Immigration Patterns

The United States is a nation of immigrants. Almost all US residents are immigrants or their descendents, and Americans celebrate their immigrant heritage. Immigrants have made and continue to remake America by changing its demography, economy and labor market, politics, and society and culture. Immigration changes how US residents interact with each other, the food we eat, and the language we speak.

An average of 104,000 foreigners arrive in the United States every day, including 3,100 who receive immigrant visas that allow them to settle and become naturalized US citizens after five years. There are almost 100,000 tourist, business, and student visitor arrivals a day that the US Department of Homeland Security considers nonimmigrants or temporary visitors who will depart. Finally, about 2,000 unauthorized foreigners a day settled in the United States for most of the past decade. Over half eluded apprehension on the Mexico-US border, and less than half entered legally but violated the terms of their visitor visas by going to work or not departing.1

The US had 40 million foreign-born residents in 2010, including 11 million, almost 30 percent, who were illegally present. The US has more foreign-born residents than any other country, three times more than Russia, the country with the second largest number. The US also has more unauthorized foreign residents than any other country.

1 DHS reported 1.1 million immigrants 36.2 million nonimmigrants in FY09, excluding Canadian and Mexican border crossers. There were 724,000 apprehensions in FY08, almost all along the Mexico-US border.
There are about 30 rich or industrial countries, and they have an average 10 percent foreign-born residents. There is wide variation. In Japan and South Korea, less than two percent of residents were born outside the country, while in Australia and New Zealand, almost 25 percent of residents are immigrants. The US, with 13 percent foreign-born residents, has a higher share of immigrants than most European countries, but a lower share than Canada.2

Public opinion polls find widespread dissatisfaction with the “broken” immigration system. Congress has debated comprehensive immigration reform for most of the past decade, considering proposals to reduce illegal migration and legalize some of the unauthorized foreigners in the United States. The House approved a bill in 2005 to increase enforcement against unauthorized migration, and the Senate in 2006 approved more enforcement and legalization, but Congress has been unable to agree on the three-pronged package endorsed by Presidents Bush and Obama, viz, tougher enforcement against unauthorized migration, legalization for most unauthorized foreigners in the US, and new or expanded guest worker programs.

Two recent changes rekindled the US debate over immigration reform. The 2008-09 recession, the worst in 50 years, doubled the US unemployment rate and reduced the entry of unauthorized foreigners. However, most did not go home even if they lost their jobs, since there were also few jobs in their home countries. Meanwhile, legal immigration continued at over a million a year as US residents sponsored family members for admission.3

The second stimulus for a renewed debate over immigration is that an increasing number of states, beginning with Arizona in April 2010, made unauthorized presence a state crime. To deter illegal immigration, they required all employers to check the legal status of new hires and required police officers to determine the status of persons encounter during traffic stops and other encounters. The federal government sued to block the implementation of new state laws in Arizona, Alabama, Georgia, and other states, arguing that managing migration

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2 According to the UN, France had 11 percent migrants and the UK 10 percent, while Canada had 21 percent migrants and Australia 22 percent.
3 The 2008-09 recession resulted in the loss of eight million jobs; civilian employment fell from 146 million at the end of 2007 to 138 million at the end of 2009. Job growth resumed in 2010 (http://data.bls.gov/cgi-bin/surveymost?bls). There was also stepped-up enforcement of immigration laws, especially after the failure of the US Senate to approve a comprehensive immigration reform bill in 2007, including a proposal to require employers to fire employees whose names and social security data do not match (http://migration.ucdavis.edu/mn/more.php?id=3315_0_2_0). There is agreement that the stock of unauthorized foreigners fell in 2008-09 for the first time in two decades, but disagreement over why it fell. Some studies stress the US recession, suggesting that the stock of unauthorized foreigners will increase with economic recovery and job growth. Others stress the effects of federal and state enforcement efforts to keep unauthorized workers out of US jobs. For a review of the debate, see http://migration.ucdavis.edu/mn/more.php?id=3433_0_2_
was exclusively a federal responsibility. The fact that states frustrated by the failure of Congress to deal with illegal immigration will force the US Supreme Court to resolve conflicting laws on one of the most contentious public policy issues of the 21st century.

Migration: Front, Side, and Back Doors
Between 1990 and 2010, the number of foreign-born US residents almost doubled from 20 million to 40 million, while the US population rose from 250 million to 310 million. Immigration directly contributed a third to US population growth and, with the US-born children and grandchildren of immigrants, migration accounted for over half of US population growth.

Legal immigration has been increasing. Immigration averaged 250,000 a year in the 1950s, 365,000 a year in the 1960s, 443,000 a year in the 1970s, 640,000 a year in the 1980s, almost a million a year in the 1990s, and 1.1 million a year in the first decade of the 21st century. Until the 1960s, most immigrants were from Europe. Since changes to US immigration law in 1965, most immigrants have been from Mexico, other Latin American countries, and Asia.

Figure 1--Immigration to the US: 1850-2010

Foreigners enter the US through a front door for legal permanent immigrants, a side door for legal temporary visitors, and a back door for the unauthorized. There are four major types of front-door immigrants. Since the mid-1960s, US
immigration policy has given priority to family-based immigration, meaning that US residents petition or ask the US government to give immigrant visas to their relatives. Two-thirds of legal permanent immigrants are family-sponsored.

There are two broad subcategories of family-sponsored immigrants: immediate relatives of US citizens and other relatives. There are no limits on the number of immigrant visas available for immediate relatives of US citizens, and in recent years almost 500,000 visas a year were issued to spouses, parents, and children of US citizens.

Table 1. Foreigners coming to or in the US, FY06-10

<table>
<thead>
<tr>
<th>Category</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal Immigrants</strong></td>
<td>1,266,129</td>
<td>1,052,415</td>
<td>1,107,126</td>
<td>1,130,818</td>
<td>1,042,62</td>
</tr>
<tr>
<td>Immediate relatives of US Citizens</td>
<td>580,348</td>
<td>494,920</td>
<td>488,483</td>
<td>535,554</td>
<td>476,41</td>
</tr>
<tr>
<td>Other family-sponsored immigrants</td>
<td>222,229</td>
<td>194,900</td>
<td>227,761</td>
<td>211,859</td>
<td>214,58</td>
</tr>
<tr>
<td>Employment-based</td>
<td>159,081</td>
<td>162,176</td>
<td>166,511</td>
<td>144,034</td>
<td>148,34</td>
</tr>
<tr>
<td>Refugees and Asylees</td>
<td>216,454</td>
<td>136,125</td>
<td>166,392</td>
<td>177,368</td>
<td>136,29</td>
</tr>
<tr>
<td>Diversity and other immigrants</td>
<td>88,017</td>
<td>64,294</td>
<td>57,979</td>
<td>62,003</td>
<td>66,98</td>
</tr>
<tr>
<td>Estimated Emigration</td>
<td>316,000</td>
<td>320,000</td>
<td>324,000</td>
<td>328,000</td>
<td></td>
</tr>
<tr>
<td><strong>Temporary Visitors</strong></td>
<td>33,667,328</td>
<td>37,149,651</td>
<td>39,381,925</td>
<td>36,231,554</td>
<td>46,471,52</td>
</tr>
<tr>
<td>Pleasure/Business</td>
<td>29,928,567</td>
<td>32,905,061</td>
<td>35,045,836</td>
<td>32,190,915</td>
<td>40,337,29</td>
</tr>
<tr>
<td>Foreign Students (F-1)</td>
<td>693,805</td>
<td>787,756</td>
<td>859,169</td>
<td>895,392</td>
<td>1,514,78</td>
</tr>
<tr>
<td>Temporary Foreign Workers</td>
<td>985,456</td>
<td>1,118,138</td>
<td>1,101,938</td>
<td>936,272</td>
<td>1,682,13</td>
</tr>
<tr>
<td><strong>Illegal Immigration:</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Apprehensions</td>
<td>1,206,457</td>
<td>960,756</td>
<td>791,568</td>
<td>613,003</td>
<td>516,99</td>
</tr>
<tr>
<td>Removals or Deportations</td>
<td>280,974</td>
<td>319,382</td>
<td>358,886</td>
<td>395,165</td>
<td>387,24</td>
</tr>
<tr>
<td>Unauthorized Foreigners</td>
<td>572,000</td>
<td>572,000</td>
<td>-650,000</td>
<td>-650,000</td>
<td></td>
</tr>
</tbody>
</table>

