

Policy Brief

California State University, Los Angeles

TOWARD an Immigration Policy Debate

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Introduction

Proposed immigration reform in the United States has engendered debates between, and within, traditional political and sociodemographic groupings. The complexity and importance of the issue is understandable, considering that immigrants comprise 1 in 9 U.S. residents, 1 in 7 U.S. workers, and 1 in 2 new U.S. workers, according to the Bureau of Labor Statistics. The intensity of the immigration debate is magnified in places where immigrants comprise a high percentage of the population or where immigrant populations are growing. With a foreign-born population of 9.5 million in 2004, California cannot ignore close to a quarter of its resident population and has much at stake in the current federal immigration legislation debates.

Recent policy discussions have focused primarily on who should be admitted to the U.S., but largely absent from the immigration debate is a discussion on the degree to which new policy will integrate those who are admitted. As we grapple with immigration policy that will define the size, shape, and composition of the U.S. population, it is critical to consider provisions to incorporate our newest members into the social, cultural, and economic institutions of our nation. Present efforts to integrate immigrants are limited, ad hoc, and without integration between agencies or regions. As many have pointed out, the paradox of U.S. immigration policy is the rigid, bureaucratic system of entry, but laissez-faire integration efforts after admittance.

Contrary to media portrayal, the immigration experiences of California and the United States are not exceptional, but rather a reflection of the current global migration trends. Due to California's inability

to address immigration independent of federal policy, and because U.S. immigration is interconnected to global migration patterns, true immigration reform must consider several supranational migration trends. This policy brief links the pertinent immigration trends at different geographic scales in an effort to propose policy recommendations relevant to the great immigrant state, California.

Permanent or Temporary?

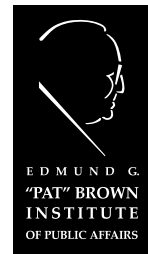
An ambivalent, or rather contentious, component of the current immigration policy debates deals with the American collective will to view the needed labor as "permanent" or "temporary." From a procedural perspective, however, the popular distinction between these two categories is not accurate. Under its current immigration policies, the United States admits foreign nationals under two categories: permanent (immigrants) and temporary (nonimmigrants). Note, however, that the temporary/nonimmigrant category applies to those who are largely unable to work in this country. Temporary work permits are, in fact, reserved primarily for those whose skills are needed in the United States and who are given specific preference and visas.

A better understanding of the current social, economic, and humanitarian goals of the U.S. immigration policies emerge from reviewing how admitted immigrants are classified. Overall, a significant majority of immigrants are admitted under three major "permanent" immigration categories: family reunification, employment sponsorship, and humanitarian protection. Interestingly, the nonim-

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migrant system, so far as the social, economic, and political considerations are concerned, is designed to meet many of the same goals as the permanent categories but instead facilitates the temporary stay of people in the United States for a variety of activities.

There are, however, over seventy classes of nonimmigrant admissions, including tourists, students, business visitors, specialty occupational workers, seasonal nonagricultural workers, religious workers, and others. Due to the heavy backlogs, rigid limitations, and large bureaucracy of the permanent immigrant system, temporary visas are increasingly used for economic and political purposes in an effort to expedite the arrival of foreign nationals. Businesses, in particular, are bypassing the permanent system in favor of the quicker, more reliable temporary system to bring workers into the United States.

The temporary nature of nonimmigrant visas is often dubious as many are assigned for mid- to long-term stays and, increasingly, visas without certain restrictions (e.g., dual intent) are being used as a transitory method of gaining legal permanent residence. As a result, many argue that these two separate systems of entry to the U.S. are inadequate and do not reflect the actual immigration demands and uses of the systems. As guest-worker proposals are being devised, it is worth considering the existing “temporary-to-permanent” system already in use. According to the Migration Policy Institute, the permanent system admits a large number of immigrants who have learned to navigate the social, economic, and political institutions of the United States while on temporary visas.

Immigration Legislation

One issue has overshadowed all others within the recently proposed immigration legislation—the fate of 11 to 12 million undocumented immigrants already in the United States. Several dominant pieces of proposed legislation aimed to address the sizeable undocumented population mirror the three dominant policy perspectives on the issue: remove undocumented immigrants, allow undocumented immigrants to work temporarily, or give undocumented immigrants the option of obtaining permanent status. Like most of the issues surrounding immigration, the public is evenly split on the different types of guest-worker plans.

