930 with a Congressman from New York and future mayor of New York City, Fiorella LaGuardia, President Herbert Hoover wrote in a letter to his fellow Republican, "the Italians are predominantly murderers and bootleggers [and you and your Italian supporters] should go back to where you belong [because] like a lot of other foreign spawn, you do not appreciate this country which supports you and tolerates you" (Baltzell, 1964: 30). In the presidential election of 1928, Al Smith, the Irish Catholic Governor of New York and Democratic candidate, would lose to Republican Herbert Hoover, but by winning the Democratic Party nomination he had broken an important cultural barrier, overcoming anti-Catholic and anti-immigrant sentiments. Thirty two years later another Irish Catholic politician, the Democrat, John Fitzgerald Kennedy, would overcome the final hurdles to the full participation of Catholics in American political life.

Immigration Control and "Rights-Based Politics"

The first cracks in the National Origins Quota policy occurred during and immediately after World War II with the repeal of the Chinese Exclusion Act in 1943, the launch of the "*Bracero* program" in 1942, and the arrival after the war of large numbers of refugees and war brides from Europe and Asia. These groups did not fit within any of the existing quotas (Tichenor, 2002). China was an ally

⁵Tammany Hall refers to New York City municipal government, which was controlled by immigrant political machines, particularly the Irish and Italians, throughout the 19th and well into the 20th century. Tammany Hall dispensed patronage jobs in exchange for votes for the Democratic Party.

in the war against Japan, and Congress decided that the longstanding ban on immigration and naturalization of Chinese nationals was bad for the war effort. Chinese immigrants living in the U.S. were allowed to naturalize, but strict quotas on Chinese immigration remained in effect. The U.S. in World War II was leading the fight against fascism and the racist ideology underpinning it. The contradictions of American immigration and refugee policy – not to mention segregation and Jim Crow⁶ – were increasingly anomalous and at odds with American foreign policy (Smith, 1997; Dudziak, 2000; Fitzgerald and Cook-Martín, 2014).

The War also brought new demands for foreign labor. The “*Bracero* program” was launched to fill gaps in the American labor market resulting from the draft. This guest worker program would have major long-term consequences for US immigration policy. The program allowed for the recruitment of tens of thousands of “temporary” workers from Mexico in the 1940’s, first in agriculture and subsequently in the railroad and transportation sectors (Calavita, 1992). It marked the beginning of large scale immigration from Mexico, which has continued until the “great recession” and financial crisis of 2007-2008 when the flows reversed and net migration from Mexico turned negative, with more returns than arrivals. Attempts were made to reverse the flows with “Operation Wetback” in 1954 in which hundreds of thousands of Mexican workers and their families, including many who were US citizens, were voluntarily repatriated or summarily deported to Mexico. The “*Bracero* program” remained in effect until its repeal in 1964 and the passage of the Immigration and Nationality Act of 1965.

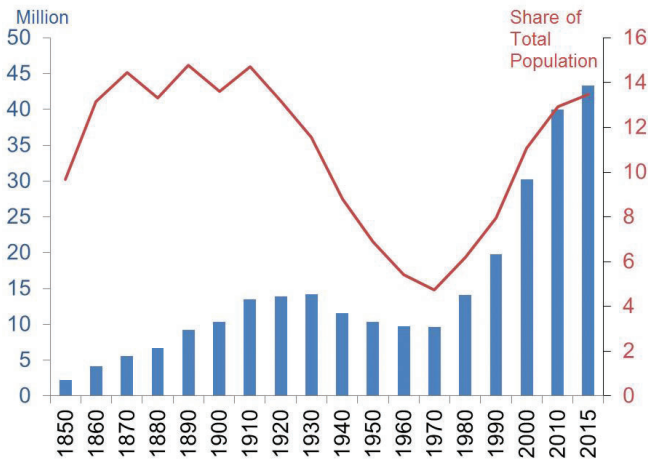
Also known as the Hart-Celler Act, the 1965 INA was a landmark piece of legislation, which repealed the National Origins Quota system, thus eliminating race and ethnicity – from the law on the books if not from the law in action – as the principal criteria for selecting immigrants (Fitzgerald and Cook-Martín, 2014). The pendulum of immigration politics was swinging back in favor of greater diversity (*pluribus*) and tolerance. The 1960’s would see the triumph of the Pennsylvania model and the rise of what I have called “rights-based” politics⁷ (Hollifield, 1992). The relationship between individuals, groups, and the state was redefined through a process of political struggle (the civil rights movement) that would sweep away Jim Crow and racial discrimination and, in the process, expand the rights of immigrant and ethnic minorities. A new type of “rights-based politics” was emerging at every level of the polity, from partisan and interest group politics, to the legislature and executive, and especially in the federal judiciary, which became increasingly active in protecting minority rights and civil liberties. A similar trend can be seen across the western world (Hollifield, Martin and Orrenius, 2014). Beginning in the 1960’s, the courts would play an important role in immigration policymaking, restraining state and local authorities in their treatment of immigrants, helping to consolidate the rights of immigrants and minorities, and reasserting the plenary power doctrine (Schuck, 1998; Law, 2013).

6 Jim Crow is a metaphor for the segregationist laws put in place during and after the period of Reconstruction in the American south. These harsh laws endured until the civil rights “revolution” of the 1950’s and 1960’s, which ended formal segregation of blacks and whites.

7 I first used this term, “rights-based politics” or “rights-based liberalism” in Hollifield (1992: 169). See also Hollifield, Martin and Orrenius (2014: 8-9; 16) below for a detailed description.

The move away from the Massachusetts and Virginia models in favor of the Pennsylvania model of immigration and citizenship after World War II can be attributed to two political developments: the cold war and the civil rights movement (Hollifield and Wilson, 2011; Fitzgerald and Cook-Martin, 2014). Public opinion remained suspicious and downright hostile to immigrants and refugees in the 1950's. Congress passed the McCarran-Walter Act in 1952, which made it a felony to "harbor, transport, and conceal illegal immigrants". But, under the "Texas Proviso", those employing illegal immigrants were exempt from the law. Employers, particularly the growers in the southwest, had enough political clout to keep cheap Mexican labor flowing into the US market. McCarran-Walter also loosened racial restrictions on immigration ever so slightly, but without repealing the National Origins Quota system. Reflecting the fear of communist subversion during the early years of the cold war, McCarran-Walter contained provisions for screening immigrants to catch communists and subversives, a move which was in keeping with McCarthyism and the new red scare. President Harry Truman vetoed the bill, calling it "un-American", but Congress overrode his veto. Congressional efforts to placate xenophobic and McCarthyite groups made it difficult for the President to ease restrictions on refugees coming from communist countries (Tichenor, 2002). Immigration and refugee policy were important foreign policy tools and the President needed a freer hand to accommodate cold war refugees in particular. Ultimately the civil rights movement, which had as its primary objective to overturn Jim Crow and achieve equal rights for African-Americans, swept away the last vestiges of the racist and discriminatory National Origins Quota system, leading to the most radical reform of immigration policy in American history. The INA of 1965 was passed on the heels of the 1964 Civil Rights Act and the Voting Rights Act of 1965. Immigrants were among the most important beneficiaries of the civil rights movement, as laws designed to end racial discrimination against blacks helped open up new political and legal spaces (rights) for immigrant minorities, setting the stage for the fourth (and largest) wave of immigration in American history (see Figure 1).