Sources: DHS Immigration Statistics, www.dhs.gov/immigrationstatistics
Unauthorized Foreigners from Passel
Beginning in FY10, DHS made a more complete count of land admissions

There are limits or caps on the number of immigrant visas available to more distant relatives of US citizens and family members of legal immigrants who have settled in the US. There are sometimes lengthy queues, especially for immigrants who apply for immigration visas for their relatives. For example, in Fall 2011, unmarried sons and daughters of US citizens had to wait an average seven years for F1 immigrant visas (and longer for Filipinos), while spouses and children of immigrants had to wait almost three years for F2A visas (longer for Mexicans). Some of these family members do not wait abroad for visas. Instead, they enter the US as temporary visitors and stay or slip into the US illegally, so that some of the unauthorized foreigners in the US are likely to eventually qualify for immigrant visas even if there is no large-scale legalization.

Box 1-- Immigrants, Refugees, Nonimmigrants, and Unauthorized Aliens
All persons in the United States are US citizens or aliens, persons who are citizens of another country. There are four major types of aliens: immigrants, refugees, temporary visitors or nonimmigrants, and unauthorized foreigners.

Legal Immigrants are citizens of other countries who have a visa that allows them to live and work permanently in the US and, generally after five years, to become naturalized US citizens. Legal immigrant visas are now credit-card type documents, but they used to be printed on green paper, and immigrants are still often referred to as “greencard holders.” About 1.1 million legal immigrants (including refugees) are admitted each year, including two-thirds because their relatives in the US “petitioned” the government to admit them; this petitioning process is known as sponsoring, that is, US residents sponsor their relatives for admission.

Refugees are persons granted legal residency in the United States because they have a well-founded fear persecution at home due to their race, religion, nationality, membership in a particular social group, or political opinion. Refugees leave the country in which they face persecution. Some wait in third countries for resettlement in the US and other countries, while others come directly to the US and request asylum. If asylum applicants are recognized as refugees by US immigration judges, they are invited to settle in the US as immigrants. The US resettles about 75,000 refugees a year from third countries, and about half of the 50,000 asylum applicants each year are recognized as refugees.

Temporary Visitors or Nonimmigrants are foreigners in the US for a specific time and purpose, such as business or tourism, working, or studying at a US college or university. The number of temporary visitors is between 35 million and 40 million a year, but more complete counts of foreigners entering the US via land borders with Canada and Mexico pushed the number of temporary visitors to over 46 million in 2010. An additional 100 million Canadians and Mexicans entered the US in 2010, including some who commuted daily to US jobs and were “admitted” each time they entered the US.

The United States has 25 types of nonimmigrant or visitor visas that are named after letters. They range from A-1 visas for foreign ambassadors to TN visas for Canadian and Mexican professionals entering the US to work under the provisions of NAFTA. There are many subcategories of nonimmigrant visas, including H-1B visas for foreign professionals working temporarily in the US, H-2A visas for foreigners filling seasonal farm jobs, and H-2B visas for foreign workers filling seasonal nonfarm jobs. Other nonimmigrant visas include F-1 visas for foreign students and J-1 visas for exchange visitors admitted for work and cultural experience in the US.

Unauthorized, undocumented, or illegal migrants are foreigners in the United States without valid visas. Their number peaked at 12 million in 2008 and fell to 11 million in 2010 and 2011 as a result of the recession and more enforcement at the border and in US workplaces. About 55 percent of the unauthorized foreigners are Mexicans, and most entered without being detected across the Mexico-US border. Many non-Mexicans who are unauthorized entered the US legally, for example as tourists, and then violated the terms of their visa by going to work or not departing.

A second and much smaller category of immigrant visas are available to foreigners requested or sponsored by US employers. There are 140,000 employment-based visas a year available for foreigners requested by US
employers and their families, but the number issued is often higher because employment visas not issued in earlier years can be carried forward.\(^4\)

There are several types of employment-based immigrant visas, but the largest is for foreigners whose employers demonstrate to the US Department of Labor that US workers are not available to fill a job. Almost all of the foreigners who are sponsored by employers for immigrant visas are already in the US, over 90 percent in recent years, and many already fill the job for which the employer says there are no qualified US workers. Another category gives immigrant visas to foreigners who invest at least $500,000 in the US.\(^5\)

The third group of front-door immigrants consists of refugees and asylees. Refugees are foreigners outside their country of citizenship who do not wish to return because of “a well-founded fear of persecution due to race, religion, nationality, membership in a particular social group, or political opinion.” Until 1980, the US did not follow this international definition of refugee, instead considering refugees to be persons who did not want to return to communist countries and Southeast Asians displaced by the Vietnam war.\(^6\)

Asylum seekers or asylees are foreigners who come directly to the US and apply for refugee status on the basis of a “credible fear” of persecution at home. About 50,000 asylum claims are filed each year, including half that are voluntary or “affirmative” and half that are “defensive” or filed after a foreigner has been arrested and detained. In each group, about half of the applications are approved, so that 25,000 foreigners a year receive asylum in the US. Chinese citizens account for a quarter of the successful asylum applicants, in part because, in another US deviation from international norms, fear of China’s one-child policy can be the basis for being recognized as a refugee in the US.

The fourth front-door channel is for “diversity immigrants,” a category created in 1990 to offset family-based chain immigration from Latin America and Asia that made it hard for Irish and other Western Europeans to obtain immigrant visas.

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4 There are five types of employment-based immigration visas: (1) priority workers with “extraordinary ability” in the arts or sciences or multinational executives; (2) members of the professions holding advanced degrees; (3) professionals with Bachelor’s degrees and skilled and unskilled workers; (4) special immigrants, including ministers; and (5) investors.

5 EB-5 investor visas are available to those in invest at least $1 million and create or preserve at least 10 full-time US jobs, $500,000 in areas with unemployment rates that are 1.5 times the US average. Most foreign investors invest $500,000 via US firms that recruit foreign investors, the foreigners generally do not actively manage their US investments. After two years and a check on the investment and jobs, foreign investors can convert probationary immigrant visas into regular immigrant visas.

6 Cubans can stay in the US as refugees under a 1966 law if they reach “dry land.” Under a 1995 agreement with Cuba aimed at stemming the outflow of boat people, the US Coast Guard returns Cubans intercepted at sea to Cuba. This “wet-foot, dry-foot” policy for Cuba has been criticized by advocates for Haitians, who are often returned to Haiti even if they reach Florida.
because they had few close relatives in the US to sponsor them. There are 50,000
diversity visas a year available to citizens of countries that sent fewer than 50,000
immigrants to the US during the previous five years. The number of applications
is much larger, over 15 million in 2010, so a lottery is used to select diversity visa
winners.\(^7\)

Once they reach the United States, most immigrants stay. Between 1901 and 1990,
the number of people emigrating from the United States was equivalent to about
31 percent of the number immigrating. During the 1930s Depression, more people
moved out of the United States, 650,000, than moved in, 530,000. In making
population projections, the US Census Bureau assumed that about 300,000 U.S.
residents a year would emigrate, equivalent to 30 percent of projected net

The United States is eager to attract most types of side-door temporary visitors or
nonimmigrants, as evidenced by airline and hotel ads for foreign tourists. Arrivals
of temporary visitors increased in the 1990s, but fell after the September 11, 2001
terrorist attacks, which prompted the US government to require foreigners
seeking visas to appear in-person at US embassies and consulates for interviews.\(^8\)
Temporary visitor arrivals approached 40 million in 2008, but fell during the 2008-
09 recession before jumping to almost 47 million in 2010. Some of the recent
increase reflects a more complete count of foreigners arriving via land borders
with Canada and Mexico.