According to a recent survey conducted by the Pew Hispanic Center (March 30, 2006), 27% of the public favor policy that removes undocumented immigrants from the United States, 32% opt for a temporary guest-worker program, and 32% want a guest-worker program that allows for the transition to permanent resident status. Though various policy options have been debated over the last few months, a few of the recent proposals are worth discussing—in that they reveal recent thinking and intentions toward a comprehensive immigration policy reform.

- A bill passed by the House last December, which aims to halt illegal immigration through punitive measures, is the most stringent

Terminology

The term foreign born is used to refer to anyone who is not a U.S. citizen at birth and includes the following: naturalized U.S. citizens, lawful permanent residents (immigrants), temporary migrants (nonimmigrants, e.g., students), humanitarian migrants (e.g., refugees), and people who live in the United States without documentation (undocumented migrants). Undocumented or unauthorized immigrants are residents in the United States without U.S. citizenship, legal permanent resident status, or legal temporary status. Undocumented immigrants usually originate either through overstaying their visas or by entering the U.S. without documentation, while a small percentage is in an intermediate state of temporary status.

“go home” policy currently under review. H.R. 4437, the “Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005” would criminalize undocumented immigrants and those who assist them, authorize state police to enforce federal immigration laws, and build a 700 mile security fence along the U.S./Mexico border. Proponents of this bill are facing much public outcry and opposition from a number of groups, especially those that provide social services, such as the Catholic Church.

- Truly temporary by design, the “Cornyn-Kyl” bill (S. 1438) introduced by Senators Cornyn (R-TX) and Kyl (R-AZ) proposes a guest-worker program that requires undocumented immigrants already in the United States to voluntarily leave the country and reenter legally. This bill would limit the length of time temporary workers may remain and impose monetary fines for any unauthorized immigrants who do not vacate the United States within five years. Another strictly temporary guest-worker bill, introduced by Senator Feinstein (D-CA) would aim to create a legalized agricultural workforce only. The program, which would end after five years, would offer 1.5 million “blue cards” to agricultural workers, who would be required to work a minimum of 100 but no more than 150 days a year.
- The most “permanent” of the guest-worker bills is the “McCain-Kennedy” bill (S. 1033 and H.R. 2330), introduced by Senators McCain (R-AZ) and Kennedy (D-MA). The bill is best known for including a temporary worker program and a path to legalization for unauthorized immigrants already in the United States. The bill would allow undocumented immigrants to gain nonimmigrant status (while still in the U.S.) after paying a fee, a \$1000 fine, submitting fingerprints, and passing criminal and background checks.

■ Most recently, the Senate Judiciary Committee presented a “compromise” proposal that includes a temporary guest-worker program and creates three different categories of unauthorized immigrants with varying opportunities to obtain permanent status. Under this bill, unauthorized immigrants who have lived and worked in the U.S. for more than five years and meet a number of requirements (fees, fines, etc.) can obtain resident status. Those who have been in the U.S. two to five years would a) be issued temporary work visas, b) be required to exit the U.S. and reenter, c) have to meet additional requirements, and d) eventually obtain permanent status. The third category of unauthorized immigrants is for the most recent arrivals (those who have resided in the U.S. less than two years) and would require them to return to their country of origin and apply for the temporary guest-worker program.

Global Migration Trends

Recent research has identified several noteworthy migration trends that break from historical assumptions of migrants as a result of several global imbalances. First, current global demographic and economic disparities are driving the movement of people from places with a population surplus and employment shortage to those with an aging population and growing low-skill service sector. As a result of job-worker imbalances, the global movement of people is directed from developing to more developed countries.

Though our demand for workers is driven by demographic forces, employment recruitment has created most of the global flows of migration, the U.S. being no exception. The foundation for much of today’s migration flow from Mexico to the United States can be attributed to the Bracero Program, which brought over 4.5 million Mexican agricultural workers to the U.S. between 1942 and 1964. Though an imperfect and problematic system, the Bracero Program illustrates the paradox of U.S. immigration policy: We continue to have a labor demand, but we are at odds about how to best balance it.

Second, the final break from past global trends and common perception is the higher rates of immigration being experienced by the highly skilled. Scarce professional and technical employment opportunity has forced many educated, middle-class residents in developing countries to seek jobs in wealthier countries. Labor recruitment in the U.S. has also been directed toward the other end of the income spectrum, as in the case of the American Competitiveness and Workforce Improvement Act passed by Congress in 1998. Due to pressures from the high-tech and other specialized industries, the Act was designed to increase the number of highly skilled employees by creating the H1-B visa. Among companies hiring highly skilled foreign-born temporary workers, California firms rank among the top.