Figure 1: Foreign Born Population (Million) and Share of Total Population (%)



The fourth wave began slowly in the 1970's, in part because of the severe economic slowdown that was the result of two oil shocks and a steep recession in 1981-1982. But as the economy recovered in the 1980's immigration accelerated rapidly, and by the first decades of the 21st century the foreign-born population (stocks) would climb to an all-time high of 35 million. The civil rights movement and the INA of 1965 had laid the political and legal groundwork for a more expansive immigration policy, but it was the soaring American economy in the 1980's and 1990's that propelled immigration to new heights. The free market policies of the Reagan and Clinton administrations made the U.S. increasingly immigrant-friendly. Demand-pull forces in the American labor market were strong and there was a relatively unlimited supply of workers in Mexico, Central America, and Asia ready to fill this demand.

Strange bedfellow coalitions of civil rights liberals (northern Democrats, many of them — like Senator Edward Kennedy of Massachusetts — descendants of the second and third wave immigrants) and business-oriented, Wall Street Republicans helped to pass some of the most expansive immigration laws in US history (Hollifield *et al.*, 2008; Hollifield and Wilson, 2011). The Refugee Act of 1980 incorporated the 1951 UN Refugee Convention into US law. During most of the cold war period, US policy favored refugees fleeing persecution in communist countries, whereas the Geneva Convention defined a refugee as anyone with a “well-founded fear of persecution”. Signatories of the Convention were bound by the principle of *non-refoulement*, whereby anyone who met the Geneva standard for asylum could not be returned to the country from which they were fleeing. The 1980 Refugee Act brought the U.S. in line with international law, giving new impetus to a more rights-based approach to immigration and refugee policy. With the winding down of the Cold War in the late 1980's and 1990's, only Cuba retained its special status as a communist country from which refugees would be accepted with almost no questions asked. However, the Mariel boat lift at the end of the Carter presidency in 1980 in which Fidel Castro opened the Cuban port of Mariel to a massive exodus (125,000 Cubans fled to the U.S., including a number of criminals and the mentally ill who were released from prisons and hospitals and allowed to join the exodus) forced the U.S. to rethink the blanket asylum policy for Cubans.

In 1979 Congress set up the Select Commission on Immigration and Refugee Policy (SCIRP) under the direction of Lawrence Fuchs — the first such commission since the Dillingham Commission. As the SCIRP went about its work in the early 1980's, holding hearings, gathering data, and conducting research, immigration soared — not only legal immigration, already opened up as a result of the 1965 INA, which made kinship and family ties the primary criterion for admission, but also illegal immigration. The 1965 INA repealed the National Origins Quota system, creating avenues for immigration from non-traditional sources, particularly Latin America (Mexico), Asia, and eventually Africa and the Middle East. The INA also imposed numerical limits on the number of visas, including the first such limits on immigration from the Western Hemisphere (120,000 annually). These limitations would lead eventually to a big imbalance between the demand for and supply of visas. Rather than waiting in long queues that could last years, many immigrants chose to come illegally, either slipping across land and sea borders or coming on a tourist visa. The majority of illegal immigrants were (and are) visa “overstayers”; i.e. individuals who entered the country on a tourist visa

and simply remained in the US, melding into society, and joining a growing black market for labor. By the time the SCIRP made its recommendations to Congress, illegal immigration was the biggest policy issue; and the foreign born population, as a percentage of the total population, was rapidly approaching a historic high. By 2008 foreigners constituted 14% of the total population — a level not seen since the early 20th century. Clearly immigration was reshaping American society, and immigrants were coming to play an increasingly important role in the economy. Policy debates in the 1990's and 2000's would evolve along four lines: 1) Economic: what are the costs and benefits associated with high levels of immigration, especially illegal immigration? 2) Social: how are the newcomers and their children (the second generation) assimilating?⁸ Are they learning English and are they succeeding in the labor market? 3) Political: will the newcomers be good citizens? Will they participate in politics, and if so, how? Will they be Democrats or Republicans, liberals or conservatives? Will they constitute a "swing vote?" And 4) security: with the terrorist attacks of September 11, 2001 (9-11), immigration and refugee policy was in the spotlight. Border enforcement and screening of persons wishing to enter the U.S. took on a new urgency. How did the terrorists enter the country? Was the 9-11 attack the result of lax border enforcement and an overly liberal immigration and refugee policy? Debates about terrorism and national security have intensified in the 2010's with attacks by jihadi groups in major European cities — Madrid in 2004, London in 2005, Paris in 2015, and Brussels in 2016.

Yet despite the security concerns it was easier to stop or slow immigration and roll back the rights of foreigners and immigrants in earlier periods of history. In the era of rights-based politics, sealing the border, summarily deporting large numbers of immigrants (as happened during Operation Wetback in 1954), stopping family reunification, turning back refugees and asylum seekers, rolling back civil rights (due process and equal protection) for immigrants, and cutting their access to social services, is not so easy — recall the fate of Proposition 187 in California and despite calls by thirty one Republican governors in 2016 to restrict refugee resettlement from Syria and other Arab countries, immigration has continued.

Congress attempted to regain control of immigration, especially illegal immigration, in 1986 with the Immigration Reform and Control Act (IRCA). IRCA also knows as the Simpson-Mazzoli Act, was the result of a compromise between "restrictionists", those who wanted to stop illegal immigration, including Republicans led by Senator Alan Simpson of Wyoming and some southern Democrats, and "admissionists" those who wanted to legalize the large population of illegal immigrants by granting them amnesty, including northern liberal Democrats, led by Senator Edward Kennedy of Massachusetts. In the end a rights-markets coalition formed in the Senate and the House, and a compromise was struck, allowing for the amnesty of illegals in exchange for sanctions (fines and imprisonment for repeat offenders) to be imposed on employers who knowingly hire illegal immigrants (Hollifield *et al.*, 2008). The amnesty succeeded in bringing over 2.7 million illegals out of the shadows. To qualify for amnesty, illegals had to get certification that they were employed and that they had come

⁸ By the 1990's it was considered politically (and scientifically) incorrect to use the terms assimilation. American sociologists, like Portes (1990) prefer the term incorporation, which sees the process as a two-way street. See also Alba and Nee (2003).

to the U.S. prior to January 1, 1982. Critics of the amnesty argued that it created a moral hazard. More people would be willing to take the risk of immigrating illegally on the assumption that they would be amnestied at a later point in time, and opponents of more liberal policies have argued that until the borders are secure there should be no expansion of rights for immigrants, legal, illegal or otherwise — this is the “enforcement only” approach to immigration reform.