Several categories of side-door temporary visitors are of interest. For example,
foreign student admissions have increased sharply, reflecting the global
reputation of US higher education, affluence in Asia that enables more Chinese,
Indians, and Koreans to seek US degrees, and active recruitment of fee-paying
foreign students by some US universities. About 700,000 foreigners study at US
universities, including almost half from China and India. The University of
Southern California has more foreign students than any other US university.

Foreign students became controversial after the September 11, 2001 terrorist
attacks, since some of the attackers had student visas but did not enroll at the
institutions that admitted them. In response, the US government began to more
closely regulate foreign students at colleges and universities and developed a new
tracking system, the Student and Exchange Visitor Information System
(www.ice.gov/sevis/index.htm), to track foreign students while they are in the
US. Foreign students pay a fee to cover the cost of SEVIS.

\(^7\) Applicants for diversity visas apply online in October, and winners are drawn at
random the following spring. In FY10, over half of the 15 million applicants were
Bangladeshis (8.6 million applied), followed by two million Nigerians; 1.1 million
Ukrainians; and almost 800,000 Ethiopians and another 800,000 Egyptians. In FY11, only
eight million foreigners applied for diversity immigrant visas, perhaps because
Bangladesh was for the first time excluded. Nigerians submitted 1.4 million entries in
FY11, Ghanaians 910,000, and Ukrainians 850,000.

\(^8\) The US Visa Waiver Program allows the citizens of 27 countries, including 15-member
nations of the European Union, to visit the United States without a visa.
Many foreign students graduate from US universities and stay. Those who want to become immigrants must find a US employer to sponsor them. Many US employers are unwilling to sponsor fresh graduates for immigrant visas, instead preferring to hire fresh graduates as interns or guest workers. All foreign graduates of US universities can stay in the US a year after graduation for Optional Practical Training (OPT) with a US employer. If their degree is in a science, technology, engineering, or mathematics (STEM) field, foreign graduates of US universities may stay in the US an additional 17 months for OPT, giving their employers more time to determine if they should be sponsored for an immigrant visa.

Some foreign students who earn bachelor’s degrees in the US become guest workers. There are several types of guest worker visas, including three H-visas. The H-1B visa was created by the Immigration Act of 1990 to make it easy for US employers to hire foreigners with at least a college degree to fill US jobs that normally require a college degree. When enacted, the H-1B visa aimed to satisfy a labor market mis-match problem, that is, Congress believed that the US had enough workers, but not enough with computer skills to fill the growing number of IT-sector jobs.

To fill the gap in IT and other fast-growing sectors, the H-1B program allows most US employers who attest or sign a document promising to pay the prevailing wage to receive permission to hire foreigners with H-1B visas. When enacted, Congress expected the number of H-1B visas to jump and then fall as US universities graduated more engineers and IT workers. However, the opposite occurred. The H-1B quota, set at 65,000 or three times admissions of foreign professionals in the late 1980s, was not reached until 1997. Employers who had become accustomed to hiring Indian programmers and Filipino nurses twice persuaded Congress to raise the cap, eventually to 195,000 a year, and to allow non-profit universities and research centers to obtain an unlimited number of H-1B visas outside the 65,000 quota.

The number of H-1B visas was raised just as the dot-com boom ended in 2001, so the cap returned to its current level of 65,000 a year in 2004, plus 20,000 visas for foreigners earning advanced degrees from US universities, plus an unlimited number of H-1B visas for non-profits, so that over 100,000 H-1B visas are issued each year. Holders of H-1B visas may remain in the US for six years and, during their stay, may be sponsored by their US employers for immigrant visas. However, while the H-1B program opened a wider door for US employers to hire foreign workers it did not raise the 140,000 immigrant visas a year available for foreigners sponsored by US employers, generating frustration among both employers and foreigners awaiting immigrant visas. Responses include proposals to “staple a green card” to the diplomas of foreigners who earn degrees in science and engineering from US universities or allow all foreign S&E graduates to become immigrants.

Unauthorized, undocumented, or illegal foreigners are persons in the US in violation of US immigration laws. The best estimate is that their number rose by
over 500,000 a year, from about 3.5 million in 1992 to 12 million in 2008 (Passel, 2011). The 2008-09 recession reduced entries of unauthorized foreigners and encouraged at least some of those in the US to leave. By 2012, the estimated number of unauthorized foreigners had dropped to 11 million.

The Department of Homeland Security (DHS) has two agencies responsible for dealing with unauthorized migration. The Customs and Border Protection (CBP) agency includes the Border Patrol and customs inspectors who aim to prevent unauthorized foreigners from entering the US, while the Immigration and Customs Enforcement (ICE) agency seeks to identify and remove unauthorized foreigners inside the US. CBP agents apprehended less than 350,000 foreigners just inside US borders in 2011, down sharply from 1.6 million in 2000. It should be emphasized that apprehensions record the event of capturing an unauthorized foreigner rather than a count of unique individuals, so that one foreigner apprehended five times is recorded in CBP data as five apprehensions.

Most Mexicans who are apprehended by CBP are fingerprinted and allowed to "voluntarily" return to Mexico rather than being formally deported. Apprehended foreigners who are "other than Mexicans" (OTMs) normally do appear before an immigration judge and can be formally deported or removed. In the past, OTMs were often released until their court dates because there was not enough space to detain them, and most did not appear when their case was scheduled in immigration court. This "catch-and-release" policy has changed to a "catch-and-detain" policy, so that DHS regularly detains 32,000 foreigners, and persuades immigration judge to formally deport or remove about 400,000 foreigners. ICE agents target foreigners convicted of US crimes, but most of the foreigners who are deported are not convicted US criminals because, as ICE agents search for foreigners convicted of US crimes, they also apprehend other unauthorized foreigners.

ICE agents also enforce laws that prohibit unauthorized foreigners from working in the US. Since the enactment of employer sanctions or fines on employers who hire unauthorized workers in 1986, newly hired workers must present documents to their employers proving their identity and right to work in the US. Employers and newly hired workers sign a so-called I-9 form to demonstrate that they completed this step. Employers do not have to determine the authenticity of the documents presented by newly hired workers, and many workers present false documents or documents belonging to other workers. DHS operates an internet-based system called E-Verify that allows employers to check information on worker-presented documents, but employer participation in E-Verify is voluntary for most employers, and fewer than 10 percent of US employers use E-Verify.

For most of the past quarter century, workplace enforcement has been a relatively low priority for ICE. However, President George W. Bush ordered more workplace raids after the Senate failed to approve comprehensive immigration reforms in 2007. President Obama halted workplace raids in 2009, and ICE agents now try to keep unauthorized workers out of jobs by auditing or checking I-9 forms, advising employers which of their employees appear to be unauthorized, and instructing employers to have their employees clear up their records.
However, most suspect employees quit rather than try to clear up discrepancies in their records, and some switch to other employers.

**Public Opinion and Migration**

Americans have long worried about the changes associated with immigration. In opinion polls, a majority of respondents consistently agree that legal and illegal immigration should be reduced.\(^9\) However, there are major differences between elite and mass opinion: support for immigration rises with income and education. For example, a Chicago Council on Foreign Relations poll in 2002 found that 55 percent of the public wanted to reduce legal immigration, compared to 18 percent of opinion leaders.