Another global migration trend of increasing apprehension for both migration-sending and migration-receiving countries is the extensive

trafficking of people. According to the U.S. Department of State, an estimated 600,000 to 800,000 men, women, and children are trafficked across international borders each year. The strong correlation between migration, especially unauthorized flows, and human trafficking is of much concern for countries advocating the preservation of human rights. The more vulnerable a migrant is, due to a lack of legal status or language and cultural barriers, the more susceptible he or she is to becoming a victim of human enslavement and exploitation. Additionally, profits from human trafficking (an estimated \$9.5 million annually, according to the U.S. Federal Bureau of Investigation) will fund organized crime, including drug trafficking, human smuggling, money laundering, and more.

As globalizing forces continue to further facilitate the mobility of capital, demand for increased labor mobility (i.e., international labor migration) will continue to grow. This will, in turn, make intergovernmental cooperation (between sending and receiving countries) a political and economic necessity in the twenty-first century. Whether they are intended to halt unauthorized migration, recruit employees, increase security, or fight human trafficking, bilateral migration agreements are critical. Additionally, cooperation with international migration organizations is advisable in an effort to formulate, standardize, and regulate the safety and conditions of global migration. An important fact to consider is that the U.S. immigration policies, currently being crafted, will affect many generations of immigrants and the natives alike.

To facilitate a rational and humanitarian debate on immigration, we offer the following brief summary of national and regional immigration patterns. Given the multidimensionality of immigration, we strongly believe that economic, social, political, and cultural issues have to be equally evaluated before any supportive/punitive policies are adopted. Without a doubt, immigration is not entirely a one-sided phenomenon that begins and ends with individual immigrants. Forces that bring about current immigration patterns have to be fully considered and included in any progressive policy that attempts to “manage” the current conditions.

National Immigration Trends

Recently, much comparison has been drawn between past periods of U.S. immigration and our present experience. As immigration levels rise, public debate over nationalism, identity, and economic stability increase, and corresponding immigration policy is formulated. The earliest immigration to the United States was defined by Western and Northern Europeans followed by Eastern and Southern Europeans. The highly restrictive 1924 Immigration Act halted large-scale immigration to the U.S. until the enactment of the 1965 Immigration Act. The new era of immigration, defined by people from Latin America and Asia, resulted in part from the 1965 Act, which removed the racially biased national quota system and created the family reunification category,

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as well as considered other economic and political factors. Today's immigrants comprise people from the following world regions: Latin America (53.3%), Asia (25%), Europe (13.7%), and other regions (8%). The Census Bureau (2003) estimates the foreign-born population to make up about 12% of the U.S. population with 33.5 million people.

According to research conducted by the Pew Hispanic Center (March 7, 2006), unauthorized migrants are estimated at 30% of the foreign-born population in the United States, totaling between 11.5 and 12 million. A recent report published by the Center sheds light on the most current demographic and economic characteristics about this difficult-to-enumerate population. Within the unauthorized population, 49% are adult males, 35% are adult females, and 16% are children. In 2005, there were 6.6 million families in which either the head of the household or the spouse was unauthorized (totaling 14.6 million people). The majority of unauthorized immigrants are from Mexico (56%) and other Latin American countries (22%), followed by Asia (13%), Europe, and Canada (6%), and 3% are from other world regions. The unauthorized population accounted for 4.9% of the civilian labor force in 2005 and was found to be concentrated in several occupational categories, including farming (24%), cleaning (17%), construction (14%), and food preparation (12%).

California's Immigration Trends

According to the Department of Finance, in 2004 California was estimated to have 9.5 million foreign-born residents out of a total population of 36.6 million (26% of the population); and of those, an estimated 2.4 million were unauthorized. The majority of the foreign born in California are from Latin America (54.8%, with 44.3% from Mexico alone), Asia (32.9%), Europe (7.9%), and other world regions (4.5%). Within the state, immigrants are concentrated in several regions: 36.2% of the population in Los Angeles County is foreign born (3.4 million people) as are 27.4% of the San Francisco Bay Area, and the remaining immigrants are distributed primarily in the Southern Counties (23.3%), Coastal Counties (20.7%), Central Counties (19.8%), and the Sacramento Metropolitan region (14.5%).

The economic effects of immigration on California are complex and difficult to untangle, but most research concludes that U.S. residents experience positive net gains as a result of immigration. The benefits of immigration, however, are not necessarily distributed equally for multiple reasons. Because most taxes paid by immigrants go to the federal government, but most services required are provided by state and municipal governments, states such as California, with sizeable immigrant populations, bear a disproportionate cost. Yet, the demographics of the foreign born, who are on average younger, have more children, and earn lower wages than the native population, indicate that services such as education may be costly at the moment, but in the near future the benefits associated with education will pay off. The short-term costs associated with immigration in California could be

considered a long-term investment if managed properly. Over the next 30 years, immigrants and their children will account for almost all of the workforce growth in California. If immigrants remain in California, the state's population will be younger than the national average, which could result in a competitive advantage if combined with adequate education levels.

