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# Immigration Reform in America: Past, Present, and Future

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Immigration Reform in America: Past, Present, and Future

Thaddeus Coffman

**Senior Honors Project**

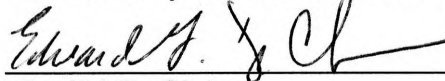
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## **Abstract**

This paper examines immigration legislation throughout the history of the United States. The author has divided the focus of legislative activity into four main eras: the Laissez-Fair Era (1789-1875), the Anti-Asian Era (1876-1920), the National Origin Quotas Era (1921-1953), and the Illegal Immigration Era (1954-present). While these eras are not all inclusive, they are indicative of the main focus of legislation passed during their time. The author then compares the impact of major legislation passed during these eras to three current proposals aimed at addressing the increasing issue of illegal immigration: two versions of a guest-worker program and amnesty/legalization for illegal aliens already in the United States. These comparisons will be used to predict both the most likely course of action the government will and/or should take and the potential effectiveness of such reform.

## **Introduction**

Throughout United States history, there have been four major eras of immigration reform. These four eras are the Laissez-Fair Era (1789-1875), the Anti-Asian Era (1876-1920), the National Origin Quotas Era (1921-1953), and the Illegal Immigration Era (1954-present). One could make an argument for an overlapping Refugee Era, but since Congress designated refugee policy as separate from immigration policy, I will not be including it. While doing my research, I discovered these eras by looking for common themes and focuses of legislation over the course of American history. While there are a few exceptions, the designations are generally indicative of the legislative focus of each period.

Today, we find ourselves in the midst of the Illegal Immigration Era. In fact, illegal immigration is arguably one of the most politically volatile issues facing America. Congress has been trying to deal with the problem for the past 50 years, but has been unable to do anything effective – as demonstrated by the estimated 12 million illegal aliens residing in the country (Katel; Pew Hispanic Center). Recently, some state and local governments, such as the city of Hazleton, Pennsylvania, have attracted national attention by taking matters into their own hands. In Hazleton, city officials passed the Illegal Immigration Relief Act in 2006, an attempt to crack down on businesses hiring illegal aliens and landlords renting to them. Eleven other cities have passed similar provisions, while a total of thirty communities across the country are currently debating them ("60 Minutes"). However, since immigration is technically a federal matter, the new laws have been tied up in court and have not been enforceable. As a result, the American

people have been looking to Congress and the president again to address the problem in ways that are both effective and practical.

Seemingly everyone has an opinion about what should be done; many claim that there is no right answer. The proposals being seriously considered by Congress include: providing amnesty to those illegal aliens already here; instituting a guest-worker program; securing the Mexican-American border with a triple-layered wall (similar to the security fence along the Israeli West Bank); increasing funding to the border patrol and using more high-tech measures, such as video surveillance, to catch illegal aliens attempting to cross the border; and punishing businesses for hiring illegal aliens. In addition to a description and analysis of the legislation passed in each era, this paper will attempt to show the costs, benefits, and feasibility of two of the aforementioned plans: the guest-worker program and amnesty for illegal aliens. Based on these analyses, I will discuss the likelihood of Congress and the President enacting these policies and recommend whether or not they should do so.

## **History**

Table 1 is a timeline including major immigration legislation (I define major as being discussed as such in multiple texts). Figure 1 is a bar chart showing the average annual number of new immigrants, illegal aliens given amnesty by the Immigration Reform and Control Act (IRCA) of 1986, and new illegal aliens from 1825 to 1995. Table 2 shows the percentage of foreign-born people in the United States between 1790 and 1990. Throughout the paper, I will discuss the many relationships that exist between the three figures.