Public opinion often changes with economic circumstances. During the late 1990s, when the economy was growing and unemployment rates were at historically low levels, public opinion became less restrictionist. A 1997 poll, for example, found that fewer than 50 percent of Americans wanted immigration reduced or stopped. However, 63 percent of respondents were concerned about immigrants taking jobs from Americans or accentuating racial conflict, and 79 percent feared that immigrants were overburdening the welfare system and pushing up taxes.\(^10\)

The terrorist attacks of September 11, 2011 and the 2008-09 recession have made Americans more skeptical of immigration. A Fox News poll taken just after the terrorist attacks reported that 65 percent of Americans favored stopping all immigration during the war on terror. Immigration was not stopped, making “the most significant development in the national immigration debate ... what hasn't happened. No lawmaker of influence has moved to reverse the country's generous immigration policy, which for more than three decades has facilitated the largest sustained wave of immigration in U.S. history.”\(^11\) One reason immigration continued after the terrorist attacks is that most Americans agreed with the then Commissioner of the Immigration and Naturalization Service, James W. Ziglar, who said: "These weren't immigrants. They were terrorists."\(^12\)

During the housing boom between 2003 and 2007, the estimated number of unauthorized foreigners in the US increased by over 500,000 a year, prompting rising concern about illegal immigration. A December 2005 Washington Post-ABC News poll that found 80 percent of Americans agreeing that the federal

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9 In 1953, the year of the Hungarian and East German uprisings that were crushed by the Soviets, more than 10 percent of the public favored increasing immigration (Simon, 1989, p350).
10 This poll of 800 adults, conducted July 31-August 17, 1997 for the PBS TV show, “State of the Union,” was reported in Susan Page, “Fear of Immigration Eases,” *USA Today*, October 13, 1997.
government should do more to reduce illegal immigration, and 56 percent agreeing that unauthorized migrants hurt the US more than they help it.13

A Pew Research Center Poll in March 2006 found that 53 percent of Americans supported the removal of illegal foreigners and 40 percent thought they should be allowed to stay.14 President George W. Bush argued that allowing the entry of more guest workers would help to reduce illegal migration, that is, more enforcement against illegal migration should be coupled with more guest workers. A Los Angeles Times poll in April 2006 found that 63 percent of Americans supported more enforcement and more guest workers, while 30 percent favored only more enforcement.15

Politicians on some occasions have used fear of too-much immigration as the centerpieces of their campaigns. For example, Reform Party presidential candidate Pat Buchanan in 2000 promised tough action against illegal migration, as did Representative Tom Tancredo’s (R-CO) in 2008. Both Buchanan and Tancredo, as well as a 1996 bid for the Republican presidential nomination by then-Governor Pete Wilson, emphasized opposition to illegal migration rather than legal immigration.

Recent polls find continue to find overwhelming support for doing more to reduce unauthorized migration. After Republican Presidential candidates Rick Perry and New Gingrich suggested that unauthorized foreigners in the US should be given some kind of legal status, although not necessarily a path to US citizenship, polls found that most Americans disagreed. Over 55 percent of those participating in a CNN/ORC poll in November 2011 supported deporting unauthorized foreigners in the US, while 42 percent would have offered them a path to legal residency. A USA Today/Gallup Poll found similar sentiments (www.pollingreport.com/immigration.htm).

Many politicians and researchers dismiss such data by pointing out that Americans have long feared the changes that accompany immigration, and their fears have been unfounded. Benjamin Franklin, a founding father whose portrait appears on the $100 bill, worried in the mid-1700s that Germans could not be

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14 Pew Research Center. 2006. America’s Immigration Quandary. http://people-press.org/reports/display.php3?PageID=1045. The survey found that, among the 53 percent who wanted illegal migrants removed, half would allow them to first work in the US as legal guest workers before leaving. For the 40 percent who thought illegal migrants should be allowed to stay, most favored allowing them to become immigrants. Half of the respondents agreed the best way to reduce illegal immigration was to penalize employers who hired illegal migrants; a third favored more border enforcement.
assimilated. Why, he asked, should “Pennsylvania, founded by the English, become a colony of aliens, who will shortly be so numerous as to Germanize us, instead of our Anglifying them?” (quoted in Degler, 1970, p50). Less than two centuries later, a descendent of German immigrants, Dwight Eisenhower, was elected president of the United States.

Americans may fear too many immigrants and the changes that accompany immigration, but they have been willing to entrust naturalized US citizens with high-level public office. Madeleine Albright, born in Czechoslovakia, and Henry Kissinger, born in Germany, were US Secretaries of State. Felix Frankfurter, a distinguished US Supreme Court justice, and Arnold Schwarzenegger, governor of California, were born in Austria, while Black leader Marcus Garvey was born in Jamaica.

The debate over immigration is often highlighted by admissionist and restrictionist interest groups that occupy the no borders and no immigrants ends of the spectrum. Admissionists urge the US government to accept more immigrants and to legalize unauthorized foreigners in the US, which they say would maintain the American tradition of welcoming newcomers seeking opportunity while expanding the US labor force and economy. Restrictionists who want fewer immigrants and more done to reduce illegal migration often emphasize the negative effects of a larger population on the environment, the adverse effects of especially low-skilled immigrants on the wages and job opportunities of low-skilled US workers, and potential problems of newcomers forming language, religion, or cultural enclaves.

Public attitudes toward immigration are often linked to perceptions about their social and economic integration. European immigrants, many of whom have achieved the success they sought in the US, are generally welcomed and considered easy to integrate, although relatively few are arriving today. Over half of legal immigrants to the US, and a higher share of unauthorized foreigners, are Latin Americans, and their uneven integration helps to explain the concerns expressed in public opinion polls.

Immigration Policies

Three Immigration Policies

Immigration policies answer three fundamental immigration questions: how many, from where, and in what status should newcomers arrive? US immigration policies have gone through three major phases: laissez-faire, qualitative restrictions, and quantitative restrictions. The federal government used to change immigration policies in major ways about once a generation, but rising numbers of immigrants and more controversy about immigration prompted more frequent changes to migration policy.

Laissez-Faire – 1780-1875

During its first hundred years, the United States had a laissez-faire policy toward immigration--no limits. Instead, federal, state, and local governments as well as
private employers, shipping companies and railroads, and churches encouraged immigration.

For example, the federal government subsidized railroad construction by giving land to the private firms that built railroads, a policy that encouraged railroad builders to recruit immigrants as workers. High tariffs restricted imports of European manufactured goods, stimulating a demand for US-produced goods and workers to make them. Both federal and state governments relied on immigrants to be soldiers, explaining why a third of the regular soldiers in the 1840s were immigrants, and an even higher proportion of many state militias (Briggs, 1992, p45). The Naturalization Act of 1790 established the principle that an immigrant could acquire US citizenship after several years of residence.16

Despite fears that immigrants would alter the culture and customs of the evolving United States, the neat match between Europeans seeking opportunity and an America in need of settlers kept immigration door wide open until the 1850s. The influx of Catholic immigrants from Ireland and Germany set off the first organized anti-immigrant movement, the “Know Nothings.” Protestant clergymen, journalists, and other opinion leaders formed the Order of the Star Spangled Banner within the American Party to urge reductions in immigration from non-Anglo-Saxon countries. To maintain secrecy, members answered inquiries by saying “I know nothing about it.” The American Party won 70 congressional seats in the federal election of 1854, when immigration reached a record 427,000, but was unable to persuade Congress to impose restrictions on Catholic immigration.

**Qualitative Restrictions: 1875-1920**

Immigration was low during and after reconstruction from the Civil War. As immigration began rising in the 1870s, Congress responded to restrictionist public opinion with qualitative restrictions on who could immigrate. The Immigration Act of 1875 was the first US immigration law that excluded groups of people from the United States, Chinese contract workers and “women [immigrating] for the purposes of prostitution.”17 More qualitative restrictions followed. All Chinese workers were barred by the Chinese Exclusion Act of 1882, while the Immigration Act of 1882 imposed a $0.50 tax on arriving immigrants at US ports and denied entry to “lunatics, idiots and persons likely to become public charges.”

Most immigrants during the third wave between 1880 and World War I were from Southern and Eastern European countries and settled in US cities. Most Americans, on the other hand, lived on farms, and saw cities as increasingly

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16 The Naturalization Act permitted white persons of "good moral character" to acquire citizenship after 2 years’ residence. The normal period was briefly extended to 14 years in 1798, and has been 5 years since 1800.