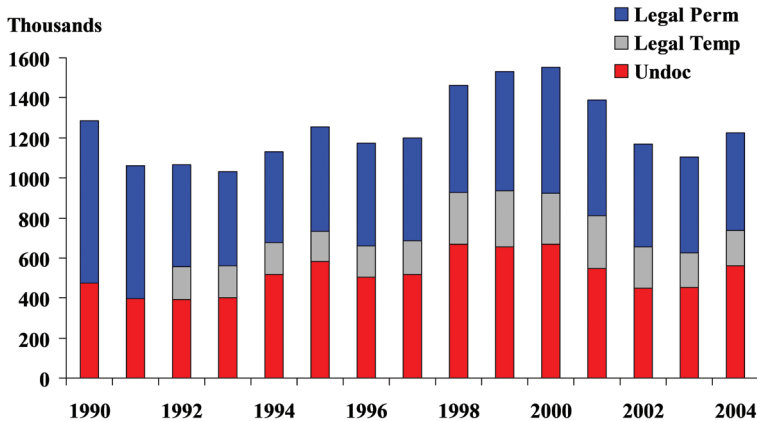
Employer sanctions, on the other hand, represented the first attempt by the federal government to pursue an internal control strategy, using labor laws to control immigration. IRCA created the I-9 form, which requires all persons seeking employment to present documentary evidence that they are legal residents. But out of concern that the new law could lead to discrimination against foreign-looking or foreign-sounding job applicants, provisions were inserted in IRCA to ensure that the rights of ethnic minorities would be protected — more evidence of the power of rights-based politics. Under IRCA, employers were not liable for hiring anyone who presented documents that “looked official,” and they were not required to verify the authenticity of documents. This loophole made employer sanctions very weak, and it led to the creation of a new black market for false papers, especially social security cards and drivers licenses. Concerns for privacy and civil liberties have prevented Congress from creating a national identification card, which is common in many other democracies. The American Civil Liberties Unions (ACLU) is strongly opposed to a national ID.

Agriculture posed a specific regulatory problem, because of the informality and seasonal nature of employment in this sector (Martin, 2009). In the run-up to the passage of IRCA, growers lobbied for a guest worker program (again visions of the Virginia model), but labor unions, especially the United Farm Workers of America (UFW), co-founded by the charismatic labor leader, César Chávez, opposed what they considered a system of bonded labor. The result was the creation of a Special Agricultural Worker (SAW) legalization program under which 750,000 mostly Mexican farm workers were amnestied. Finally with respect to the impact of IRCA on overall levels of immigration, it is important to remember that each person covered by the amnesty was able to bring relatives (spouses, parents, brothers, and sisters) into the U.S. under the family reunification provisions of the 1965 INA.

The IRCA did little to slow the pace of illegal immigration into the US. Over the course of the 1990’s and into the first decade of the 21st century, illegal would come to rival legal immigration, setting the stage for a backlash against all immigrants; first came Proposition 187 in California (1994), then IIRAIRA (1996), which were discussed at the beginning of this chapter, leading to the Sensenbrenner Bill (2005) and contemporary debates over what to do about an illegal population, which reached a peak of around 12 million in 2007 (Passel, 2009 and Figure 3). It is important to keep in mind, however, that not all immigration is illegal, and not all is unwanted (unskilled). Illegal immigration dominates the headlines and there are powerful anti-immigration lobbies, like the Federation for American Immigration Reform (FAIR) that seek drastically to reduce immigration; but there are equally powerful pro-immigrant lobbies, some of them like the Mexican American Legal Defense Fund (MALDEF) and LULAC are devoted to defending the rights and interests of Latinos. Still others like the American Chamber of Commerce and various trade associations

represent powerful business interests. Bill Gates, the founder and former head of Microsoft, organized a successful lobbying campaign by high-tech industries to stop Congress from restricting high-skilled immigration at the time of debate (1995-1996) over the IIRAIRA.

Figure 2: Legal versus Illegal Immigration

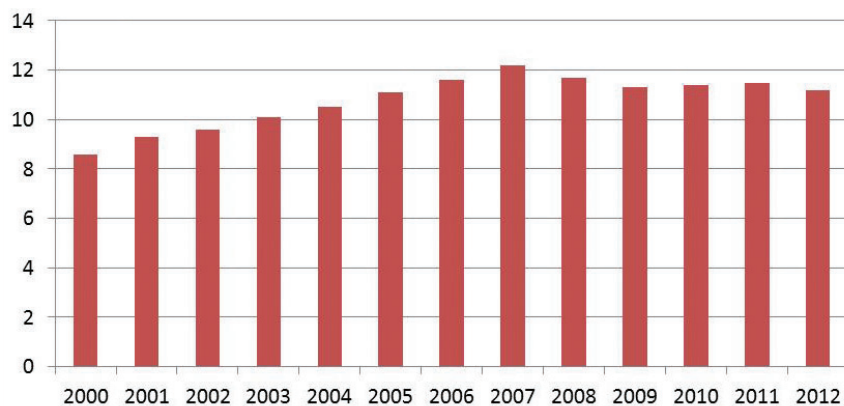


Source: Passel and Suro (2005).

We might expect Congress to restrict or slow immigration during economic hard times; but at the start of the relatively mild recession of 1990-1991, Congress enacted another expansive immigration reform (Hollifield *et al.*, 2008). The Immigration Act of 1990 was designed to reform legal immigration, setting an overall annual ceiling of 675,000. Because of family reunification and the fact that visas not used in one year can be carried over to the next, actual levels of legal immigration are much higher, averaging over 1 million/year throughout the 1990's and into the 2000's. Many illegals are also able to "adjust their status" and become legal permanent residents (LPRs or green card holders), thus adding to the annual totals. The Pew Hispanic Center (Passel, 2009) estimates that over 300,000 people immigrated to the U.S. illegally each year from 1990 to 2004 (see Figure 2). In fact the US immigration system relies heavily on adjustments of status to deal with enormous backlogs of individuals who find themselves in legal limbo; and this "adjustment of status" system creates a demand for immigration lawyers and other specialists who advise millions of immigrants and potential immigrants, as well as their employers. The American Bar Association (ABA), specifically the American Immigration Lawyers Association (AILA), is among the most important pro-immigration interest groups. Lawyers are essential for the smooth functioning of the system, because they help to adjudicate and manage hundreds of thousands of cases on an annual basis. This gives the American system for managing immigration greater flexibility to deal with admissions on a case by case basis, even though quotas and quantitative caps on the numbers of visas available for specific nationalities and regions make the system cumbersome and inefficient (Hollifield, Martin and Orrenius, 2015). The highly individualized nature of this regulatory system is consistent with

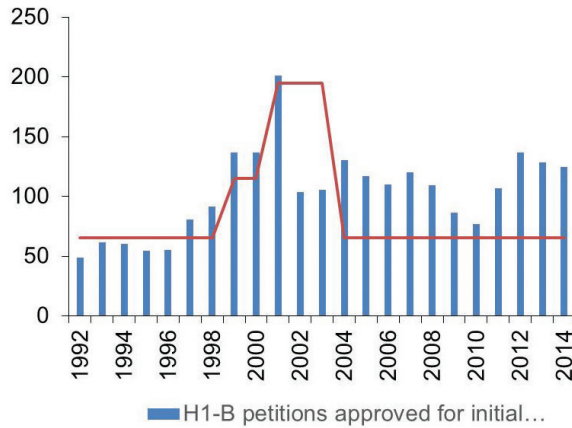
the broader trend in rights-based politics and policy, which began with the civil rights movement of the 1950's and 1960's.

