President Trump and Migration after Three Years

Philip Martin

Candidate Trump made reducing unauthorized migration a central theme of his campaign for the presidency. President Trump issued executive orders that instructed the Department of Homeland Security to build a wall on the Mexico-U.S. border, increase deportations, and reduce refugee admissions; we examined the implementation of these orders in *ARE Update* in March-April 2019. In three years, President Trump has implemented policies to reduce unauthorized migration and asylum-seeking. Agricultural guest worker programs have not changed significantly, but rising labor costs are pushing farmers to invest in mechanization and housing for guest workers.

Walls, Deportations, and Refugees

After three years, the scorecards on the wall, deportations, and refugees are incomplete. Fences and barriers on the Mexico-U.S. border are being repaired, replaced, and expanded. Still, only a third of the 2,000-mile border has major pedestrian and vehicle barriers after three years, 100 miles more than when President Trump took office. After Congress refused to appropriate the funds requested for the wall for FY19, the U.S. had its longest partial government shutdown in modern history, closing nine of the 15 federal agencies for 35 days in December 2018–January 2019.

President Trump promised to build an additional 450 miles of border wall before the November 2020 election, which would mean barriers on over half of the Mexico-U.S. border. He declared a national emergency in February 2019, and moved over $6 billion from the military and other sources to build and repair fences and barriers on the Mexico-U.S. border. New barriers involve two parallel fences thirty feet high with six-inch square bollards, tubes with a rebar core and filled with concrete for the first 10 feet.

There were an estimated 10.5 million unauthorized migrants in the U.S. in 2017, down 14% from a peak of 12.2 million in 2007 (Figure 1). The 5.5 million non-Mexican unauthorized migrants outnumbered the 4.9 million unauthorized Mexicans in 2017, the first time that non-Mexicans outnumbered Mexicans among the stock of unauthorized foreigners (Figure 2, page 6). For the past four years, Figure 3 on page 6 shows that more non-Mexicans than Mexicans were apprehended just inside the U.S. border with Mexico.
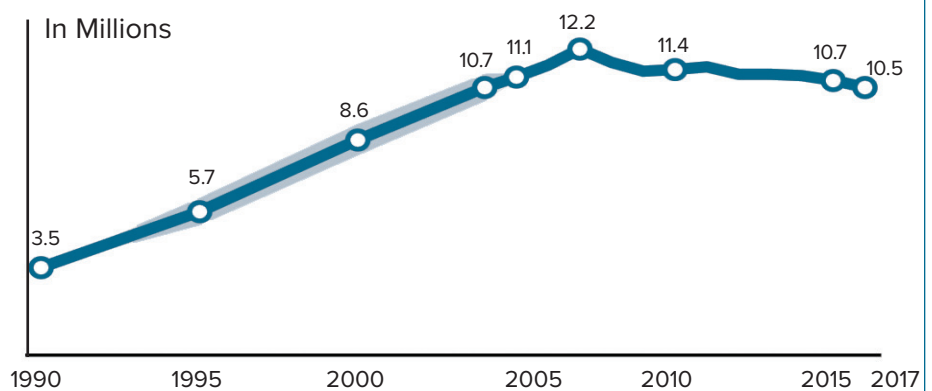
Candidate and President Trump promised to deport "millions" of unauthorized migrants, especially the 2 to 3 million convicted of U.S. crimes. Some 256,000 migrants were deported in FY18, down from a peak 435,000 in FY13 but up from less than 50,000 a year in the 1990s. Figure 4 on page 7 shows that almost three-fourths of foreigners arrested by Immigration and Customs Enforcement (ICE) agents were convicted of U.S. crimes, most often driving under the influence or possessing dangerous drugs.