17 The purpose of excluding female prostitutes was to prevent single Chinese women from immigrating and marrying Chinese men already in the US, since their US-born children would have been US citizens.
“foreign” places associated with crime, disease, and “unAmerican” behavior. Anti-immigrant passions sentiment rose, as during the 1850s with the Know Nothings. The newcomers were often seen as inferior to Americans, as reflected by Woodrow Wilson, later elected as the 28th president:

“Immigrants poured in as before, but...now there came multitudes of men of lowest class from the south of Italy and men of the meanest sort out of Hungary and Poland, men out of the ranks where there was neither skill nor energy nor any initiative of quick intelligence; and they came in numbers which increased from year to year, as if the countries of the south of Europe were disburdening themselves of the more sordid and hapless elements of their population.” (Wilson, 1901, pp212-13).

Congress reacted to rising anti-immigrant sentiments with a new qualitative restriction, a literacy test. Beginning in 1897, Congress approved bills requiring all immigrants over the age of 16 to be able to read and write in some language but they were vetoed by the President. The US Immigration Commission (1907-10), also known as the Dillingham Commission after Senator William Dillingham (R-VT), produced 41-volumes of social science analysis of immigrants from southern and eastern Europe that concluded these newcomers had more “inborn socially inadequate qualities than northwestern Europeans.”

Rising opposition to immigrants from southern and eastern Europe, combined with “scientific research” on their inferiorities, persuaded Congress to override President Wilson’s veto of a literacy test bill in 1917, so that all immigrants over age 16 had to read at least 30 words in some language to enter the United States. The Immigration Act of 1917, the first law aimed at restricting European immigration, raised the entry fee or head tax to $8 and added homosexuals, idiots, “feeble-minded persons,” and “mentally or physically defective” people to the list of immigrants barred from the US by qualitative restrictions.

**Quantitative Restrictions – Since 1921**
Congress imposed the first quantitative restrictions on immigration in 1921, limiting arrivals to three percent of the foreign-born persons of each nationality present in the US in 1910. Since almost 15 million immigrants arrived in the two decades of the 20th century, the base year was soon changed to 1890, before most third-wave immigrants arrived, to ensure that northern and western European

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nations were favored. About 60 percent of the immigrants admitted between 1924 and 1965 were British and German.

Emigration exceeded immigration during the Depression of the 1930s. The smallest number of admissions during the 20th century was 23,100 in 1933. In the late 1940s, when the US was acknowledged as a global superpower, President Harry Truman supported efforts to abolish the national origins system that made it easiest for northern and western Europeans to immigrate. However, Congress preserved the national origins selection system in the McCarran-Walter Immigration and Nationality Act of 1952 by overriding Truman’s veto.

President John Kennedy proposed eliminating the national origins selection system in the early 1960s. The civil rights movement highlighted government discrimination against particular types of people, prompting the Civil Rights Act of 1964 and anti-poverty programs to help Blacks and other people “left behind” to take advantage of the opportunities that attracting immigrants to the US. Immigration was less than 300,000 a year when the Immigration and Nationality Act of 1965 changed the immigration selection system to favoring the admission of foreigners sponsored by US relatives and US employers. The annual quota was 170,000 immigrants a year, not including immediate relatives of U.S. citizens.

In the first of many predictions about the effects of an immigration law that proved false, Senator Ted Kennedy (D-MA) urged approval of the family and employer sponsorship system by asserting: “First, our cities will not be flooded with a million immigrants annually... Secondly, the ethnic mix of this country will not be upset.” The number of immigrants began to top a million a year in the

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19 After 1927, when the base was changed to 1920, the annual limit was 150,000, plus accompanying wives and children. Each country's quota was “a number which bears the same ratio to 150,000 as the number of inhabitants in the United States in 1920 having that national origin bears to the number of white inhabitants of the United States.” Each country was guaranteed at least 100 visas, so that 154,477 visas were available annually. Between 1924 and 1927, immigration was limited to two percent of each country's foreign-born persons in the US in 1890. House of Representatives, Committee on the Judiciary, House report 1365, 82nd Congress, 2nd Session, February 14, 1952, p37

20 The largest number of admissions was 1.8 million in 1991, when many of the 2.3 million unauthorized foreigners legalized under the Immigration Reform and Control Act of 1986 were “admitted” as immigrants.

21 Truman’s veto message complained that Congress was trying to protect the US “against being flooded by immigrants from Eastern Europe. This is fantastic... We do not need to be protected against immigrants from these countries—on the contrary we want to stretch out a helping hand, to save those who have managed to flee into Western Europe.” Senator Pat McCarran (D-NV) countered: “we have in the United States today hard-core, indigestible blocs which have not become integrated into the American way of life, but which, on the contrary are its deadly enemies. Today, as never before, untold millions are storming our gates for admission and those gates are cracking under the strain. The solution of the problems of Europe and Asia will not come through a transplanting of those problems en masse to the United States.”
1990s, and the major sources of immigrants changed from Europe to Latin America and Asia.

**Immigration Reforms Since 1980**
Until the 1980s, US immigration law could be described as a complex system that changed once a generation. The accelerating pace of global change affected migration patterns, and Congress responded with three major changes in immigration laws between 1980 and 1990, three more in 1996 and even more since the 9/11 terrorist attacks. But Congress was unable to agree on how to deal with unauthorized migration.

**Refugees, Unauthorized, Employment**
The first major policy change dealt with refugees. During the Cold War with communism between 1946 and 1991, the US government defined refugees as persons fleeing communism or political violence in the Middle East, and resettled those who escaped. The US government did not follow the definition agreed to in the 1951 UN Refugee Convention, which defined a refugee as a person outside his or her country of citizenship and unwilling to return because of a well-founded fear of persecution due to the person’s race, religion, nationality, membership in a particular social group, or political opinion.

The US accepted the UN definition in the Refugee Act of 1980. Passed after large numbers of Vietnamese and other Southeast Asians were resettled in the US, the Refugee Act allows the President to determine the number of refugees resettled in the US each year in consultation with Congress. When enacted, the expectation was that the US would accept about 50,000 refugees for resettlement a year.22

The second major policy change aimed to reduce illegal migration. During the 1960s, the Border Patrol apprehended 1.6 million foreigners, but during the 1970s, apprehensions rose five fold to 8.3 million. The Select Commission on Immigration and Refugee Policy studied the effects of illegal immigration concluded in 1981 that they adversely affected low-skilled US workers and undermined the rule of law, and urged the government to reduce such migration.

The result of concern with illegal migration was the Immigration Reform and Control Act of 1986 (IRCA), which included the first federal sanctions or penalties on US employers who knowingly hired unauthorized workers. Deliberations over illegal migration showed a divisions between those who thought the top priority was to prevent more illegal migration and those who wanted to legalize unauthorized foreigners in the US. The result was a Grand Bargain, including “employer sanctions” to discourage more foreigners from slipping into the US because, it was assumed, they could not get jobs, and legalization for unauthorized foreigners in the US at least five years and farm workers.

Like the Immigration Act of 1965, the Immigration Reform and Control Act of 1986 had unanticipated consequences. IRCA’s legalization programs allowed

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22 Refugees appear in immigration data as immigrants one year after they arrive in the US
most of the estimated 3 to 5 million unauthorized foreigners in the US to become legal immigrants. About 85 percent of the 2.7 million new immigrants were Mexicans, reflecting the upsurge in unauthorized Mexico-US migration after the Mexican economic crisis and peso devaluation of the early 1980s.

Agriculture played a special role in the debate over IRCA. Farmers admitted that they hired illegal workers. If the federal government was going to penalize them for knowingly hiring unauthorized workers, they insisted that the federal government also create a new guest worker program like the earlier Bracero programs so that they could hire Mexican workers legally. Unions opposed guest worker programs because, they argued, “bonded contract workers” were like indentured servants with few rights who could lose their right to be in the US if their employers fired them.