Figure 3: Recent Trends in Illegal Immigration



Source: Pew Hispanic Center.

The 1990 Immigration Act created a new category of visas (the H1-B) for highly skilled immigrants, thus adding an important economic and human capital (as opposed to family and humanitarian) dimension to US policy, and generating more work for lawyers who specialize in helping employers recruit individuals with skills that match their company needs. The 1990 Act set an annual cap on H1-B's of 65,000, but during the high-tech boom of the late 1990's Congress adjusted the cap in response to higher demand for skilled workers and pressure from business groups. The H1-B visa was designed for high-skilled immigrants, and the H2-A and H2-B visas were created for non-agricultural seasonal workers. But the number of job-based green cards, whether for the unskilled (capped at 10,000/year) or the skilled (capped at 140,000/year), was too low to accommodate the overall demand for immigrant labor (see Figure 4). Throughout the boom years of the 1990's and into the 2000's, the result was the issuance of more temporary visas (over 600,000 in FY 2005) and rising levels of illegal immigration. It is difficult for Congress to create an employment-based visa system that mirrors the business cycle and perfectly matches the needs of the labor market. With the bursting of the high-tech bubble in 2001, the demand for H1-B's declined and a binding cap of 65,000 was brought back in 2004, only to see demand rise again in 2004-2007. The bursting of the housing bubble in 2008 and the ensuing financial crisis led to declining demand for unskilled immigrant workers, especially in construction; and unemployment reached 10% of the labor force as a whole in 2009. Immigration does not follow the business cycle, because of lags between the demand for and supply of visas, the difficulties of quickly adjusting policy, and the rise of rights-based politics (Hollifield *et al.*, 2008).

Figure 4: H-1 B Visa for High Skilled – Petitions Approved for Initial Employment) (Thousand)

Source: Department of Homeland Security.

To combat illegal immigration in the 1990's, the Immigration and Naturalization Service (INS) developed ever more sophisticated strategies for border enforcement (external control), increasing the number of border patrol agents and redeploying them at critical entry points along the US-Mexico border. Operations Hold the Line in Texas (1993) and Gatekeeper in California (1994) were designed to seal the border in urban areas like El Paso and San Diego, and to force illegal crossings away from the cities into remote, desert areas. These external enforcement policies succeeded in redirecting flows, but levels of illegal immigration continued to rise; and thousands of illegals would die in the deserts of the southwest, leading some to argue that the policies of the Clinton administration were nothing more than symbolic and cynical attempts to show the public that the government was regaining control of the border – an “out of sight, out of mind” approach to immigration control – but with deadly consequences for the migrants themselves (Cornelius, 2001). The failure of external enforcement policies in the 1990's combined with the 9-11 terrorist attacks, led to a massive reorganization of border control. In 2003 the INS, formerly an agency of the Department of Justice, was reorganized into two agencies – one for enforcement, Immigration and Customs Enforcement (ICE) and one for services, Citizenship and Immigration Services (CIS) – and placed in the new Department of Homeland Security (DHS). A third agency, Customs and Border Protection (CBP), was created to coordinate border control. All three agencies were tasked with protecting the US homeland from another terrorist attack, as the security function of immigration and refugee policy came to the fore (Rudolph, 2006). The Real ID Act, passed in 2005, established new standards for driver's licenses and non-compulsory state ID cards, to make it more difficult to counterfeit these documents and for individuals to obtain false papers. The law was intended to reinforce checks on individual identity, stopping short of creating a national ID card.

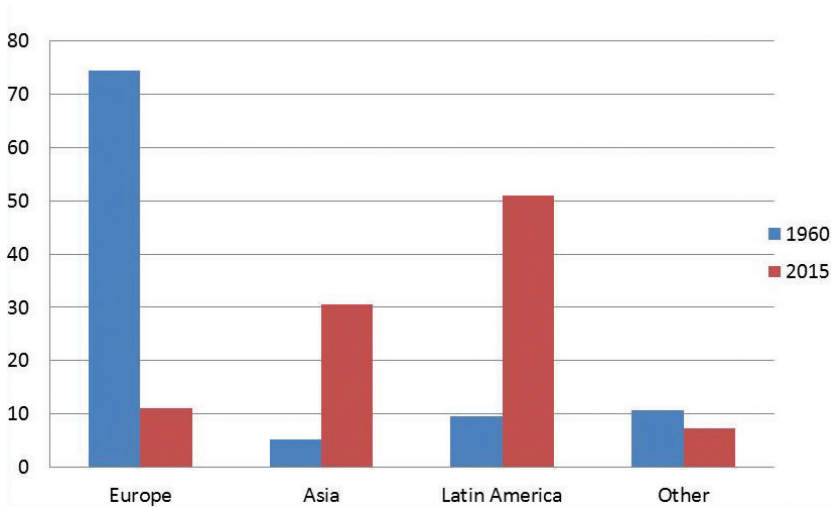
The new emphasis on security made travel and immigration to the U.S. more difficult, especially for anyone coming from a Muslim country; and the issuance of visas in US consulates around the world came under much greater scrutiny, slowing an already cumbersome and inefficient process with elaborate background checks for visa applicants and refugees – it takes on average two years to process individual asylum claims. Overworked Foreign Service Officers (the front line of immigration control) were fearful of admitting someone who might carry out another terrorist attack. The 9-11 hijackers entered the U.S. legally on tourist and student visas, but seven of the nineteen had false passports and three were on terrorist watch lists, leading the 9-11 Commission – set up to investigate the attacks – to conclude that better immigration and border enforcement might have prevented the terrorists from entering the country. Security considerations aside, the debate over immigration reform during the George W. Bush administration (2000-2008), as in previous eras, revolved primarily around the economic effects of immigration, especially illegal immigration (Borjas, 1999). In May, 2006 Bush proposed “comprehensive immigration reform”, to match “willing workers with willing employers”, by creating a new guest worker program (a return to the Virginia model) and an “earned legalization” program for the millions of illegals already working in the U.S. (visions of the Pennsylvania model). Opponents of comprehensive reform charged that it would be a repeat of the IRCA amnesty, creating another situation of moral hazard that would lead to yet higher levels of illegal immigration. The rallying cry of opponents was “fool me once, shame on you, fool me twice, shame on me!” The Sensenbrenner Bill of 2005-2006 represented an alternative, enforcement only” strategy, placing a premium on enforcement of existing laws, reinforced border control, the arrest and deportation of the millions of illegals, and the criminalization of illegal immigration.