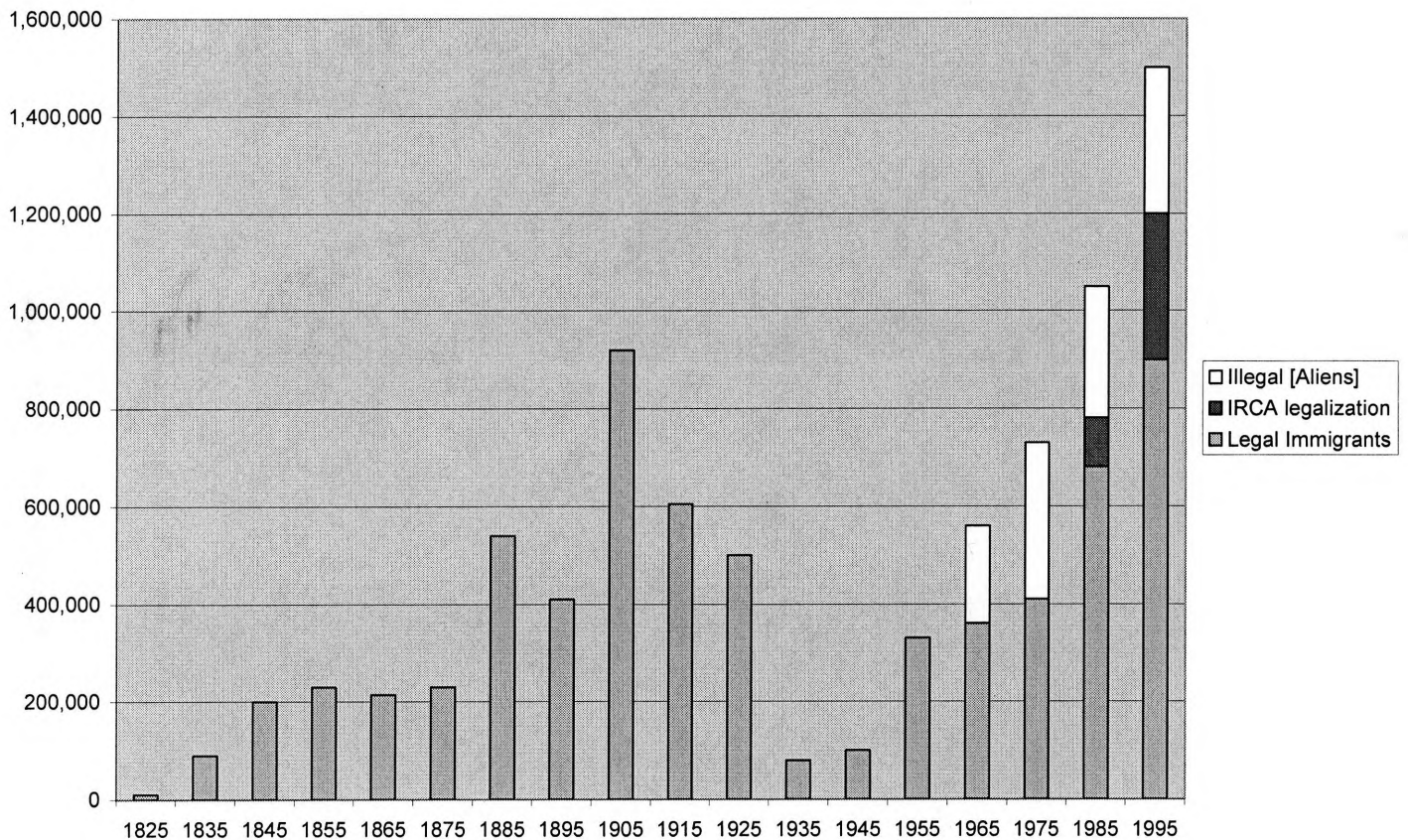
**Table 1**

1798	Alien and Sedition Acts
1801	All provisions of the Alien and Sedition Acts are repealed, except for Alien Enemies Act
1875	Congress bans the entry of convicts and prostitutes, thus first creating the term “illegal alien”
1882	Chinese Exclusion Act
1888	Scott Act
1891	Congress establishes federal control over immigration
1892	Geary Act
1892	<i>Fong Yue Ting v. United States</i> upholds the Geary Act
1894	Congress revises Scott Act
1907	Gentleman’s Agreement with Japan
1917	Literacy Act
1921	Quota Act
1924	Johnson-Reed Act
1924	Border Patrol is created
1929	Congress grants amnesty to all illegal aliens who had been in the U.S. since June 30, 1929
1930	President Hoover takes measures to drastically reduce immigration due to the Great Depression
1933	Immigration Bureau becomes the Immigration and Naturalization Service (INS)
1940’s 1950’s	Labor shortages and the expansion of the national economy attracts Mexican laborers
1942	<i>Bracero</i> Program is initiated
1948	Displaced Persons Act – First legislation regarding refugee policy
1950	Internal Security Act
1952	Immigration and Nationality (McCarran-Walter) Act (including Texas Proviso)
1953	Refugee Act
1954	“Operation Wetback”
1963	<i>Bracero</i> Program is terminated
1965	Immigration and Nationality Act Amendments remove racial quotas
1980’s	Increasing levels of illegal immigration cause national concern, calls for restriction
1980	Refugee Act
1986	Immigration Reform and Control Act (IRCA)
1990	Immigration Act allows entry of 55,000/year spouses, children of aliens legalized under IRCA
1996	Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)
2001	Enhanced Border Security and Visa Reform Act
2003	INS is absorbed by Dept. of Homeland Security, becomes U.S. Citizenship and Immigration Services (USCIS)
2006	Secure Fence Act

Sources: CQ Researcher, Hing, Heer

**Figure 1**

**Average Annual Number of Immigrants**



Source: LinLin, Ann Chih. *Immigration*. Washington D.C.: CQ Press, 2002.

**The Laissez-Faire Era**

As shown in Table 1, there was virtually no immigration policy made during the United States' early history. I posit that this was due in large part to the relatively low number of immigrants entering the country during that time (see Figure 1). In fact, between 1790 and 1860, the percentage of foreign-born people in the United States steadily fell from 12.8 percent to 9.7 percent (see Table 2). The only exceptions to this policy were the Alien and Sedition Acts of 1798. All of these acts expired or were repealed in 1801, save for the Alien Enemies Act, which is still law today. This act allowed the president to



**Table 2**

<b>U.S. Population</b> <b>(in thousands)</b>			
<b>Decade</b>	<b>Total</b>	<b>Foreign-born</b>	<b>Percent Foreign-born</b>
<b>1790</b>	3,929	500	12.7
<b>1800</b>	5,308	600	11.3
<b>1810</b>	7,240	800	11.0
<b>1820</b>	9,638	1,000	10.4
<b>1830</b>	12,866	1,200	9.3
<b>1840</b>	17,069	1,400	8.2
<b>1850</b>	23,192	2,245	9.7
<b>1860</b>	31,443	4,139	13.2
<b>1870</b>	39,818	5,567	14.0
<b>1880</b>	50,156	6,680	13.3
<b>1890</b>	62,948	9,250	14.7
<b>1900</b>	75,955	10,445	13.8
<b>1910</b>	91,972	13,630	14.8
<b>1920</b>	105,711	14,020	13.3
<b>1930</b>	122,775	14,283	11.6
<b>1940</b>	131,669	11,657	8.9
<b>1950</b>	151,326	10,431	6.9
<b>1960</b>	179,323	9,738	5.4
<b>1970</b>	203,302	9,619	4.7
<b>1980</b>	226,546	14,080	6.2
<b>1990</b>	248,710	19,767	7.9

Source: Heer text, page 28

apprehend and deport resident aliens if their home countries were at war with the United States. The other three acts were the Naturalization Act, Alien Friends Act, and the Sedition Act. The Naturalization Act changed the five year residency requirement for aliens to fourteen years before one could be eligible for citizenship. The Alien Friends Act authorized the president to deport aliens “dangerous to the peace and safety of the United States” during peacetime (which was essentially the counterpart to the Alien Enemies Act). The Sedition Act was addressed towards so-called “treasonable activity”, which included publicizing any “false, scandalous, and malicious writing” (Hing 18).

Other than these acts, the federal government stayed out of immigration policy for much of the 19<sup>th</sup> century. During this era, however, immigration policy had not yet been deemed a solely federal matter, so state and local governments were allowed to make their own policy. There was also the aforementioned fact of low immigration numbers in general. As the numbers began to dramatically increase between 1875 and 1885, however, public opinion began to bring the changes to the forefront of the national agenda. Consequently, the Laissez Faire Era came to an end.

### **The Anti-Asian Era**

In 1875, Congress passed legislation banning the entry of convicts and prostitutes. This marked the creation of the term “illegal alien” and the beginning of the Anti-Asian Era. Despite the fact that Chinese labor had been the backbone of the cross-continental railroad system, Americans began to hold strong xenophobic feelings towards them. These feelings were only solidified by the fact that workers were not the only people coming from China. Prostitutes were also being brought over to service the workers – something Americans felt was “undesirable”. Furthermore, as is inevitable with any mass migrations, convicts had also been entering the U.S. A prime example of public opinion towards Chinese immigration was a referendum among voters in California taken in 1879. Approximately 150,000 voters opposed Chinese immigration, while less than 1,000 supported it (Heer 38).

If you refer to Figure 1, you can see the dramatic increase in immigration between 1875 and 1885. During that decade, immigration numbers went from around 230,000/year to well over 500,000/year. This more than two-fold increase in immigration

was a major catalyst for the transition into the new era. Although not all of this increase can be attributed to Chinese immigration, since the Chinese were one of the most “visibly different” groups – they were the primary target of restrictive legislation. In fact, between 1871 and 1880, the Chinese were responsible for only 4.4 percent of total immigration. However, this number represented a notable increase from the previous decade, in which they were only responsible for 2.8 percent of total immigration (Tichenor 90).

It is important to understand the context of this period in immigration history. During the last two decades of the 19<sup>th</sup> century and the first two of the 20<sup>th</sup>, migration was occurring at an unprecedented rate not only to the United States, but across the world.

In the first two decades of the 20<sup>th</sup> century, Canada received nearly 3 million people, Argentina admitted more than 2 million, and Brazil about 1 million. Australia and New Zealand admitted some 900,000 European immigrants during the same period (Wepman 161).

While there was certainly a tremendous amount of immigration occurring from the “old sources”, e.g. England and Germany, an increasing number of immigrants were arriving from “less desirable locations”. This phenomenon became known as “new immigration”. According to Wepman, “the newcomers came increasingly from countries with absolute monarchies, little public education, high birth and death rates, and no traditions of social equality.” Similarly, very few of them were literate and generally did not possess any sought-after skills. Furthermore, the “new immigrants” did not assimilate – and instead chose to form their own communities in big cities, clinging “defensively to their own languages, customs, and institutions...” (Wepman 160).

The situation with the “new immigration” of the late 19<sup>th</sup>/early 20<sup>th</sup> centuries is strikingly similar to that of illegal immigration today. The vast majority of illegal aliens are Hispanic, making them ethnically different from the majority of the general

unable to take care of himself or herself without becoming a public charge”. Furthermore, Congress enacted laws that included all persons *likely to become* public charges, not just those deemed public charges upon arrival (Heer 38).

Two more laws were passed within the next decade: the Scott Act of 1888 and the Geary Act of 1892. Under the Scott Act, Chinese laborers who left the United States were not allowed to return. This was later challenged in the Supreme Court in 1889, but was upheld. The Court ruled that it was a “constitutionally permissible protection against aggression by a foreign national” (Tichenor 213).