IRCA also included a Grand Bargain between farmers and farm worker advocates. Farmers won extensive changes in the existing guest worker program known as H-2A, while unauthorized farm workers could become legal immigrants by showing evidence that they did at least 90 days of farm work in 1985-86. No one knew exactly how many unauthorized farm workers there were, or how many would qualify for legalization, but the best estimate was 400,000 (Martin, 1994). To encourage “fearful” unauthorized farm workers to apply for immigrant status, IRCA was written so that, once a worker provided pay stubs or a letter from an employer saying he had done 90 days of farm work, the burden shifted to the government to prove the applicant was lying. The government was unable to do this, and some 1.3 million foreigners applied for legalization, and 1.1 million or 85 percent became immigrants.23

Legalization brought almost three million unauthorized foreigners out of the shadows, but sanctions did not prevent unauthorized foreigners from obtaining US jobs. Both employers and workers soon learned that they could use false documents to satisfy IRCA’s requirement that all new hires complete I-9 forms attesting that the worker presented, and the employer saw, documents certifying the worker’s identity and right to work in the US. A new industry emerged, providing fraudulent documents to unauthorized foreigners seeking jobs, and it followed unauthorized foreigners across the US as they moved from the southwest to Midwestern meatpacking, southeastern construction and poultry processing, and services throughout the US.

The third policy change dealt with legal immigration. A severe recession in the early 1980s pushed the unemployment rate toward 10 percent, and unemployment declined only slowly during the 1980s. However, new industries related to computing reported shortages of programmers, giving rise to a mismatch theory of the US labor market. It held that an unemployment rate over seven percent in the mid-1980s demonstrated that the US had enough workers, but IT and related industries were growing faster than US colleges and students

23 Some 750,000 Mexican men and 135,000 Mexican women were legalized under the SAW program, plus another 200,000 from other countries, for a total of 1.1 million.
could adapt, so immigrants with the right skills could bolster fledgling computer-related industries until US colleges and students caught up.

The Immigration Act of 1990 (IMMACT) tackled the skills mis-match issue in two ways. First, IMMACT more than doubled the number of immigrant visas available to foreigners and their families who were requested or sponsored by US employers, from 64,000 a year to 140,000 a year. IMMACT also established an annual ceiling on numerically limited immigration of 675,000 a year (immediate relatives of US citizens and refugees are not subject to numerical limits).

When enacted, IMMACT anticipated 675,000 immigrants a year, including 226,000 family-sponsored immigrants, such as more distant relatives of US citizens and immediate families of immigrants, 140,000 employment-related immigrants, and 50,000 diversity immigrants. However, immigration averaged a million a year since IMMACT was enacted. There are several reasons, including the fact that the number of immediate relatives of US citizens (not subject to numerical limits) has more than doubled to about 500,000 a year and the number of refugees and asylum seekers recognized as needing protection averages about 150,000 a year. Numerically limited visas, as with those for foreigners sponsored by US employers, that are not used in one year can be carried forward, so that in some years there are more than 140,000 employment-based immigrants.

**Welfare and Terrorism**

Senator Alan Simpson (R-WY), the major architect of both IRCA and IMMACT, hoped that both illegal and legal immigration policy was settled for a generation. However, immigration remained a contentious political issue. The US allowed the Chinese students who were in the US during the 1989 Tiananmen incident in which troops fired on protesting Chinese to become immigrants. The North American Free Trade Agreement (NAFTA) aimed to substitute trade in goods between Mexico and the US for the migration of Mexicans to the US. Despite strong opposition from US unions, NAFTA was approved and went into effect in 1994.

However, the major migration issue in the early 1990s was continued illegal immigration. The legalization programs of 1987-88 helped to diffuse Mexican-born US residents throughout the US, who quickly told their family and friends that, if they eluded Border Patrol agents, false documents could enable them to get jobs that paid 10 times more than they could earn in Mexico.

Illegal immigration increased despite IRCA, including into California, which suffered a severe recession in the early 1990s linked to the end of the Cold War against communism and declining defense expenditures. Despite unemployment rates that topped 10 percent, unauthorized foreigners arrived in California to join family members who had been legalized under IRCA, adding students to educate at a time of severe state budget deficits. The result was the Save Our State initiative, Proposition 187, that called on police to determine the legal status of persons they encounter and the state to create a state-funded system to ensure that illegal migrants did not receive state-funded services, including K-12 schooling. President Clinton and most major politicians and media denounced
Proposition 187 as unconstitutional and un-American, but voters approved it by a margin of 59 to 41 percent.24

The Mexican economic crisis of 1995 sent more Mexicans to the US as unauthorized foreigners, prompting Congress in 1996 to enact three major immigration bills that dealt with foreigners who commit crimes in the US, those who collect welfare benefits, and those whose sponsors promise to support them after their arrival in the US. The first new immigration law, the Anti-Terrorism and Effective Death Penalty Act, responded to the fact that several foreigners who applied for asylum were involved in the bombing of the World Trade Center in 1994, and made it easier to detain aliens convicted of US crimes without bail and to deport them after they had served sentences for their US crimes. US border inspectors were given the authority to exclude foreigners who arrived at airports without proper documents unless the foreigner applied for asylum and made a “credible claim” that she faced persecution at home.

President Clinton promised to “end welfare as we know it.” The number of people receiving cash welfare assistance then known as Aid to Families With Dependent Children (AFDC) peaked in the early 1990s, and a higher share of immigrants than US-born residents were receiving AFDC and Supplemental Security Income (SSI) for elderly poor residents. Immigration was low when the US created the welfare state in the mid-1960s, and poor immigrants were generally eligible for the same welfare benefits as US citizens. Some critics charged that immigrants were arriving for a “handout, not a hand up,” and media reports of successful immigrants who became naturalized US citizen, sponsored their parents for immigrant visas, and then helped them to obtain SSI payments despite living in million dollar homes, suggested that some immigrants were “taking advantage” of welfare.

The Personal Responsibility and Work Opportunity Reconciliation Act reduced the access of US citizens and immigrants to cash welfare assistance. The major cash assistance program was renamed Temporary Assistance to Needy Families (TANF), and federal funds were sent to states in a block grant rather than provided in an open-ended manner to states. Adults were limited to five years of lifetime TANF payments, and case workers were retrained to try to help those applying for cash assistance to work instead.

PRWORA made most legal immigrants who arrived after August 22, 1996 ineligible for federal means-tested welfare benefits until they had worked in the US at least 10 years, a change that accounted for almost half of the expected savings from welfare reform. Since legal immigrants can naturalize and become US citizens after five years, the bar to welfare for many immigrants was shorter but, at a time when many European countries were providing welfare assistance to foreigners who entered and applied for asylum, US welfare reform seemed

24 Most provisions of Proposition 187 were not implemented because a federal judge issued an injunction to block provisions that she felt were unconstitutional, and the state of California eventually halted appeals against the judge’s rulings.
especially harsh. Many states, including those with the most immigrants such as California, elected to provide benefits to immigrants using state funds. As the economy boomed in the late 1990s, Congress restore welfare benefits to some immigrants, including the elderly and children, but unauthorized foreigners remain excluded from most federal welfare benefits.

The third 1996 law, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) aimed to reduce illegal migration and impose new requirements on US residents who sponsored foreigners for immigrant visas. To reduce illegal migration, IIRIRA provided funds to hire more Border Patrol agents and introducing pilot systems to allow employers to check the documents provided by newly hired workers to ensure they were legally authorized to work in the US. Welfare offices were required to use this system in order to detect ineligible foreigners applying for benefits.

US relatives who sponsor or ask the US government to issue visas to their relatives pledge to take care of them after arrival, and IIRIRA made these pledges legally binding. This means that, if a US citizen or immigrant sponsored a relative who later got welfare benefits (despite the eligibility restrictions), the sponsor would have to repay the government. To reduce the possibility that newly arrived immigrants would request welfare benefits, IIRIRA required US sponsors to have an income of at least 125 percent of the poverty line, which was $22,350 for a family of four in 2011. This means that an immigrant sponsoring his wife and two children would have to have an income of at least $27,937.

There was immigration legislation in the late 1990s to restore welfare benefits to some immigrants and to deal with Central Americans who fled fighting in 1980s civil wars. The share of farm workers who were illegal or unauthorized surpassed 50 percent in the mid-1990s, but President Clinton threatened to veto a new large-scale guest worker program, dulling efforts in Congress to approve such a program.