Deportations rose under the 2007–13 Secure Communities program, which enlisted many of the 3,141 state, county, and local police agencies to provide DHS's Immigration and Customs Enforcement agency with the fingerprints of all persons arrested for and convicted of U.S. crimes. Secure Communities enabled ICE to identify suspected unauthorized migrants and to request that state and local prisons and jails hold them until ICE agents take them into custody.
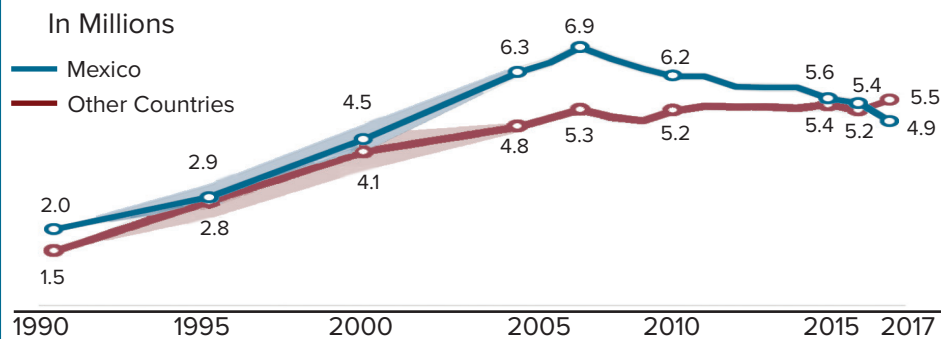
President Obama ended Secure Communities in 2013 and prioritized the removal of recent unauthorized entrants and migrants convicted of U.S. crimes. President Trump revived Secure Communities and made all unauthorized foreigners priorities for removal. Some states and cities reacted by declaring themselves to be sanctuaries for unauthorized migrants, refusing to share information with or to detain migrants for ICE. The result has been a series of suits and counter suits between sanctuary cities and states and the federal government over whether to penalize sanctuary jurisdictions if they do not cooperate with ICE.

Figure 1. Unauthorized Migrants, 1990–2017

In Millions

3.5 (1990), 5.7 (1995), 8.6 (2000), 10.7, 11.1, 12.2 (2007), 11.4 (2010), 10.7, 10.5 (2017)

Note: Shading shows range of estimated 90% confidence interval.
Source: Passel, J. and D'V. Cohn. 2019 Pew Research Center, 2018.

Figure 2. Stock of Mexican and Non-Mexican Unauthorized Residents, 1990–2017

In Millions

— Mexico
— Other Countries

6.9
6.3
6.2
5.6
5.4
5.5
4.5
5.4
5.2
4.9
2.9
4.8
5.3
5.2
2.0
4.1
1.5
2.8

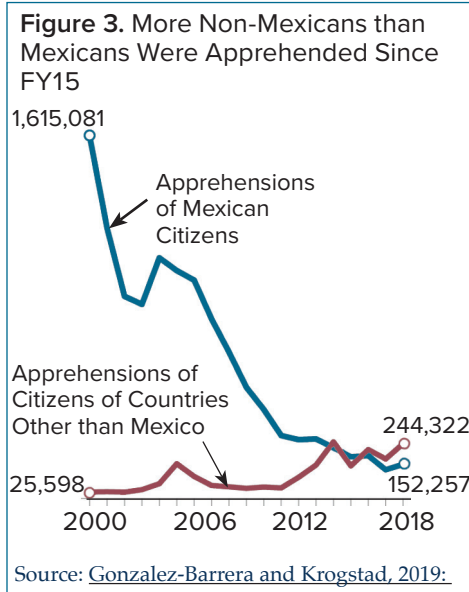1990   1995   2000   2005   2010   2015 2017

Source: Gonzalez-Barrera and Krogstad, 2019; www.pewresearch.org/fact-tank/2019/06/28/what-we-know-about-illegal-immigration-from-mexico/

Each president proposes a quota of refugees who can be resettled in the U.S., and the federal government provides grants to NGOs to help these newcomers to find jobs and become self-sufficient. President Trump reduced the number of refugees admitted from over 80,000 a year to a planned 18,000 in FY20, the lowest quota since the Refugee Act of 1980 was enacted and required states and cities to confirm their willingness to resettle refugees. The U.S. Supreme Court in June 2018 ruled that President Trump has the authority to ban arrivals from six countries: Iran, Libya, North Korea, Somalia, Syria, and Yemen.

ICE and Guest Workers

ICE enforces laws that seek to bar the employment of unauthorized workers.

Figure 3. More Non-Mexicans than Mexicans Were Apprehended Since FY15

1,615,081

Apprehensions of Mexican Citizens

Apprehensions of Citizens of Countries Other than Mexico

244,322

25,598

152,257

2000   2006   2012   2018

Source: Gonzalez-Barrera and Krogstad, 2019:

ICE agents arrested 680 unauthorized workers in August 2019 in seven poultry processing plants near Canton, Mississippi, the largest workplace raids in a decade.