The Geary Act required that all Chinese laborers register with immigration officials, based on the notion that “Chinese names and faces were all alike”. The goal of the act was to distinguish those legally in the country prior to exclusion from those who might have been smuggled in afterwards. The act also extended the exclusion provisions by another ten years, denied bail to Chinese in habeas corpus proceedings, declared that any Chinese not lawfully in the United States would serve up to a year in a labor camp prior to being deported, and stated that those Chinese who failed to register within a year were deportable (Hing 39).

The Geary Act was taken to the Supreme Court during the case of *Fong Yue Ting v. United States* of 1892. The Court upheld the act, stating that registration was a necessary extension of the power to exclude and expel aliens. In 1894, Congress revised the Scott Act, permitting lawful resident laborers who had left temporarily to return, as long as they had a wife, child, or parent who had property valued at \$1,000 in the United States. This was done through a treaty with the Chinese government in exchange for their

acceptance of the terms of the act. In 1904, the Chinese refused to renew the treaty, so Congress reenacted the Chinese exclusion laws indefinitely (Hing 40).

In between the Scott and Geary Acts, Congress established exclusive control over immigration policy in 1891. In doing so, they also established the office of the Superintendent of Immigration (Daniels 2004, 29). The establishment of exclusive federal control has served as the basis for many lawsuits on behalf of illegal aliens against states and localities who have chosen to take matters into their own hands.

The establishment of federal control over immigration was caused by a number of factors. The two most important reasons were the ever-increasing number of immigrants coming to the United States each year and the problems associated with state-run immigration facilities. For example, in 1887, the New York *World* did an exposé on New York City's Castle Garden, where the vast majority of immigrants had been entering the United States. In this exposé, the establishment was described as, "a place for tyranny and whimsical rule, a place for the abuse and insult of helpless mothers and children, for the plunder of the poor, for the lecherous pursuits of shielded employees, for the disgrace of the nation in the eyes of those who desire to become citizens" (Wepman 207). For those very reasons, Castle Garden was closed in 1890.

In 1892, Ellis Island – often regarded as the symbol of immigration to America – opened. To many Europeans, it became known as the "isle of hope". For others, it became known as the "isle of tears", since many immigrants were turned away "cruelly and arbitrarily". During its 62 years of service, Ellis Island processed more than half of all the immigrants arriving in the United States. The percentage was even higher during its first 32 years of existence – more than 71 percent (Wepman 210). Unfortunately,

many of the problems associated with Castle Garden remained the same with Ellis Island – rampant abuse of immigrants, bribery, corruption, extortion, etc.

In 1907, an intensifying diplomatic conflict over segregation of Japanese students arose in San Francisco, California. President Teddy Roosevelt feared that “resentment over Japanese exclusion might lead to warfare and the potential loss of the Philippines and Hawaiian Islands”(Tichenor 127). Because Japan was developing as a world power, the situation had to be dealt with in an “entirely different manner from the method used in regard to the Chinese.” Therefore, in exchange for exempting Japanese students from segregation in San Francisco schools, the government of Japan agreed to discourage labor immigration from its country. This became known as “The Gentleman’s Agreement” (Tichenor 127).

Leading up to the end of the 1910’s, there had been a tremendous push to limit immigration. One of the popular ideas was a literacy requirement for all new immigrants. After 40 years of almost limitless immigration, this idea was finally put into law with the Immigration Act of 1917. Under the act, everyone age sixteen and older who wanted to enter the United States had to be able to read in some language, whether it was English or some other language. The bill had actually been put forth under three previous administrations – McKinley, Taft, and Cleveland. The latter two vetoed the bill, and only the Senate passed it under McKinley, so it never reached his desk. President Wilson actually vetoed it as well in 1917, but was overruled by a supermajority (Daniels 2004, 33).

Much of the support for this bill stemmed from members of the so-called nativism movement, who feared invasion by the “debased and criminal classes of the Old World”

(Daniels 2004, 32). Just as with previous restrictive policy, organized labor was also a major part of that movement, since influxes of uneducated poor meant a higher abundance of labor and subsequent lower wages. Conversely, the great opposition came from those who stood to benefit from cheap labor: manufacturing giants. In fact, they had provided heavy financial support to representatives and the president during the previous election to make sure such legislation was never passed (Daniels 2004, 33).

The end of the Anti-Asian Era by no means meant the end to restrictive policy towards Asian immigrants. However, by the 1920's, restrictive immigration policy had already begun to shift its focus from Asia towards a bigger source of "undesirable" immigrants – southeast Europe. The sentiment had actually been there since the influx began forty years before – but it was not until then 1920's that Congress took action.

### **The National Origins Quotas Era**

In 1921, Congress passed the temporary Quota Act, marking the beginning of a new era in Congressional focus. This act established a system of national-origin quotas for the first time in American history. While there were a few exceptions, the act allowed for the admission of up to three percent of the number of immigrants present in the United States from each country in 1910, for a yearly total of 350,000. For example, if there were 20,000 British immigrants in the United States in 1910, then Britain's quota would be 600/year. Since there were far more immigrants from northern and western Europe in the United States in 1910 than from southern and eastern Europe, this new system favored the former by approximately 45,000 slots. Consequently, northern and

western Europeans did not fill their quotas, while southern and eastern Europeans quickly filled theirs (Hing 68).

The 1921 Act was most likely sparked by the dramatic increase in immigration from southeastern Europe over the decades leading up to the 1920's. During the 1880's, only 13.9 percent of immigrants came from this region. By the 1890's, this number had increased to 40.8 percent, and was well over 50 percent from 1900 to 1920 (see Table 3). Just like during the Anti-Asian Era, as soon as the realization hit the public that one particular group was entering the U.S. at a much higher rate than the others, restrictive policy was enacted.

**Table 3**

Percentage Distribution of Permanent Legal Immigration to the United States by Region of Last Residence, 1821-1830 - 1981-1990

	<b>Northwest Europe</b>	<b>Southeast Europe</b>	<b>Asia</b>	<b>Other Eastern Hemisphere</b>	<b>Canada</b>	<b>Mexico</b>	<b>Other western Hemisphere</b>
1821-1830	86.6	2.8	0.0	0.0	2.1	4.4	4.0
1831-1840	92.5	1.1	0.0	0.0	2.6	1.2	2.5
1841-1850	95.9	0.3	0.0	0.0	2.5	0.2	1.1
1851-1860	94.6	0.8	1.6	0.0	2.3	0.1	0.5
1861-1870	88.8	1.1	2.8	0.0	6.7	0.1	0.5
1871-1880	75.9	4.9	4.4	0.4	13.6	0.2	0.5
1881-1890	76.3	13.9	1.3	0.3	7.5	0.0	0.6
1891-1900	55.9	40.8	2.0	0.1	0.1	0.0	0.9
1901-1910	37.4	54.6	3.7	0.2	2.0	0.6	1.5
1911-1920	25.3	50.1	4.3	0.4	12.9	3.8	3.2
1921-1930	32.0	27.9	2.7	0.4	22.5	11.2	3.2
1931-1940	38.1	27.6	3.1	0.8	20.5	4.2	5.5
1941-1950	49.6	10.4	3.6	2.1	16.6	5.9	11.8
1951-1960	39.6	13.4	6.1	1.1	15.1	12.0	12.8
1961-1970	18.2	15.7	12.9	1.6	12.4	13.7	25.6
1971-1980	6.6	11.2	35.3	2.7	3.8	14.2	26.1
1981-1990	5.2	5.2	37.3	3.0	2.1	22.6	24.6

Source: Heer p30



In 1924, Congress passed the first permanent restrictive law concerning immigration – the Johnson-Reed Act. This act suspended the 1921 Act and further reduced national origin quotas. The new quotas were based on two percent of 1890 census figures, for a total of 155,000 per year. The act also required that the secretaries of commerce, labor, and state determine quotas based on national origins by 1927. Quotas were not determined for countries in the Western Hemisphere, however, as they provided much-needed labor for southwestern agriculture. Diplomatic and trade interests with Canada and Mexico were also underlying reasons for the lack of quotas for the Western Hemisphere (Ngai 23). In April 1924, Senator Holm Olaf Bursum (NM) argued, “The time is not far distant when Mexico will be a very desirable field for Americans to settle in....Through [allowing unlimited immigration] we can hope to obtain a large measure of benefit, but to close the door against our neighbors, first, it is impracticable and second, it is offensive” (Wepman 247).