Mexico in 2000 elected a president from the opposition party for the first time in 70 years, Vincente Fox, and he made legalization of unauthorized Mexicans in the US his top foreign policy priority. After George W. Bush was elected in the US, it was widely expected that the US government would enact an immigration reform that legalized many of the unauthorized Mexicans in the US and perhaps launch a new guest worker program. Mexican foreign minister outlined Mexico's four-pronged immigration agenda in summer 2001, included legalization for unauthorized Mexicans, a new guest-worker program, reducing border violence and exempting Mexico from visa quotas, and added, "It's the whole enchilada or nothing." Fox was visited Bush in September 2011 to press this immigration reform agenda, ending his visit with the statement that "we must, and we can, reach an agreement on migration before the end of this very year...[so that] there are no Mexicans who have not entered this country legally in the United States,
and that those Mexicans who come into the country do so with proper documents.”

The terrorist attacks ended talk of major immigration reforms. On September 11, 2001, four commercial planes were hijacked by 19 foreigners. Two of the planes were flown into the World Trade Center towers in New York City, bringing them down and killing 3,000 people. President Bush declared war on terrorists and the countries that harbor them, and Congress enacted legislation to fight terrorism in the US. Indeed, the ability of the hijackers to plan and carry out their attack while living in the US demonstrated weaknesses in the US immigration system. Several obtained driver’s licenses and ID cards in states that did not require proof that the applicant was legally in the US.

The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT) of 2001 provided additional funds to strengthen border security, allowed the US government to deny entry to or deport foreigners who publicly endorse terrorist activity or belong to a group that does, and granted the Attorney General the power to detain any foreigners designated a danger to US national security. The government asked Muslim immigrant men to register and detained 1,200 in Fall 2001, but none were found to have terrorist links and most were deported for violating immigration laws.

Several of the terrorists were admitted to the US students but did not enroll in the colleges and universities that admitted them. To track foreign students while they study in the US, the Student Exchange and Visitor Information System (SEVIS) was created in 2002 to collect data on foreign students as they arrive and to keep track of them while they study; foreign students pay a fee to support the operation of SEVIS. Foreigners wanting to study subjects that could be linked to terrorism, such as nuclear engineering, are subject to additional screening.

The major institutional change after the terrorist attacks was the creation of the Department of Homeland Security in 2003. DHS combined 22 federal agencies and its from $20 billion in FY02 to $55 billion in FY10. By 2010, about 40 percent of the 230,000 DHS employees dealt with immigration. The largest immigration-related DHS agency is US Customs and Border Protection, whose budget more

26 The 19 hijackers entered the United States legally on temporary visas issued at US consulates in the Middle East and Europe, and 16 were legally in the US on September 11, 2001. They included 15 Saudis, two citizens of the United Arab Emirates, one Lebanese, and one Egyptian.
27 Of the 762 foreigners held in "preventive detention" because they were of "special interest" in connection with the 9/11 terrorism investigation, 611 had one or more deportation hearings that were closed to the public and 505 were deported; none was charged with terrorism. Eric Lichtblau, "U.S. Report Faults the Roundup of Illegal Immigrants After 9/11," New York Times, April 30, 2003
than doubled between FY02 and FY10 to almost $12 billion. CBP had 58,600 employees in FY10, including almost 21,000 Border Patrol agents.

DHS’s internal enforcement agency, US Immigration and Customs Enforcement or ICE, had a FY10 budget of almost $6 billion and over 20,000 employees, while US Citizenship and Immigration Services had a budget of almost $3 billion in FY10 and about 12,000 employees to process applications for immigration benefits such as visas. DHS’s immigration agencies have improved old and created new databases, and linked immigration databases to other government databases. US-VISIT has collected fingerprints and photographs of non-US citizens entering the US by air and sea since 2003 and stored them in IDENT, which has over 110 million records and is one of the world’s largest fingerprint databases.

Illegal Migration
The recession linked to the IT boom and terrorism reduced illegal migration early in the 21st century, but the number of unauthorized foreigners began to rise with economic recovery in 2003. The housing boom associated with low interest rates and subprime mortgages increased employment in construction, where many unauthorized workers found jobs. Meanwhile, farmers, restaurants, and other service businesses complained of labor shortages as the unemployment rate dipped below five percent in 2006-07.

Congress debated two major strategies to deal with the rising number of unauthorized foreigners. The Republican-controlled House in December 2005 approved an enforcement-only approach to unauthorized migration that called for mandatory screening of newly hired as well as existing employees to ensure they are legally authorized to work in the US (mandatory employer participation in E-Verify). The House bill would have made “illegal presence” in the US a felony, making it hard for unauthorized foreigners to eventually become legal immigrants and added more fencing on the Mexico-US border. Protests against the House enforcement-only bill culminated in May 1, 2006 “day without immigrants” demonstrations.

The Democrat-controlled Senate approved a Comprehensive Immigration Reform Act in 2006 that included more enforcement, new guest worker programs, and several earned legalization programs for unauthorized foreigners. The enforcement was similar to that proposed in the House, including more secure work-authorization documents, mandatory employer use of E-Verify, and more agents and fencing on the Mexico-US border. There would have been a new market-oriented H-2C guest worker program that allowed the number of visas to rise if employers requested all that were available. Foreign workers would arrive with H-2C visas, and their employers could sponsor them for immigrant visas after a year of work.

The Senate bill included several earned-legalization programs; an immigrant visa could be “earned” by unauthorized foreigners who fulfilled US work, tax, and other requirements. Unauthorized foreigners in the US at least five years could become “probationary immigrants” and, after six more years of US work and taxes and passing an English test could receive regular immigrant visas.
Unauthorized foreigners in the US for two to five years would have to satisfy the same requirements plus return to their countries of origin and re-enter the US legally, while those in the US less than two years would be expected to depart as a result of stepped up workplace enforcement.

There was a separate legalization and guest worker program for agriculture, AgJOBS, that would allowed up to 1.5 million unauthorized foreigners who did sufficient farm work to become blue-card temporary residents, a status that they could convert to regular immigrant status by continuing to do farm work. The current H-2A guest worker program would have been changed to become more employer-friendly, with attestation replacing certification, employers providing a housing allowance rather than housing, and a freeze or reduction in the Adverse Effect Wage Rate. There was a special legalization called DREAM for foreigners brought illegally into the US before age 16 who graduate from US high schools. They could become immigrants by completing at least two years of college or serving in the US Armed Forces.

President Bush supported the Senate bill, but House Republicans denounced it, and the House made no effort to approve a companion bill. However, there was optimism that comprehensive immigration reform would be enacted in 2007, when the unemployment rate dipped below five percent and former Federal Reserve Chairman Alan Greenspan touted the benefits of immigrant workers. Greenspan noted that unauthorized foreigners accounted for a sixth of US labor-force growth between 2000 and 2007 and asserted that immigrants “serve as a flexible component of our workforce, often a safety valve when demand is pressing and among the first to be discharged when the economy falters.”

The Senate debated another comprehensive immigration reform bill drafted by a bi-partisan group of senators in 2007 that added more enforcement provisions to reassure skeptics that unauthorized migration would indeed be curbed rather than increased and included triggers, meaning that more Border Patrol agents would have had to be hired, more border fencing built, and the mandatory new employee verification system would have to be deemed effective before legalization could begin.