But, the collapse of the reform effort in 2006 led many state and local governments to take up the cause of immigration control, further dividing communities and the electorate. It was impossible to resurrect the rights-markets coalitions in Congress that enacted earlier reforms during the cold war period (Hollifield *et al.*, 2008). The Republican Party in particular was divided between a culturally conservative – nativist and xenophobic – wing, which refused to compromise, and a more moderate, business-oriented wing (led by future presidential candidate, Senator John McCain), which wanted to give the Grand Old Party (GOP) a more immigrant-friendly face. The fear among many Republicans, like George W. Bush’s political “Svengali”, Karl Rove, was that demographic changes resulting from high levels of immigration were changing the electorate, and that Hispanics in particular constituted a swing vote in many key states and districts. Some leaders of the GOP did not want to end up once again on the “wrong side of history”, as in the 1920’s when the Republicans ceded third-wave immigrants to the Democratic Party for the better part of two generations. In the run-up to the 2008 presidential election and flush from their successes in the 2006 mid-term elections, Democratic leaders in Congress decided against compromise with moderate Republicans, like Senator John McCain, and the Bush White House, preferring instead to leave the immigration issue open, like a festering wound, and to use it against Republicans in the presidential elections of 2008 and 2012. The question remains to what extent immigration is an issue driving American politics and how the fourth-wave immigrants have altered the course of American political development?

The Messy Politics of Assimilation

Arguments about the assimilation, integration or incorporation of fourth-wave immigrants abound. Two things are clear, however: the United States is more ethnically diverse than ever before in its history — Latin Americans and Asians have replaced Europeans as the dominant immigrant groups — and immigrants have spread geographically across the country. Rather than concentrating in traditional immigrant cities, like New York, Boston, and Miami on the east coast, Chicago and Saint Louis in the mid-west, or San Francisco and Los Angeles in the west and Houston in the southwest, immigrants are settling in new “gateway cities” (like Dallas-Fort Worth, Atlanta, Phoenix, Washington, DC, Charlotte, Nashville, and Las Vegas to name a few) and in states and cities far from the main ports of entry (Singer *et al.*, 2008). Looking at the last two censuses (1990 and 2000), states with the fastest growing immigrant populations were in the south (North and South Carolina, Georgia, Tennessee, and Arkansas), the west (Nevada, Utah, and Washington), and non-traditional destinations in the east (New Hampshire and Pennsylvania) and mid-west (Iowa and Wisconsin). Overall immigrants accounted for 30% of US population growth from 1980 to 2010. The four biggest immigration states in 2010 were California (10 million foreign born), New York (4 million), and Texas and Florida (over 3 million each). The leading countries of origin in the fourth wave were Mexico (31% of the foreign-born), followed by the Philippines, India, China, and Vietnam (Pew Hispanic Center, 2009).

Figure 5: Immigrant Origins have shifted to Latin America and Asia
(% of Foreign-born Population)

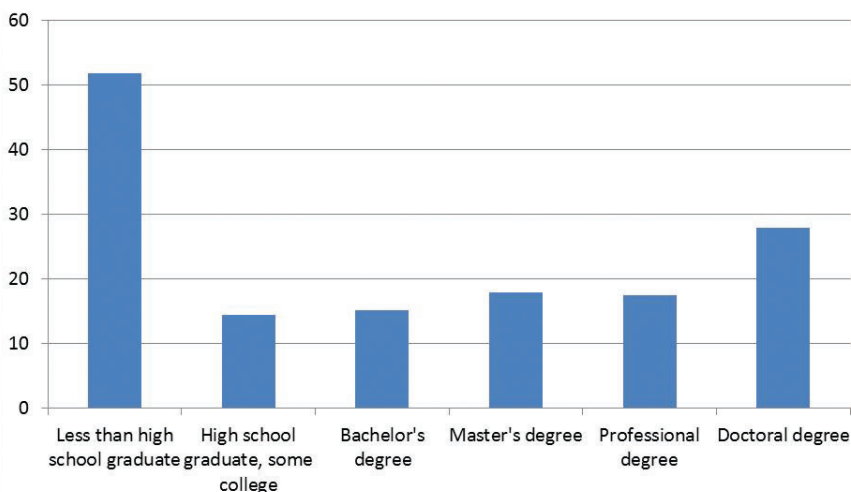


Source: Department of Homeland Security.

The fact that so many of the newcomers are of Latin American and Asian origin has increased the visibility of immigrants across the country, giving greater impetus to debates about assimilation. Mexican and Central American immigrants in particular are predominantly unskilled, many are illegals, and they

often speak little or no English (Passel, 2009); hence the concerns expressed by Samuel Huntington and others (Skerry, 1995) for American national identity (the *unum*). Many of these newcomers – much like their counterparts a century earlier – live in ethnic enclaves in large cities. While the first generation may experience significant improvements in their welfare (compared to their situation in the country of origin), their children, the second generation, may experience significant downward mobility – what the sociologist, Portes, termed “segmented assimilation” (Portes and Rumbaut, 1990; also Fitzgerald, 2014), which is non-linear and does not lead to “mainstream” outcomes. The theory purports to explain why many second generation immigrants engage in deviant or criminal behavior, joining gangs or terrorist organizations, for example. It is important to note that this is not a new phenomenon – visions of the anarchists at the turn of the 20th century or the film of the 1960’s, *West Side Story!* Apart from debates over assimilation, the cost of educating immigrant children and providing health care for indigent families have become central features of debates about the fiscal impacts of immigration (Borjas, 1999; Martin, 2014). But given the rapidly declining percentage of the native-born work force with less than a high school education (for men this number fell from over 50% in 1960 to less than 10% in 2004 – a great success of mass-based public education), unskilled immigrants fill a niche at the low end of the labor market (see Figure 5 and Passel, 2009; Orrenius and Solomon, 2006).

Figure 6: Immigrant Workers Overrepresented at Extremes of the Education Distribution (%)



Source : American Community Survey (2014).

High levels of unskilled and illegal immigration have provoked intense debates among economists over the long-term costs and benefits of immigration, with some (Borjas, 1999) arguing that the service-based, high-tech US economy no longer needs so many unskilled and poorly educated immigrants; while others (Orrenius and Solomon, 2006) point out that key sectors of the economy (agriculture, construction, consumer services such as restaurants and

hotels, and health care to name a few) would suffer without access to immigrant labor. Critics counter that without immigrants, wages for native-born workers would rise significantly and the jobs would still get done. This assumes that immigrant workers are substitutes for the native-born, and vice-versa; rather than complements, as some would argue. Alan Greenspan, former Chair of the Federal Reserve Board, weighed into the debate, arguing that immigration keeps inflation down (by keeping wages and prices in check), and that high skilled immigrants in particular are a boon for the US economy (Martin, 2014).⁹

Not all immigrants are unskilled and illegal, especially those from Asia, who often come with much needed skills (Filipino nurses and Indian doctors, for example) and high levels of human capital (the foreign-born share of US scientists and engineers is large and increasing). These highly skilled immigrants enter at the top of the labor market and in a short period of time their earnings rapidly surpass those of natives (see Figure 6 and Chiswick, 2008). Immigrants also have high levels of entrepreneurial activity, with a willingness to work long hours at low pay, accumulating capital, reinvesting it, and in the process creating new jobs for immigrants and natives alike — a rising tide that lifts all boats (Martin, 2014). Certain immigrant groups, like the Koreans and Iranians, for example, have exceptionally high levels of self-employment, 28% and 20% respectively, which is much higher than among the native-born (13%). Clearly fourth-wave immigrants are highly diverse, not only in ethno-cultural terms, but in terms of social class, education, and economic achievement (Pew Hispanic Center, 2009).