While the 1924 Act did not provide any quotas for Mexicans, its enforcement provisions of restriction, i.e. visa requirements and border patrol policies, made Mexicans the largest group of illegal aliens by the late 1920's. The act also excluded all “Chinese, Japanese, Indians, and other Asians (Ngai 7). This ban included the merchants, teachers, and students who had previously been exempted by the 1882 Chinese Exclusion Act (Hing 47).

Due to the increasing number of illegal entries into the United States through Mexico and Canada caused by the restrictive quotas imposed by the 1921 and 1924 Acts, Congress established the Border Patrol in 1924. The service consisted of only 45 men, however, who were charged with the duty of policing over 8,000 miles of land and sea

borders (Wepman 247). According to an FBI investigation, thousands of illegal aliens from Europe were entering the United States through Canada. More attention was paid to the Mexican border, however, since the majority of illegal entry occurred there.

According to the then-commissioner general of immigration, "Long established routes from southern Europe to Mexican ports and overland to the Texas border, formerly patronized almost exclusively by diseased and criminal aliens, are now resorted to by large numbers of Europeans who cannot gain legal admission because of passport difficulties, illiteracy, or the quota law" (Ngai 66).

Europeans were not the only people illegally entering the United States. The government was obviously also concerned with Mexicans as well. During the 1920's, Mexicans who wished to immigrate to the United States had to pass a literacy test, pay a \$10 visa fee, and pay an \$8 head tax. Prior to the creation of the Border Patrol, the majority of Mexicans ignored these requirements. According to census figures, between 1900 and 1920, the number of people born in Mexico but living in the United States increased by 383,000. According to the census in 1920, however, there were only 269,000 legal Mexican immigrants in the United States. In 1929, Congress passed legislation that gave amnesty to all illegal aliens who had been in the United States since June 30, 1921 (Heer 48).

When the stock market crashed in 1929 and sent the United States into the Great Depression, many believed that further immigration would only magnify its effects. Congress attempted to take the initiative to pass legislation that would drastically reduce the number of immigrants entering the country. President Hoover decided that Congress was taking too long to pass this legislation, however – so in 1930, he took matters into his

own hands and redefined the public charge provisions of 1882. The status quo had allowed immigration officials to reject any immigrant “likely to become a public charge.” The State Department expanded this provision, declaring that, “...if the consular officer believes that the applicant may probably be a public charge at any time, even during a considerable period subsequent to his arrival, he must refuse the visa.” This new policy had an immediate and profound effect. To illustrate these effects, see Figures 2 and 3. In Figure 1, you can see the drop from an annual admission of around 500,000 in 1925 to a figure of less than 100,000 by 1935. In Table 2, you can see the foreign-born population drop from around 14 million in 1930 to 11.6 million by 1940. In 1933, President Roosevelt issued another executive order regarding immigration – this one changing the Immigration Bureau to its current designation, the Immigration and Naturalization Service (INS) (Tichenor 158).

During World War II, the United States encountered a dangerous labor crisis. Since immigration from both Europe and Asia had been essentially cut off due to the war and hundreds of thousands of men and women were abroad, the United States was forced to turn to Mexico for labor to help with the human resource drain. The result was an agreement in 1942 with the Mexican government for the initiation of the Mexican Labor Program, also known as the *bracero* program. This is almost identical to the guest worker program being proposed today by President Bush and others, in which participants are not immigrants but rather temporary workers who must return to their country of origin after their visa has expired. Under the *bracero* program, workers were also given certain rights concerning housing, transportation, food, medical needs, and wages. Under the agreement, there were two separate programs: one for agriculture and one for railroad

companies. By 1945, the quota for agriculture was 50,000 and for the railroad it was 75,000 (although there were reportedly at least 400,000 workers admitted annually between 1956 and 1959). The railroad part of the agreement ended promptly after the conclusion of the war, while the agricultural part lasted in various forms until 1964, at which point it was terminated for various reasons, chief among them were reports of rampant human rights violations (Heer 50).

Between 1948 and 1964, America let in about 200,000 *braceros* per year, the vast majority of whom worked in the southwest (including California). Only 2 percent of American farm operators used *bracero* labor. This small percentage of operators was comprised, however, of the richest industrial farms. Despite the fact that the program has been discontinued since 1964, the farming industry has continued to hire illegal migrant workers from Mexico, as well other South American countries (Ngai 140). I will discuss specific numbers in the Illegal Immigration Era section.

In 1948, Congress passed the Displaced Persons Act. This marked the first time in history that the American government had set refugee policy (as opposed to immigration policy). This act called for the admission of “one hundred thousand displaced persons annually *over and above* the quota numbers for four successive years” (Daniels 1990, 330). The bill used the UN’s definition of Displaced Persons in order to determine eligibility. However, this definition represented a mostly antifascist orientation, since it was aimed at aiding victims of the regimes of Germany and Italy during WWII. Since Congress was more worried about communism at the time, they added provisions allowing those fleeing communism to also enter the United States. In fact, the vast

majority of the people who were admitted under the act were not even victims of the Nazi Regime (Daniels 1990, 331).

One of the first immigration laws passed during the Cold War was the Internal Security Act of 1950. The bill was originally vetoed by President Truman, but passed with a Congressional override. This act prohibited the legal immigration to the United States of any past or present member of the Communist or Fascist Party or their affiliates. The bill had precedent, as it was a revision of existing law prohibiting the entry of persons advocating the violent overthrow of the government (Heer 52).

In 1952, Congress passed the Immigration and Nationality Act (INA), also known as the McCarran-Walter Act. The bill, named for its famously restrictionist sponsors, Senator McCarran and Representative Walter, brought about a few changes, the most important of which was the so-called Texas proviso. It was given this name because of the special effort of two famous congressional Texans, Lyndon Johnson and Sam Rayburn. This provision stated that the act of employing an illegal alien was *not* to be considered an unlawful practice (Heer 53). This change in policy was due to the dependence on illegal labor for agriculture in Texas (along with much of the southwest), a subject which will later be discussed in-depth.

Although opposition to the bill was considerable, McCarran and Walter were able to slow its momentum by doing a number of things, including token changes in that were viewed as favorable by groups who would have normally opposed further restriction. These provisions included lifting the ban on Asian immigration, which had been in effect since 1924. By doing this, McCarran and Walter were able to garner the support of groups such as the Japanese American Citizens League, who viewed small token quotas

(i.e. 100 persons per nationality) as better than total exclusion. Other groups supporting the bill included the Veterans of Foreign Wars (VFW), the American Legion, and the American Federation of Labor (AFL) (Tichenor 192).

McCarran and Walter were also able to establish joint committee hearings to discuss their bill along with their rival bill, sponsored by Congressmen Lehman and Roosevelt. The latter bill represented much more liberal changes in immigration policy. Furthermore, McCarran served as chairman of the hearings, helping restrictionists marginalize the opposition during the process. With this power, McCarran and Walter also orchestrated witness lists and testimony in favor of their bill, with the exception of a few small groups (Tichenor 191).