Though immigrants make significant contributions to California's labor supply, inadequate integration has resulted in great economic disparity. Levels of education and other social factors, such as English-speaking ability, affect the earnings and occupational access of the foreign born. As a result, immigrant groups with lower educational attainment, especially Latinos and to a lesser degree Asians, are concentrated in lower-wage occupations and, thereby, face barriers to future economic advancement. With adequate educational and employment opportunity, however, the children of immigrants generally are found to be proportionately represented in all occupational categories. This underscores the need for educational and integrative efforts to ensure the success of California's future generations and prevent the formation of a permanent underclass.

Unfortunately, research indicates that the rate of economic assimilation for immigrants has slowed over time and that racial barriers still exist. Recent findings by the Economic Roundtable indicate that the informal sector of California's economy is growing, largely due to immigrants who are disproportionately represented in "under-the-table" jobs. Born out of economic desperation, informal economies jeopardize the safety of workers and shortchange governments of tax revenue. As we move forward with immigration policy, we need to ensure that the American dream can be realized by recent immigrants, not just those of the past. Additionally, regardless of the length of stay of an immigrant, whether temporary or permanent, a basic quality of life should be available while they are here.

Access to social services is one component of integration that has been systematically reduced for immigrants of all types, further contributing to economic disparity. The passing of costs associated with immigration to the state level, popular perception, and California's Proposition 187 have all fueled federal legislation designed to limit immigrants' access to social welfare services (including Aid to Dependent Families With Children (AFDC), food stamps, Social Security, Medicaid, and Medicare). Both the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 severely restricted welfare benefits, for both illegal and legal immigrants. Research, however, indicates that most immigrant groups (excluding refugee groups) are generally less likely to use social welfare services than the native born population. When services are limited for immigrant parents, access to services for their citizen children are usually restricted as well.

Policy Considerations

Before engaging in any policy debate, it is necessary to establish some ground rules. As a country with a long history of immigration and priding itself in doing so, we need to uphold basic human rights standards for all migrants in our country, regardless of their type—permanent, temporary, or unauthorized. This means that in formulating any future immigration policies, we remind ourselves consistently that we are dealing with fellow human beings and their basic universal human rights needs to be respected. All immigrants, including the undocumented, are protected under general international human rights law, which ensures that all people are protected from inhumane treatment or punishment, not subjected to torture or held in slavery, and given due process in the criminal justice system. Given the vulnerability of recently arrived immigrants, especially the undocumented, these basic rights are frequently jeopardized and violations go unreported. Immigration policy needs to emphasize these rights by incorporating preventative education and committing to international treaties regarding the human rights of migrants.

It is after putting such an umbrella policy in place that we can occupy a moral ground from which we can take into account national policies regarding who should or should not come. Immigration policies, however, should fully incorporate a consideration of the conditions that attract and promote immigration. For example, without appropriate living-wage standards, some business may feel that recruiting cheaper foreign labor is to their benefit. This means that full economic consideration of “immigration conditions” need to be incorporated into future policies. From our perspective, we offer the following eight steps for adopting progressive immigration policies:

1. Give full consideration to the protection of the human rights of all immigrants
2. Develop a political atmosphere that allows for bilateral immigration policies (which allows us to work with immigrants’ countries of origin, prevent human trafficking, and deter exploitive labor abuses)
3. Separate immigration policies from those that focus on the undocumented/unauthorized immigration
4. When designing punitive measures for unauthorized immigrants, equally penalize labor practices that attract this category of migrant population and the human traffickers/agents who facilitate this process
5. Adopt living wage standards across all industries, but focus initial effort in adjusting wages in industries with highest level of attraction for the unauthorized immigrants (e.g., agriculture, food and entertainment, and garment industry)
6. View immigration as a process and attempt to adopt seamless policies that affect every phase. Given the history of the American laissez-faire system of government, it is important to consider integration issues within immigration policies. This includes an assurance that the cost of integration and services are not passed to states and specific localities. In other words, costs and benefits of immigration should be assessed with a full attention to the geography of immigration.
7. Include an integration agenda that provides an opportunity for economic and social mobility for all immigrants.
8. Consider basic quality of life issues for all immigrants, regardless of their length of stay or status.