Not surprisingly, rates of naturalization vary significantly from one group to another. Already in the 1980's there was concern that the new immigrants were not naturalizing, and that the extension of so many rights to immigrants had led to a "devaluation of citizenship" (Schuck and Smith, 1985); but with the political backlash against immigration in the mid-1990's (Proposition 187 and IIRAIRA) and the fact that those amnestied by IRCA in 1987-1988 had become eligible for citizenship, the INS was overwhelmed with millions of applications for naturalization, leading the legal scholar Schuck (1998) to announce the "revaluation of citizenship". Naturalization rates are highest among those groups with little prospect of returning to their home country. Refugees, like the Vietnamese and the Iranians, have very high rates of naturalization, a trend that is reinforced by the fact that they tend to be highly educated and in higher income brackets. Mexicans and Central Americans at the other extreme tend to be poorly educated, they have a higher propensity to return home, and since 1998 Mexicans are allowed to have dual nationality. All these factors have led to lower rates of naturalization among Hispanic immigrants, but the rates have been going up steadily since the mid-1990's, reaching into the 30% range for Mexican LPRs (green card holders) by 2005. Of course these numbers do not take into account the large number of illegals, who are not eligible for naturalization (Skerry, 1995; Jones-Correa, 1998; Pickus, 2005).

Although Hispanics constitute one of the fastest growing demographic groups in US society (55.4 million strong and 17.4% of the total US population in

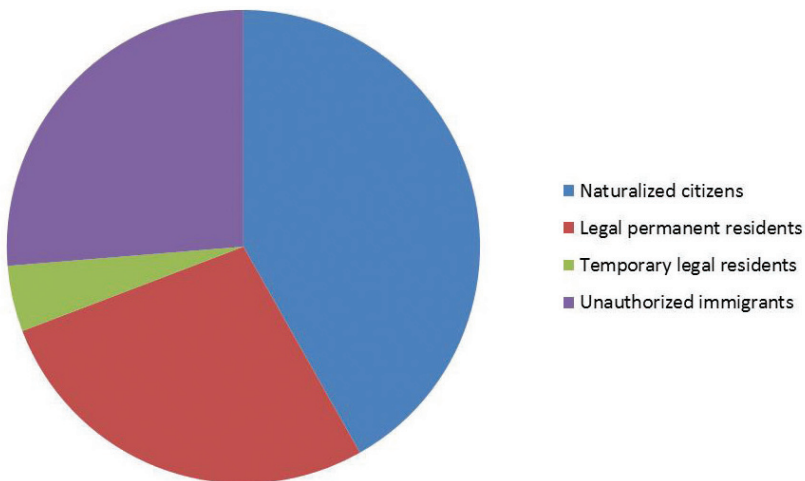
⁹ "Greenspan Backs Increase in Foreign Skilled Workers," *Wall Street Journal*, April 30, 2009.

2014), they have low rates of naturalization and many are illegal; therefore they are ineligible to vote. Even among those who are eligible and registered to vote, their participation rate has been among the lowest of any major ethnic group (de la Garza and Desipio, 2005; Desipio, 1996). Of those who voted in the 2012 presidential election, whites accounted for 72% of the electorate, blacks 13%, Hispanics 10%, and Asians 3%. This is the lowest share ever for whites. Yet whites still have high participation rates (64% in 2012) compared to blacks (66%) and Hispanics (48%), even though both minority groups have been voting in higher numbers in recent elections. The GOP made significant inroads among Hispanic voters in two of the last four presidential elections, jumping from 21% for Dole in 1996, to 31% for Bush in 2000, and 44% for Bush in 2004. But this trend reversed itself in 2008, as John McCain – despite his early support for comprehensive immigration reform – received only 32% of the Hispanic vote, and Mitt Romney in 2012 received a paltry 27%. The percentage of Hispanics identifying with the GOP, after reaching a high of 28% in 2004-2006, slipped back to 23% in 2007, and has hovered in the mid-20% range. Hispanics identifying with the Democratic Party, on the other hand, leapt from 49% in 2006 to 57% in 2007 and holding today at around 50% (Lopez and Taylor, 2009). No doubt some of the decline in Hispanic support for the GOP can be attributed to the divisive effects of the failed immigration reforms of 2005-2006, particularly the Sensenbrenner bill, which provoked large street demonstrations, and to heightened anti-immigration rhetoric from Republican candidates in both congressional and especially presidential elections – Mitt Romney in 2014 argued that with tougher immigration laws, illegal immigrants would “self deport,” and the Republican nominee for President in 2016, Donald Trump, has called for building a wall along the entire US-Mexican border and for a ban on all Muslim immigration to the U.S. The rallying cry of Hispanics (“¡Hoy marchamos, mañana votamos!”) has not led to dramatic increases in Hispanic voter registration or turnout.

Nonetheless immigration is gradually transforming American politics. Hispanic voters made a difference in the presidential elections of 2008 and 2012. The biggest breakthrough came in Florida where in 2012 Obama carried 60% of the Hispanic vote, compared with 56% for Bush in 2004. Obama also improved the share of the Democratic vote among Hispanics in other swing states, like Colorado, Nevada, and New Mexico; thus giving the Democrats an edge in the presidential as well as congressional elections. Similar trends can be observed in other important states, like California, New Jersey, and Texas. But immigration as an issue in national elections only affects voting at the margins. The economy – basic pocket – book issues like employment and taxation – dominated the election followed by war and peace issues, with immigration trailing far behind among the electorate as a whole, except among Hispanic voters in certain swing states and districts. The only presidential candidate who made immigration control the centerpiece of his primary campaign, the Republican Tom Tancredo, got nowhere. If anything Tancredo hurt the Republican ticket (McCain-Palin) in the general elections by alienating Hispanic voters; moreover, those congressional candidates in 2008 who took a hard-line stand on immigration did not fare well, most of them losing by significant margins, and the same pattern repeated itself in the 2012 elections with the share of the Hispanic vote for Romney falling further to 27%.