The act also modified the national origin quota system. While it did not completely abolish the quotas, it did allow the use of unused quotas from northwestern Europe to be allotted without regard to national origin. It also shifted the basis of the quotas from the 1920 census to 1950 numbers. Ironically, the bill also made it more difficult for inhabitants of Dutch, French, and British colonies to enter the United States – countries who had originally been allowed almost unrestricted entry into the United States. Before the law, the quotas used were those of the citizen's home country, which was of course, significantly larger. Under the new law, each colony was only designated 100 slots. Another famous part of the bill was the provision that American citizens could bring over their non-citizen spouse without quota or reference to how long the two had been married. The bill also introduced the first-ever preference system for distributing visas. Under this provision, preference was given to immigrants with levels of education, training, or abilities that were deemed to be of benefit to the United States (Heer 52).

The end of the National Origins Quotas Era, much like the end of the Anti-Asian Era, was not so much an end to the legislation passed during the period, but more of a fundamental shift in focus. The National Origins Quota Era was characterized mostly by an attempt to return immigration to the status quo of mostly western European countries. As you can see in Table 3, the legislation succeeded in doing this, as the percentage of new immigrants from northwestern European nations (along with totals from Western nations in general) rose steadily from 1911 to 1950.

### **The Illegal Immigration Era**

The continued expansion of the *bracero* program after World War II was the major catalyst for the transition to the Illegal Immigration Era in the 1950's. The dramatic increase in what was thought to be temporary demand for cheap Mexican labor soon became permanent. As the population exploded with the baby boom, the demand for cheap labor only increased. Since border enforcement was lax, millions of Mexican workers crossed the border for work. The public soon became aware of this, however, and grew concerned.

In 1954, the INS launched the biggest deportation campaign in history – “Operation Wetback<sup>1</sup>”. The campaign involved “750 immigration officers, Border Patrol officers, and investigators; 300 jeeps, cars, and buses; 7 airplanes, and other equipment” (Ngai 155). The INS actually transferred many of these things/people from northern and eastern districts especially for the operation. By 1955, the INS had apprehended and deported more than 800,000 Mexican migrants. The operation also had the effect of

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<sup>1</sup> Although this term is inappropriate for polite conversation in today's politically correct environment, it was in common usage in the 1950s.

drastically increasing the number of migrants registered under the *bracero* program, however. There were 148,449 registered *braceros* in 1954; 245,162 in 1955; and 298,012 in 1956 (Ngai 156). At best, it was a short-term success. In the long run, it did not solve the problem (as proven by the millions of illegal aliens in the country today).

The 1960's brought about a number of egalitarian movements. Among these movements was one to liberalize the immigration system. Although this movement had nothing to do with illegal immigration, it did signal the fact that America was ready to abolish the racist and restrictionist immigration policies of the National Origins Quota Era. Interestingly, this movement was supported not just by President Kennedy and many fellow Democrats, but also by the Republican Party.

[The Republicans'] platform proclaimed that 'Republican conscience and Republican policy' required that 'the annual number of immigrants we accept be at least doubled,' and 'obsolete immigration laws be amended by abandoning the outdated 1920 census data and substituting the 1960 census.' It also insisted that admission 'be based upon judgment of the individual merit of each applicant.' (Daniels 2004, 129).

This platform on immigration had not been a theme voiced by the party since Taft was President. It is likely that this shift in stance was largely due to the general movement towards egalitarianism during the early 1960's. By this time, national origin quotas were widely seen as racist in nature. Although it seemed as if both parties finally agreed that they should be eliminated, there was disagreement as to what sort of policies should replace them. Therefore, no changes were made to the McCarran-Walter Acts for several years, despite amendments being sent to the floor throughout the 87<sup>th</sup> Congress (1961-63). In fact, it was not until the very end of 1965 that any legislation concerning the McCarran-Walter Acts was passed (Daniels 2004, 133).



The 1965 Immigration and Nationality Act amendments brought about a number of changes to the 1952 act. Among these changes were the abolishment of the national origin quota system and the establishment of hemispheric limits on immigration. The limit was 120,000 visas for the Western Hemisphere and 170,000 for the Eastern Hemisphere, along with the provision that no one country would use more than 20,000 visas per year. The aim of the higher limit on the Eastern Hemisphere was to correct the wrongs made by previous restrictive policies, which had made immigration from these countries substantially lower than from the West. The amendments also set aside 6 percent (17,400) of the annual total (290,000) for refugees. Furthermore, it placed a much heavier emphasis on family reunification by exempting spouses, unmarried minor children, and parents of U.S. citizens from the numerical limits (Daniels 2004, 136).

In 1980, Congress passed the Refugee Act, which for the first time defined refugees as a distinct class of immigrant (Cooper 3). The act was prompted by the chaotic, massive migration of East Asian refugees following the American withdrawal from Viet Nam (approximately 267,800 between 1978 and 1980). The new law enacted several key changes regarding refugee policy. It eliminated the bias towards aiding those fleeing communism or the Middle East (although the United States is still fairly welcoming to those fleeing Cuba). It also separated two distinct types of applicants – refugees and asylees. The main difference between the two is time of arrival. Refugees had to first apply for status while living abroad, and then enter the United States once it was granted. In order for asylum-seekers to gain their status, they had enter the United States as a nonimmigrant, apply for asylum, and wait for asylee status to be granted. In order for each group to be granted the desired designation, they had to be able to

demonstrate a “‘well-founded fear of persecution’ on account of race, religion, nationality, membership in a particular social group, or adherence to a certain political opinion.” Each year, the president, in consultation of Congress, was to determine the maximum number of refugees and asylees allowed to enter the country. In 1980, that number was 234,000. Over the years, it began to decline. In 1983, it was 90,000, and did not increase again until 1995, at which point it was 100,000 (Hing 238).

In the 1970’s, illegal immigration again came to the center stage of American politics. In 1977, President Carter proposed legislation that would reduce the flow of illegal aliens, grant legalization of status to many of the undocumented aliens already in the United States, and increase the legal quota for immigrants from Mexico. Congress did not act on the proposals, but instead created the Select Commission on Immigration and Refugee Policy to study the issues of immigration and make policy recommendations. The committee took two years to publish a report, which was released in 1981. The commission made suggestions on all aspects of U.S. policy concerning immigrants, nonimmigrant admissions, asylees, and refugees – but did not make any suggestions on any topics other than illegal immigration. The commission came out strongly in support of legislation making it once again illegal for businesses to hire undocumented workers, thereby eliminating the Texas proviso of the McCarran-Walter Act. It also supported legislation that would help legalize those undocumented workers already in the United States. The commission was divided, however, on whether or not its system of employer sanctions would necessitate a new method of identification, or whether or not the current system would be adequate (Heer 58). These are all proposals still being considered today.

The recommendations of the committee were debated for several years. Different bills were passed by each chamber of Congress, and the conference committees failed several times to reach a compromise. It was not until 1986 that they finally did. That year, President Reagan signed into law the Immigration Reform and Control Act of 1986 (IRCA). There were five major provisions of this act.

- 1) Sanctions for the knowing employment of undocumented workers, with evidence to be based on existing documents
- 2) A legalization program for many of the undocumented
- 3) A limited program of guest workers for agriculture
- 4) A provision that warrants to be obtained from a judge before INS officials could make raids in open agricultural fields
- 5) Authorization for increased funding of the border patrol (Heer 60)

The legalization program affected three types of undocumented workers. Any person who had lived continuously in the United States since January 1, 1972 was given immediate permanent legal status. The second type consisted of those who had illegally resided in the United States on a continuous basis since January 1, 1982. These people were required to pay a fine of \$185 (\$420 maximum/family) between May 5, 1987 and May 5, 1988. At that point, they would be given temporary residency. As a temporary resident alien, one could live and work in the United States, but not receive benefits from federally funded, means-tested entitlement programs. After a year and a half of this status, s/he could apply to become a permanent resident, assuming s/he had a basic knowledge of English and U.S. history and government – or was pursuing a course of study in such knowledge. The individual would still not be able to receive benefits from federally funded, means-tested programs until five years after becoming a temporary resident (Tichenor 261).