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28Greenspan also argued for the admission of more college-educated foreign workers, saying that the US has “created a privileged elite whose incomes are being supported at noncompetitively high levels by immigration quotas on skilled professionals.” Testimony before the Senate Immigration Subcommittee April 30, 2009, quoted in Migration News. 2009. Obama: Immigration Reform? Volume 16 Number 3. July. http://migration.ucdavis.edu/mn/more.php?id=3522_0_2_0

29 The enforcement provisions of CIRA 2007 were strengthened to include an additional $4.4 billion for border security, bar foreigners who overstay visas from future legal entry to the US, and increase the number of workplace inspectors to 10,000. Penalties for violating employer sanctions laws would have risen to $5,000 for a first offense and up to $75,000 for repeat offenders. Businesses that use subcontractors would have been responsible for ensuring that their subcontractors employed only legal workers.
However, CIRA 2007 was considerably less friendly to unauthorized foreigners seeking legalization. Unauthorized foreigners in the US at least two years before January 1, 2007 could have paid $1,000 for indefinitely renewable probationary Z-1 visas but, to convert these Z-1 visas into regular immigrant visas, foreigners would have had to pay an additional $4,000, pass an English and background test, and leave the US to obtain their immigrant visa in a US consulate abroad, a “touch-back” requirement that advocates predicted would deter participation. Furthermore, Z-1 visa holders would have had to wait until the backlog of foreigners awaiting immigrant visas was cleared, a process that DHS estimated would take eight years, before applying for immigrant status.

One reason the Senate failed to approve CIRA 2007 was because of a dispute over guest workers. CIRA 2007 added a system to admit guest workers and a point system to select economic immigrants, generating strange-bedfellow coalitions. Some restrictionists who opposed legalization and family-based immigration supported CIRA 2007 because of its guest worker programs and the selection of immigrants on the basis of their education, skills, and US job offers. Meanwhile, some labor-friendly senators supported CIRA 2007 despite its new guest worker programs and point-based selection systems because of legalization. However, they could not persuade enough Senators to support the compromises embodied in CIRA 2007, and the vote to cut off debate was 45-50 (60 votes were needed).

The Bush Administration in 2007 cracked down on employers who hired unauthorized workers to demonstrate to Republican restrictionists that the US government was serious about curbing unauthorized migration. The centerpiece of the new effort involved the “no-match” letters that the Social Security Administration sends to employers who pay Social Security taxes on behalf of 10 or more workers for whom the name and Social Security Number in the SSA database do not match information provided by the employer.

SSA planned to send 140,000 no-match letters to employers in Fall 2007 covering almost nine million workers for whom Social Security taxes were paid in 2006 and names and numbers did not match that included a DHS notice advising employers to check their records for errors. If the records were correct, employers were to inform mis-match employees and ask them to contact SSA to clear up the discrepancy or fire the worker within 90 days. President Bush joined many employers and migrant advocates to predict that there would be a wave of

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30 The "touch-back" rule would have applied only to the head of an unauthorized family; spouses in the US could have obtained Z-2 visas and minor children Z-3 visas, and would have received immigrant visas along with the Z-1 visa holder.
32 In some cases, mis-matches arise because of data-entry mistakes and names that change with marriage, but many mis-matches are believed to reflect unauthorized workers who provide employers with false SSNs.
firings and employer support for comprehensive immigration reform. However, employers and unions, citing errors in the SSA database that could lead to the firing of workers legally authorized to work, obtained court injunctions that blocked the distribution of DHS no-match notices, and the Obama administration abandoned the no-match effort in 2009.

DHS also stepped up workplace raids to arrest and remove unauthorized foreigners. However, after raid of the 800-employee AgriProcessors meatpacking plant in Postville, Iowa on May 12, 2008 that resulted in the arrest of 389 mostly Guatemalan workers, DHS came under sharp criticism. Within a week, 297 of those arrested pleaded guilty to using false documents to obtain jobs, and 270 were sentenced to five months in federal prison. The US Supreme Court ruled in 2009 that the government cannot charge people aggravated identity theft unless it first shows that the foreigner knew the IDs they used to get hired belonged to some one else.

The Obama Administration in 2009 stopped workplace raids. Immigration and Customs Enforcement agency director John T. Morton in June 2009 said: “We are going to focus more attention on investigating and prosecuting employers, rather than starting out with simply focusing on the workers themselves.” Instead of workplace raids, DHS began to audit I-9 forms to “illustrate ICE's increased focus on holding employers accountable for their hiring practices and efforts to ensure a legal workforce,” prompting mass firings in a few cases.

The major federal enforcement efforts today are more fences and agents on the Mexico-US border to deter illegal entries, I-9 audits to detect unauthorized

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33Bush “predicted, after the comprehensive immigration bill went down [in June 2007 in the Senate], that there would be blowback and it would start with employers who are saying, 'Where am I going to get my peach pickers from?'” Quoted in Migration News. 2007. DHS: No-Match Enforcement. Volume 13 Number 4. October. http://migration.ucdavis.edu/mn/more.php?id=3315_0_2_0

34The Immigration and Customs Enforcement agency supervisor who ordered the raid at Yamato Engine Specialists in Bellingham, Washington February 24, 2009 was reportedly reassigned. Most of the workers arrested were released, placed in a deferred action status and given temporary work permits in exchange for offering to testify about their employment at Yamato. Migration News. 2009. DHS: No-Match, E-Verify, Sanctions. Volume 16 Number 1. January. http://migration.ucdavis.edu/mn/more.php?id=3483_0_2_0


36Quoted in Migration News. 2009. DHS: Border, Interior, Services. Volume 16 Number 4. October. http://migration.ucdavis.edu/mn/more.php?id=3545_0_2_0. One of the firms audited in 2009, American Apparel in Los Angeles, announced that 1,800 workers, a quarter of its employees, would be fired because they could not prove they were legally authorized to work in the US. American Apparel makes T-shirts and miniskirts in a pink seven-story sewing plant in the center of Los Angeles, and CEO Dov Charney has campaigned to “legalize L.A.” by persuading the government to enact a legalization program.
workers in US workplaces, have employers fire them, and enroll more employers in E-Verify, and detecting and removing foreigners who commit US crimes in cooperation with state and local police under Secure Communities, a program that has police transmitting the fingerprints of persons arrested to DHS.

States have gone further to deter unauthorized migration. Beginning with Arizona’s SB 1070 in 2010, Alabama, Georgia, South Carolina, Utah and other states in 2011 enacted laws that make it a crime to be in the state illegally and require state and local police to determine the status of persons during traffic stops or crime investigations. Most of these state laws require employers to enroll in E-Verify, and some make it a crime to rent housing to unauthorized foreigners or for unauthorized foreigners to sign contracts. Most states enacting enforcement laws had a recent upsurge in immigration and a high share of foreign-born residents who are unauthorized.

Congress remains divided on the three elements of comprehensive immigration reform, making it unlikely that there will be any significant reform before 2013. There is general agreement on an effective workplace enforcement system, but E-Verify highlights the tendency of the perfect to be the enemy of the good and block immigration reform. The US Chamber of Commerce insists that E-Verify be improved so that newly hired workers can present IDs with biometric information, such as a Social Security card with fingerprints included on a chip, in order to counter identity theft and document fraud. Skeptics say that the demand for a perfect new-hire verification system could delay effective enforcement, asking why individuals should be required to present a more secure ID to get a job than to board an airplane.

The second element is the appropriate "tough and fair pathway" for unauthorized foreigners to achieve immigrant and eventually US citizenship. Senate reform proposals in 2006 and 2007 divided the unauthorized into groups based on the length of time they were illegally in the US, with some unauthorized heads of household who wanted to become immigrants required to leave the US and return legally, a provision decried by migrant advocates as too tough.

The third component is "future flows," a euphemism for guest workers. The US currently has three major programs that cap temporary admissions of foreign guest worker who have college degrees at 65,000 a year (H-1B) and low-skilled foreigners admitted to fill seasonal nonfarm jobs at 66,000 (H-2B); the program for farm workers is not capped (H-2A). Former Labor Secretary Ray Marshall, on behalf of the AFL-CIO, proposed the creation of a BLS-style independent commission determine the number of guest workers to be admitted each year, with the commission’s recommendations would become law unless Congress acted to overturn them. Most employers oppose a commission, fearing that it

37 Exemptions for H-1B workers employed by nonprofits and an additional 20,000 visas for foreigners who earn Masters or PhD degrees from US universities make over 100,000 H-1B visas a year available.
would not reach the "right" answer, as exemplified by Senator John McCain (R-AZ), who said: "We don’t need a commission. I can’t support any proposal that doesn’t have a temporary worker program." 38