Clearly the biggest immigration issue in American politics going forward (the elephant in the room) is the fate of some 12 million illegal immigrants (see Figure 7) who contribute their labor to the US economy but pose a challenge to state sovereignty and security (control of borders/territory is a central attribute of sovereignty and vital to security), rule of law (it is illegal for employers to hire individuals not authorized to work), and civil society (large numbers of individuals living in the shadows at the edges of society is detrimental to the social fabric). What to do about this segment of the immigrant population and how to reform immigration policy (how many immigrants should be admitted, from where, and in what status?) are big, unresolved questions that have consumed the Obama administration and will bedevil his successor. The former Democratic Speaker of the House of Representatives, Tip O’Neill, when pushed by some of his colleagues to bring the 1986 IRCA to the House floor for a vote, said “gentlemen, immigration is political death.” O’Neill feared that if you open the issue for debate, everyone will be angry and no one will go away happy. Despite O’Neill’s reservations, the 1986 bill did come to the floor, and it narrowly passed. In 2016 immigration is even more controversial and divisive than in 1986, but candidates cannot afford to tread lightly around the issue.

Figure 7: Unauthorized Population almost as Large as Permanent Resident Population



Source: Pew Research Center estimates for 2012 based on augmented American Community Survey data from IPUMS.

President Obama faced a choice of kicking the can (in this case immigration reform) down the road or opening a divisive political debate. He chose to double down on border enforcement, deporting by far more people than any president in history, and try to bring relief to some illegals by protecting them from deportation through executive actions like DACA and DAPA (see above). Obama may have alienated some of his new Hispanic constituents – during the 2008 campaign he promised them that he would propose comprehensive immigration reform during the first year of his presidency, but his advisers

convinced him that this would be futile, given Republican intransigence. He vowed to pursue reform that would make immigration orderly and legal and to find a “pathway to citizenship” for illegal immigrants, but he was forced to back away from these promises.

Conclusion: The Liberal Paradox

Like other democracies, the United States is trapped in a “liberal” paradox¹⁰ – in order to maintain economic competitiveness, the U.S. must keep its economy open to trade, foreign investment, and immigration. But immigration, unlike trade in goods and services, or the movement of capital, involves greater political risks. The liberal paradox highlights some of the risks and contradictions inherent in US immigration policy. As with any sovereign nation, it is essential for the United States to maintain control of its borders (a degree of political and legal closure); otherwise the government risks undermining the social contract and rule of law, cheapening citizenship, and deepening the political and social divide. The central challenge therefore is to maintain openness while at the same time protecting the rights of individuals-citizens as well as denizens.

In the 21st century managing migration is a central function of the modern state, and the state must make strategic choices about how many immigrants to accept, from where, and with what status (Hollifield, 2004). From the end of World War II until the recession of 2008, immigration in the United States has been increasing. In 2009, the foreign population stands at a historic high of 36 million (14% of the total population) and climbing. The rise in immigration is a function of market forces (demand-pull and supply-push) and kinship (family) networks, which reduce the transactions costs of immigration. Economic and sociological forces are the necessary conditions for immigration to occur, but the sufficient conditions are legal and political. States must be willing to accept immigration and to grant rights to outsiders. How then can a liberal democracy, like the United States, regulate immigration in the face of economic forces that push it toward greater openness, while security concerns and powerful political forces push it toward closure?

Historically US immigration policy has been driven by three concerns, epitomized by the Massachusetts, Virginia, and Pennsylvania models. The first (Massachusetts) revolves around concerns for national identity, cultural and ideological cohesion (the *Unum*). To what extent is the United States a White Anglo-Saxon Protestant nation and how much diversity (*pluribus*) is acceptable? The second (Virginia model) is primarily concerned about the need for adequate supplies of labor and human capital in a dynamic and fast-growing economy. The third (Pennsylvania model) is open to diversity, tolerant of differences, but stresses respect for the values and ideals of the Republic. We continue to see each of these ideas at work in debates over immigration reform.

¹⁰ I advanced the notion of a liberal paradox in Hollifield (1992) to explain the dilemmas of immigration control in the Western democracies.

References

- Alba Richard D. and Nee Victor** (2003) *Remaking the American Mainstream: Assimilation and Contemporary Immigration*, Cambridge/Massachusetts, Harvard University Press, 384 p.
- Baltzell E. Digby** (1964) *The Protestant Establishment: Aristocracy and Caste in America*, New York, Random House, 448 p.
- Borjas George J.** (1999) *Heaven's Door: Immigration Policy and the American Economy*, Princeton, Princeton University Press, 296 p.
- Brettell Caroline B. and Hollifield James F.** (Eds.) (2008 and 2014) *Migration Theory: Talking Across Disciplines*, New York, Routledge, 304 p.
- Calavita Kitty** (1992) *Inside the State: The Bracero Program, Immigration, and the I.N.S.*, New York, Routledge, 243 p.
- Chiswick Barry** (2008) Are Immigrants Self-Selected? An Economic Analysis, in Caroline B. Brettell and James F. Hollifield (Eds.) *Migration Theory: Talking Across Disciplines*, New York, Routledge, pp. 52-76.
- Cornelius Wayne A.** (2001) Death at the Border: The Efficacy and Unintended Consequences of US Immigration Control Policy 1993-2000, *Population and Development Review*, 27 (4), pp. 661-685.
- Cornelius Wayne A., Martin Philip L. and Hollifield James F.** (Eds.) (2004 [1994]) *Controlling Immigration: A Global Perspective*, Stanford, Stanford University Press, 510 p.
- De la Garza Rodolfo O. and Desipio Louis** (2005) *Muted Voices: Latinos and the 2000 Elections*, Lanham, Rowman and Littlefield, 240 p.
- Desipio Louis** (1996) *Counting on the Latino Vote: Latinos as a New Electorate*, Charlottesville, University of Virginia Press, 240 p.
- Dudziak Mary L.** (2000) *Cold War Civil Rights: Race and the Image of American Democracy*, Princeton, Princeton University Press, 352 p.
- Fetzer Joel S.** (2000) *Public Attitudes Toward Immigration in the United States*, Cambridge, Cambridge University Press, 272 p.
- Fitzgerald David** (2014) *The Sociology of International Migration*, in Caroline B. Brettell and James F. Hollifield, *Migration Theory: Talking Across Disciplines*, New York, Routledge, pp. 115-147.
- Fitzgerald David and Cook-Martin David** (2014) *Culling the Masses: The Democratic Origins of Racist Immigration Policy in America*, Cambridge/Massachusetts, Cambridge University Press, 512 p.
- Fuchs Lawrence** (1990) *The American Kaleidoscope: Race, Ethnicity, and the Civic Culture*, Middletown/Hanover, Wesleyan University/The University Press of New England, 645 p.
- Higham John** (1955) *Strangers in the Land: Patterns of American Nativism, 1860-1925*, New Brunswick/New Jersey, Rutgers University Press, 431 p.
- Hollifield James F.** (2004) The Emerging Migration State, *International Migration Review*, 38, pp. 885-912.