The third class consisted of undocumented workers who had either worked for ninety days in agriculture in the United States during the year ended May 1, 1986, or had worked ninety days each of the previous three years prior to that date. Aliens who fell under this designation were given an eighteen month period to register for legalization upon payment of the same fees as the second category of illegal aliens. These aliens could adjust their status without any further qualifications. Those who had worked from 1985-1986 were eligible for permanent status on December 1, 1990. Those who had worked the three previous years were eligible on December 1, 1989 (Tichenor 261). As of September 30, 1992, IRCA had granted permanent status to 2.71 million people. Among those 2.71 million, 65,000 fell under the first category, 1.6 million under the second category, and 1.1 million under the third. Around 2 million of the 2.71 were born in Mexico (Heer 61).

While the amnesty policies worked fairly smoothly, the policies of employer sanctions proved to be somewhat problematic. In order to avoid the sanctions, businesses had to be able to prove that they had examined relevant documents, such as social security cards, birth certificates, and/or drivers' licenses. There were many reports of the presentation of fraudulent documents as well as the impersonation of individuals with genuine documents (Baker 2). Following the passage of the act, there *was* a substantial reduction in the number of illegal aliens apprehended by the INS (which is assumed to be an indication of less migration). However, since IRCA had also made it legal for millions to now travel freely between the United States and Mexico without fear of apprehension by the INS, some speculate that the reduction in numbers was not entirely due to employer sanctions (Heer 61). Another problematic issue concerning employer sanctions

was enforcement. IRCA provided for a 70 percent increase in INS's budget for the years immediately following its passage. Of that substantial increase, \$100 million was to be used each year for the enforcement of employer sanctions. However, in 1987, only \$34 million in funding was received, and by 1994, that number was only \$23 million (Chau 608). Nine years later, Mary Dougherty of the Department of Homeland Security stated that the agency had only levied \$9,300 in fines in all of 2003 (Katel 5).

In 1990, Congress passed another Immigration Act. This act raised the immigration ceiling to 700,000 per year, while granting preferences to relatives of U.S. citizens/legal residents and aliens with high-demand skills (Lin 19). The act also included the temporary provision allowing the annual admission of up to 55,000 persons between 1992 and 1994, who were either spouses or children of aliens legalized under IRCA. The law also prohibited the deportation of children and spouses of those legalized under IRCA. Another noteworthy provision was the creation of the U.S. Commission on Immigration Reform, which was charged with proposing future reform on immigration law (Heer 65).

For several years following the 1990 act, there was fierce national debate concerning illegal immigration. President Clinton announced in 1993 that the government was going to be tough on illegal immigration, and that legislation regarding the issue was soon to be on the way. However, it was not until 1996 that further legislation was passed – the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). This new act was dubbed “the most sweeping overhaul of American immigration policy in 30 years – and the sharpest immigration crackdown and restriction since the 1920's” (Collison 126). The act certainly did have a number of provisions, including: more funding for

border enforcement, deportation and exclusion policy changes, penalties against alien smuggling and document fraud, employer sanctions, welfare eligibility restrictions, and changes in refugee and asylum procedures. The employer sanctions, however, were not notably stronger than those imposed by IRCA (Lin 61). The act also denied access to public education to undocumented children (Tichenor 284).

In the summer of 2001, it seemed as if President George W. Bush and Mexican President Vincente Fox were on the verge of reaching an agreement in which “Mexicans would be allowed to come northward for work and residence, without impediment” (Graham 164). The two had had discussions about a permanent guest-worker program and legalization for the millions of illegal aliens in the United States. Then the tragic events of 9/11 took place, and immigration once again came under great national scrutiny. From that time on, it seemed as if the Bush-Fox deal had indirectly fallen through.

In December of 2001, Congress passed the Enhanced Border Security and Visa Reform Act. This was not the first time a crisis had brought immigration policy to the forefront of national politics. The increase in illegal entry of Europeans through Canada and Mexico in the 1920’s prompted the creation of the Border Patrol in 1924. The Great Depression in the 1930’s led to expansion of the public charge provision of the Chinese Exclusion Act in order to drastically reduce the number of immigrants allowed into the United States. The 1970’s and 1980’s attempts at controlling illegal immigration were also a result of the public’s perception of it being a national crisis. In the case of 9/11, the crisis included perceptions of unguarded borders and a weak foreign-student tracking system.

One of the aims of the 2001 act was to strengthen the aforementioned foreign-student tracking system. It also reinstituted an automated entry-and-exit tracking system for all non-citizens entering and exiting the country, except for Canadian nationals. Furthermore, visas were not to be issued to anyone from known terrorist-sponsoring nations. In order to counteract the increasing problems with fraudulent documents, the act required all visas and passports to be tamper-resistant, machine readable, and to contain biometric identifiers (Marshall).

In 2006, Congress signed into law the Secure Fence Act. This act's goal was to "establish operational control over the international land and maritime borders of the United States." In order to accomplish this goal, the act required the Department of Homeland Security to significantly step up its surveillance capabilities through the use of personnel and technology, and to build 700 additional miles of fencing between the United States and Mexico. However, the bill did *not* include all the funding required for the additional fencing (King).

### **The Current Situation**

As mentioned before, there are currently an estimated 11-12 million illegal aliens in the United States (according to the Pew Hispanic Center). This is by far the biggest issue concerning immigration policy today. When compared with only 3.5 million in 1990, one can see how quickly the numbers have grown (Katel). According to a 2003 RoperASW national poll, 85% of Americans feel that illegal immigration is a serious problem, while only 13% do not. Furthermore, 68% of respondents believe that the government should completely halt illegal immigration, while only 24% disagree. While

Congress does not always do exactly what the American people want, it can safely be concluded that any immigration policy passed by Congress in the near future will concern illegal immigration in some way.

An important question I asked during my research was: why in the last few decades has illegal immigration become such a big issue? After all, until the 1940's/50's migrant workers had been going back and forth across the border without a problem. The difference I found was that in the past, the majority of migrant workers did not permanently stay in the United States. Agricultural workers, for example, would come to the United States for the picking season and return to Mexico when they were no longer needed. After conducting my research, I arrived at the conclusion that it was actually a combination of the following policies: stepped-up border enforcement, the expansion of social welfare programs (such as food stamps, Medicare, etc), guest-worker programs, and amnesty.

For decades, the lack of border enforcement meant a constant ebb and flow of migrant workers across the border. However, as enforcement became a priority, it became increasingly dangerous for illegal workers to cross the border back and forth. Therefore, many of them opted to simply stay in the United States. As social welfare programs expanded, illegal aliens were given even more reason to stay (not necessarily for their own benefit, but for their American-born children). The guest-worker programs increased the demand for cheap, illegal labor. Furthermore, amnesty took away the credibility of America's immigration laws, by forgiving millions of illegal aliens and giving them permanent residency.



There are also distinct benefits stemming from the large number of illegal aliens residing in the United States. The most important benefit, for consumers and businesses, (but not necessarily for authorized workers) is the availability of their cheap labor. In the same way that the Chinese served as the backbone to expanding railroads in the 19<sup>th</sup> century, illegal aliens today serve as the backbone to many industries, e.g. agriculture, landscaping, construction, food processing, etc. In doing so, they have suppressed wages for these industries to artificially low levels – helping businesses maintain profit margins and also providing consumers with lower prices. For example, in 1998, the Department of Labor found that “52 percent of hired farm workers lacked work authorization” (Lin 51). The Department of Labor determined this through its National Agricultural Workers Survey. It can be inferred that this number is probably artificially low, given that employers are often unaware of their employees’ actual immigration status, and that workers here illegally are more apt to lie about their status as a precaution. Regardless, the Department of Agriculture’s Economic Research Study found that Americans pay less for food than any other industrialized nation in the world (Katel 5). Based on these facts, it is clear that in order to maintain economic stability, any reform aimed at combating illegal immigration allows for the abundance of cheap labor to remain.

### **What’s Next?**

Seemingly everyone has an opinion about what sort of legislation should be passed. Congress is seriously considering several proposals, many of which are very similar to past legislation. The most likely proposals are:

- Providing amnesty to those illegal aliens already here
- Instituting a guest-worker program

- Securing the Mexican-American border with a triple-layered wall (similar to the security fence along the Israeli West Bank)
- Increasing funding to the border patrol and using more high-tech measures, such as video surveillance, to catch illegal aliens attempting to cross the border
- Further economic sanctions for businesses who hire illegal aliens (coupled with legitimate enforcement, unlike those associated with IRCA).

Since I cannot examine all of these proposals with the amount of depth to which they are entitled, I will examine three likely proposals: two slightly different versions of a guest-worker program and providing amnesty to illegal aliens already in the United States. I have selected these plans because they have the most precedent. Since they have already been instituted in the past in various forms, gauging their effects in the future will probably be easier and more accurate. The plans are also somewhat interconnected – many people have proposed implementing a guest-worker program coupled with amnesty provisions, such as Senators Ted Kennedy and John McCain (Katel 4).

President Bush's proposed guest-worker program would be very similar to the *bracero* program of the mid-twentieth century. With this program, workers would be given temporary visas to come and work in the United States, and would be required to return to their country of origin upon the expiration of their visa. However, much to the chagrin of many of the president's supporters, his proposal would also include provisions allowing illegal workers already in the United States to acquire temporary visas. As mentioned before, Senators Ted Kennedy and John McCain have been preparing similar legislation to President Bush's – with one major difference: instead of being able to apply for *temporary* visas, illegal aliens already in the United States would be able to apply for *permanent* legal residence after six years of temporary residence (Katel 4). This would result in effective amnesty for millions of illegal aliens.

Amnesty is not a policy that would be popular with the American people. In fact, most Americans want illegal aliens to leave altogether. According to the aforementioned RoperASW poll, 83% of Americans support mandatory detention, forfeiture of property, and deportation for anyone in the United States illegally as measures to halt illegal immigration (56% strongly agree with these measures). While the question asked does not specifically address attitudes towards amnesty, the answer can be inferred by the overwhelming support of deportation.

One of the major concerns people have with illegal immigration is the drain it causes on public services. This concern was investigated in a study done by Steven Camarota of the non-partisan Center for Immigration Studies in Washington D.C. According to the study, households headed by illegal aliens imposed more than \$26.3 billion in costs on the federal government in 2002. This study did not include the costs imposed on state and local governments, nor did it investigate tax revenues for states and localities. To offset these costs, the same households paid approximately \$16 billion in taxes. The end result was a net fiscal deficit of almost \$10.4 billion.

The biggest costs associated with households headed by illegal aliens were Medicaid (\$2.5 billion), treatment of the uninsured (\$2.2 billion), food assistance programs (\$1.9 billion), federal prison and court systems (\$1.6 billion), and federal aid to schools (\$1.4 billion). Contrary to popular belief, however, it is not usually the illegal aliens themselves who cost the government money. For the most part, it is their American-born children, who are born citizens, with all the rights associated with that status. Since the vast majority of illegal aliens lack education, their jobs are usually low-

paying, so their children will undoubtedly qualify for numerous government hand-outs (Camarota 5).

Based on these figures, if illegal aliens were given amnesty and began to pay taxes and use services at the same rate as legal immigrants and citizens with the same education levels, the estimated annual net fiscal deficit would increase to \$29 billion. This is not based on the assumption that illegal aliens are lazy and unwilling to work; quite the contrary. Most illegal aliens hold jobs. However, the jobs they hold are typically low-paying. Therefore, not only would their children qualify for government hand-outs, but so would they (Camarota 5).

In addition to the aforementioned costs, one must also consider the intangible effects of amnesty. For instance – consider its effects on the perceived legitimacy of our immigration system. 1986's IRCA gave amnesty to over 2.7 million illegal aliens. Just four years later, there were 3.5 million illegal aliens in the United States, most of whom had entered the United States after IRCA was passed. 20 years after IRCA, there were over 11 million. These numbers indicate that others do not view America as being serious about enforcing its immigration laws.

In their joint article “Immigration Reform: The Effects of Employer Sanctions and Legalization on Wages”, Deborah Cobb-Clark, Clinton Shiells, and B. Lindsay Lowell argue that the theoretical effects of legalization (amnesty) on wages are ambiguous. Legalization could raise wages in general for a number of reasons, but it could also have no effect whatsoever, for various other reasons. For example, newly legalized workers would be able to move from “non-visible” jobs to “visible” jobs. It would make sense that the new jobs would be better paying and involve better job

experience, making them more marketable to employers. However, the authors also posit that since amnesty would be targeted at workers already well established in the U.S. labor market, the effects on wages would be minimal (in the short run). The lack of effect would be caused by the fact that amnesty would be “only a change in legal status – [not] a change in human capital – of workers already present” (Cobb-Clark et al. 474). In the long run, it would follow that newly legalized workers would take advantage of increased job mobility and opportunities to increase their human capital (e.g. education, experience, etc.). However, as these workers begin competing with authorized U.S. workers who had already been established, they would again depress wages.

All this is not to say that illegal immigration has only had negative effects on the country. For many Americans, it has been good. By accepting wages much lower than those demanded by citizens and legal residents of the United States, illegal workers have kept prices on all sorts of consumer and agricultural goods low. This has helped dampen the effects of factors such as rising fuel costs and inflation. In turn, this has given people more disposable income, which helps create more jobs for Americans in industries such as entertainment, travel, and consumer electronics (just to name a few). Basic economic theory posits that lower wages for low and non-skilled labor means higher effective wages for everyone else in the economy. Therefore, any legislation aimed at correcting the problems associated with illegal immigration should be careful not to erase all its benefits.

Dr. Tim Kane, Director of the Center for International Trade and Economics at The Heritage Foundation, proposes a slightly altered version of the guest-worker program, one that utilizes “free-market principles” instead of being run entirely by the

federal government. This concept is known as “sponsorship”. Dr. Kane sites several compelling reasons for not using a government-sponsored program. Such a system would require “total government control of the labor market in which migrant workers would be assigned licenses for narrowly defined jobs, skill-certified by bureaucrats, guaranteed occupation-specific wages, and assigned to employers” (Kane 1). This sort of system would operate under the assumption that the government has perfect information about the supply and demand of migrant labor. Even if this were possible, using that information would require a “massive bureaucracy of forms, files, and approvals – all mistake-prone, corruptible, and expensive” (Kane 2).

Under a sponsorship program, the federal government would be responsible simply for setting general numerical caps, ensuring compliance with employment laws, authorizing workers (all of whom would have to pass security and health checks), and maintaining a biometric database of the identity and status of migrants. This final database would be similar to the US-VISIT program. US-VISIT is a program run by the Department of Homeland Security. It uses biometrics to make sure criminals and suspected terrorists are not entering the country (assuming they try to enter the United States through appropriate immigration channels).

There are several other elements of Dr. Kane’s proposition. The federal government would offer a finite amount of temporary worker visas each year. Businesses would then bid for the slots, and the revenues would be used to pay for the program and to help defray social expenditures on migrant families. The winning bidders would be required to provide medical, disability, and other essential insurance to their migrant workers, in addition to minimum wage. Migrant workers would have to be biometrically

identified at the border, pay taxes, and return to their home country upon expiration of their temporary visas. Renewals would be allowed, but only from the finite number of visas. Additionally, workers who remain in the United States illegally would count against the number of visas. Such a program would utilize the market for what it does best, sorting supply and demand, and the government for what it does best, maintaining safety and security (Kane 2).