- Hollifield James F.** (1992) *Immigrants, Markets, and States: The Political Economy of Postwar Europe*, Cambridge/Massachusetts, Harvard University Press, 320 p.
- Hollifield James F., Hunt Valerie F. and Tichenor Daniel J.** (2008) Immigrants, Markets, and Rights: The United States as an "Emerging Migration State," *Washington University Journal of Law & Policy*, 27, pp. 7-44.
- Hollifield James F., Martin Philip L. and Orrenius Pia M.** (Eds.) (2014) *Controlling Immigration: A Global Perspective*, Stanford/CA., Stanford University Press, 510 p.
- Hollifield James F. and Wilson Carole J.** (2011) *Rights-Based Politics, Immigration, and the Business Cycle: 1890-2008*, in Barry R. Chiswick Ed., *High-Skilled Immigration in a Global Labor Market*, Washington/DC., The AEI Press, pp. 50-80.
- Huntington Samuel P.** (2004) *Who Are We? The Challenges to America's National Identity*, New York, Simon & Schuster, 448 p.
- Jones-Correa Michael** (1998) *Between Two Nations: The Political Predicament of Latinos, in New York City*, Ithaca/New York, Cornell University Press, 272 p.
- Kettner David** (1978) *The Development of American Citizenship, 1608-1870*, Chapel Hill/NC, University of Carolina Press, 402 p.
- King Desmond** (2005) *The Liberty of Strangers: Making the American Nation*, Oxford, Oxford University Press, 240 p.
- King Desmond** (2000) *Making Americans: Immigration, Race, and the Origins of the Diverse. Democracy*, Cambridge/Massachusetts, Harvard University Press, 400 p.
- Law Anna O.** (2013) *The Immigration Battle in American Courts*, New York/ Cambridge University Press, 282 p.
- Lopez Mark Hugo and Paul Taylor** (2009) *Dissecting the 2008 Electorate: Most Diverse in US History*, Philadelphia, Pew Hispanic Center, [online]. URL: <http://www.pewresearch.org/files/old-assets/pdf/dissecting-2008-electorate.pdf>
- Martin Philip L.** (2014) *Economic Aspects of Migration*, in Caroline B. Brettell and James F. Hollifield, *Across Migration Theory: Talking Disciplines*, New York, Routledge, pp. 90-114.
- Martin Philip L.** (2009) *Importing Poverty? Immigration and the Changing Face of Rural America*, New Haven, Yale University Press, 264 p.
- Norris Pippa** (2005) *Radical Right: Voters and Parties in the Electoral Market*, New York, Cambridge University Press, 366 p.
- Orrenius Pia M. and Solomon Genevieve R.** (2006) How Labor Market Policies Shape Immigrants' Opportunities, *Economic Letter – Insights from the Federal Reserve Bank of Dallas*, 1 (7), 8 p.
- Passel Jeffrey S.** (2009) *A Portrait of Unauthorized Immigrants in the United States*, Philadelphia, Pew Hispanic Center, 42 p.
- Passel Jeffrey S. and Suro Roberto** (2005) *Rise, Peak, and Decline: Trends in U.S. Immigration 1992-2004*, Pew Hispanic Center, 64 p.
- Pew Hispanic Center** (2009) *Statistical Portrait of the Foreign-Born Population in the United States, 2007*, Philadelphia, Pew Hispanic Center, 2 p.

- Pickus Noah J.** (2005) *True Faith and Allegiance: Immigration and American Civic Nationalism*, Princeton, Princeton University Press, 272 P.
- Portes Alejandro and Rumbaut Ruben G.** (1990) *Immigrant America: A Portrait*. Berkeley,CA., University of California Press, 460 p.
- Rudolph Christopher** (2006) *National Security and Immigration: Policy Development in the United States and Western Europe since 1945*, Stanford, Stanford University Press, 288 p.
- Schuck Peter H.** (1998) *Citizens, Strangers, and In-Betweens. Essays on Immigration and Citizenship*, Boulder/CO., Westview, 475 p.
- Schuck Peter H. and Smith Rogers** (1985) *Citizenship without Consent: Illegal Aliens in the American Polity*, New Haven, Yale University Press, 160 p.
- Singer Audrey, Hardwick Susan W. and Brettell Caroline B.** (Eds.) (2008) *Twenty-First Century Gateways: Immigrant Incorporation in Suburban America*, Washington/DC., Brookings Institution Press, 331 p.
- Skerry Peter** (1995) *Mexican Americans: The Ambivalent Minority*, Cambridge/Massachusetts, Harvard University Press, 480 p.
- Smith Rogers** (1997) *Civic Ideals: Conflicting Visions of Citizenship in US History*, New Haven, Yale University Press, 736 p.
- Tichenor Daniel J.** (2002) *Dividing Lines: The Politics of Immigration Control in America*, Princeton/NJ., Princeton University Press, 392 p.
- Zeidel Robert F.** (2004) *Immigrants, Progressives, and Exclusion Politics: The Dillingham Commission, 1900-1927*, Dekalb, Northern Illinois University Press, 208 p.
- Zolberg Aristide R.** (2006) *A Nation by Design: Immigration Policy in the Fashioning of America*, Cambridge/Massachusetts, Harvard University Press, 672 p.

James F. Hollifield

American Immigration Politics: An Unending Controversy

Immigration has been a controversial issue throughout American political history from the colonial period to the present. In this article I argue that we must understand how the issue of immigration is framed whether in terms of economics (markets), rights, security or culture, and we must be attentive always to place the controversy in historical context. In the period since 1945 until the 2001 terrorist attacks, immigration policy was driven by a rights-markets dynamic. But in the first decades of the 21st century the immigration debate is framed primarily in terms of culture (religion and race) as well as national security. This framing has heightened the “liberal paradox” making immigration policy reform more difficult.

Les politiques américaines de l’immigration : une controverse sans fin

L’immigration a toujours été un sujet à controverse dans l’histoire politique américaine, depuis l’époque coloniale jusqu’à aujourd’hui. Dans cet article, l’auteur démontre comment cette question de l’immigration est tantôt construite en fonction de l’économie, tantôt des droits, de la sécurité ou de la culture et qu’il est nécessaire de replacer cette analyse dans un contexte historique précis. Durant la période qui va de 1945 aux attaques terroristes de 2001, la politique d’immigration a été définie en fonction du jeu entre droit et économie. Mais depuis le début du XXI^e siècle, les termes du débat sur l’immigration aux États-Unis se concentrent autour d’une rhétorique relative à la culture (race et religion) et à la sécurité nationale. Ce cadre de pensée conduit à intensifier le « paradoxe libéral » compliquant ainsi toute réforme de la politique d’immigration.

Políticas de inmigración estadounidenses: una controversia sin fin

La inmigración siempre ha sido un tema controvertido en la historia política estadounidense, desde la época colonial hasta la actualidad. En este artículo, el autor muestra como el tema de la inmigración se construye en algunas ocasiones en función de la economía, y en otras de los derechos, de la seguridad o de la cultura; y como es necesario poner este análisis en su contexto histórico exacto. En el período de 1945 a los ataques terroristas de 2001, la política de inmigración se ha definido en función de la interacción entre el derecho y la economía. Sin embargo, desde el principio del siglo XXI, los términos del debate sobre la inmigración en los Estados Unidos se concentran alrededor de una retórica sobre la cultura (raza y religión) y sobre la seguridad nacional. Este marco de pensamiento conduce a intensificar la «paradoja liberal» que complica cualquier reforma de la política de inmigración.