In his article, Dr. Kane does not address how much his proposed system would cost private industry. This is a crucial aspect of its plausibility. Much like any other policy regarding illegal immigration, businesses will only abide by it for two reasons: if they can do so and still keep a comfortable profit margin; and/or the risks of non-compliance outweigh the benefits. This concept is exemplified by the employer sanctions of IRCA – since there has been little risk of being caught and fined, businesses have not hesitated to hire illegal aliens if possible/practical.

A temporary worker program is probably the most likely course Congress will follow for a number of reasons. An issue that is repeatedly mentioned when discussing the problems associated with illegal immigration is national security. With a temporary guest-worker program, the government would be much more aware of who is going in and out of the country. While it certainly would not make it impossible for terrorists and criminals to slip through the cracks, it would give the government more knowledge and control. Such a program would also ensure a steady supply of cheap labor, albeit at slightly higher costs, as guest workers would be entitled to minimum wage and certain benefits.

Amnesty, however, would not only be a tough sell to the American people, it would also be costly, both financially and from a legitimacy standpoint. America tried it in 1986 and it failed. Continuing to provide amnesty would only encourage more people to come illegally. Furthermore, it would discourage workers and businesses from using the guest-worker program. Workers would not use it because they would be under the impression that it would enable the government to find them and deport them, should they overstay their temporary visa. Why would one risk that when in a few years, as long as they stayed hidden from the government, they would be granted amnesty? Businesses would not use it because there would still be illegal aliens present willing to work for wages less than those required by the guest-worker program.

### **The Hispanic Vote**

In predicting the future of immigration policy, especially with respect to illegal immigration, one thought to consider is the ever-increasing Hispanic vote. Just between the 1990 and 2000, the Census Bureau found that the Hispanic population in the United States had increased by 58 percent. A major part of this increase, however, was due to high birth rates and illegal immigration – so the effects of the drastic increase in population may not necessarily indicate an increase in Hispanic voting power. Between 2000 and 2004, the number of eligible Hispanic voters increased by 20 percent, bringing the total to about 16 million. This rate of increase was six times faster than that of non-Hispanic populations. It is also important to consider that Hispanics are much younger than the rest of the general population, making them decidedly less likely to vote (they represent 8 percent of eligible voters but 12 percent of the electorate between the ages of



18-24). While Hispanics accounted for half the population growth between 2000 and 2004, they only accounted for 10 percent of the increase in voter turnout between the 2000 and 2004 presidential elections (Pew Hispanic Center 1).

Another factor contributing to low Hispanic voter turnout is the fact that compared to other ethnic groups, the majority of Hispanics are not very politically aligned. In the Pew Hispanic Center and Kaiser Family Foundation's 2004 National Survey of Latinos, the following question was asked: Which party do you think has more concern for Latinos – the Democratic Party, the Republican Party, or is there no difference? 34 percent said the Democratic Party, 9 percent said the Republican Party, and 46 percent said there was no difference. While a party's perceived level of concern does not necessarily indicate which way, if any, a typical Hispanic might vote, it indicates the fact that much of the Hispanic vote is undecided and is therefore able to be swayed.

The aforementioned survey also asked questions about specific topics discussed in this paper. For instance, the question was asked, "Some say undocumented or illegal immigrants help the economy by providing low-cost labor. Others say they hurt the economy by driving wages down. Which is closer to your views?" 69 percent agreed with the former, while 23 percent with the latter. Another question asked, "...President Bush has proposed a plan that would allow some illegal [aliens] currently in the U.S. to stay in this country legally for several years as temporary workers. The plan would require these...workers to eventually return to their countries. Do you favor or oppose this plan?" 55 percent of respondents favored the proposal, while 38 percent opposed it. However, when asked if they supported a proposal that would allow many illegal aliens living in the

U.S. a chance to remain permanently with legal status and eventually become citizens, 88 percent of respondents were in support, while only 9 percent opposed it (Pew Hispanic Center 18). These responses indicate that Hispanic voters feel very differently than the general public about issues surrounding illegal immigration. However, how will this affect for whom they will vote?

In order to analyze the results of these questions in relation to the ability of each party to sway the Hispanic vote with stances on immigration policies, we must examine how important respondents felt that immigration was in relation to other issues. According to the same polls, 28 percent of Hispanics believe that immigration policy is extremely important, 45 percent very important, and 21 percent somewhat important. In order to compare and contrast the importance of each of the major issues about which the survey inquired, I combined the instances of “extremely” and “very” important responses for each issue. After doing this, out of eleven major issues, immigration ranked ninth – behind education, the economy, healthcare/medicine, the war on terror, crime, social security, moral values, and taxes.

These results indicate that immigration reform is not anywhere near the top of the list of priorities for Hispanic voters. This means that each party will most likely have to concentrate on other issues in order to sway the Hispanic vote. However, that is not to say that certain stances on immigration policy would not affect Hispanic voting patterns either way. For example, if one party advocated the erection of a wall along the U.S.-Mexican border along with the deportation of every illegal alien in the United States, it follows that that party would lose a substantial part of the Hispanic vote.

## **Conclusion**

No matter what happens in the next few years, Congress will eventually have to make a decision regarding illegal immigration. It has been a growing problem for decades – and many consider it to be a national crisis. Unfortunately, it is an extremely complicated issue – one that does not have clearly drawn party lines or obvious solutions. Therefore, it is going to take the cooperation of all members of Congress to pass any comprehensive reform. In all likelihood, any reform passed will most likely include either amnesty, an expansion of available slots for Latin American immigrants, a guest-worker program, tougher employer sanctions, or enhanced border security.

Which one of these proposals Congress selects will depend on a number of factors, including which interest groups influence politicians the most. If big businesses that rely on cheap, illegal labor end up influencing policy the most, we may see no changes at all. If pro-immigrant groups prevail, we may see a guest-worker program coupled with amnesty. If organized labor groups prevail, we may see any number of policies – such as tougher employer sanctions, a U.S.-Mexican border wall, enhanced border security, etc. In his article, *National Models, Policy Types, and the Politics of Immigration in Liberal Democracies*, Gary Freeman argues the same point, only with the conclusion that since businesses and illegal workers stand to benefit more than other groups stand to lose, they will push stronger for their side and will therefore prevail.

...the availability of cheap foreign labor brings concentrated benefits to employers and immigrant groups; while the costs for the native workforce or those living in neighborhoods where foreign workers will live are diffuse. This implies that employers and immigrant groups will have incentives to lobby more intensively to promote a liberal immigration policy, while those negatively affected by the policy will have fewer incentives to lobby against (Boswell 2).

While I do not completely agree with his conclusion, it is entirely within the realm of possibility. After all, it did occur in the case of the Texas proviso of the McCarran-Walter Act.

Currently, the illegal alien population in the United States is growing by 500,000 per year (Katel). If nothing is done, that number will only increase as the demand for cheap labor increases along with the U.S. population. Unfortunately, guest-worker programs and amnesty are policies that have already been instituted in the past, and have done nothing to halt illegal immigration. In fact, it is likely that many of the policies designed to halt illegal immigration in the past have actually made it worse. Therefore, it is almost certain that re-instituting these policies will yield the same results. From a humanitarian point of view, amnesty and guest-worker programs would be good policies because they would give illegal aliens the same basic rights as U.S. citizens. Therefore, if policies could be found that would a) completely halt illegal immigration, b) ensure a steady supply of cheap labor, and c) provide a path to at least legal residency for the 11-12 million illegal aliens already in the United States, everyone would benefit. Unfortunately, it does not seem as if any of the policies currently being considered can do all three.

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