ICE opened 6,812 new workplace cases in FY19, up from 1,701 during FY16. Most cases begin with an audit of the I-9 forms completed by newly hired workers and their employers to verify the worker's legal status. If worker-submitted identification documents do not match the data in government databases, employers must inform suspect workers and ask them to correct their records or face termination. Workers who cannot prove that they are authorized to work often quit and move to another employer. This circulation of unauthorized workers is criticized both by migrant advocates, who note that migrants must often start over at the bottom with a new employer, and by restrictionists, who want unauthorized workers removed from the United States.

U.S. spending on border and interior immigration enforcement topped $24 billion in FY18. There are 79,000 federal employees involved in immigration enforcement, compared to 10,000 in labor law enforcement.

President Trump, in April 2017, issued a Buy American and Hire American executive order that instructed federal
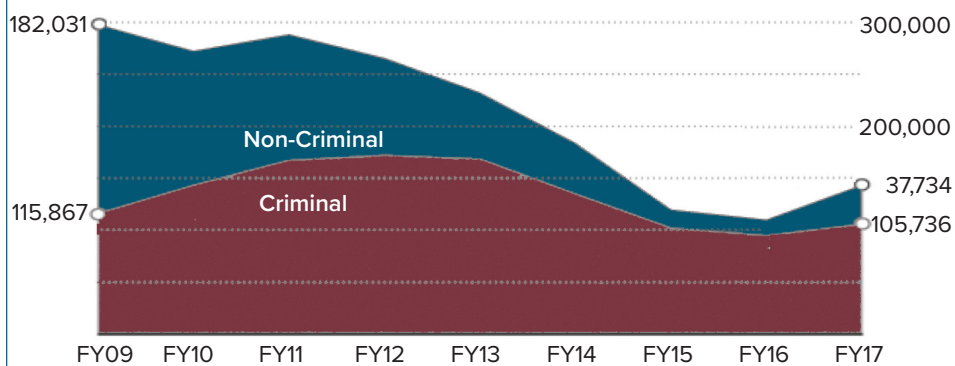
agencies to study existing guest worker programs and to implement changes "to protect the interests of U.S. workers … including through the prevention of fraud or abuse." The U.S. has three major guest worker programs: the H-1B program that admits 85,000 migrants a year with a college degree to fill private-sector U.S. jobs requiring such degrees; an unlimited number of H-2A visas for foreign workers to fill seasonal farm jobs; and, 66,000 H-2B visas a year to fill seasonal nonfarm jobs. Other migrants with F-1 student, J-1 cultural exchange, and L-1 intra-corporate transfer visas may also work in the United States.

The H-2A program has expanded significantly. Some 258,000 farm jobs were certified to be filled with H-2A workers in FY19, up from less than 50,000 in FY05 (Figure 5 on page 8). The top five H-2A states, Florida, Georgia, Washington, California, and North Carolina, accounted for over half of the H-2A jobs. Growth in H-2A jobs may slow if labor-saving mechanization is adopted or imports increase, and may increase if the federal government makes it easier for farmers to employ H-2A workers.

Speaking to the American Farm Bureau Federation in January 2019, President Trump said that farmers "need people to help you with the farms… It's going to be easier for them [guest workers] to get in than what they have to go through now. I know a lot about the farming world." In July 2019, the U.S. Department of Labor proposed several changes to the H-2A program, including modifying procedures to calculate the Adverse Effect Wage Rate (AEWR), the minimum wage that farmers must pay to H-2A workers and U.S. workers employed with them.

DOL's proposed changes to the H-2A program have drawn mixed responses from farm employers. Most praise the proposed simplified recruitment

Figure 4. Share of Foreigners Arrested by ICE Who Have Been Convicted of U.S. Crimes

Source: www.pewresearch.org/fact-tank/2018/02/15/most-immigrants-arrested-by-ice-have-prior-criminal-convictions-a-big-change-from-2009/

procedures that involve posting job vacancies online rather than running print ads. However, some fear that the new approach of establishing an AEWR for each job title, so that the equipment operator AEWR will be different than the harvest worker AEWR, will complicate compliance without reducing labor costs, especially if H-2A workers fill multiple roles. The proposed changes still require that farm employers provide free housing to guest workers, and do not open year-round jobs on dairies to H-2A guest workers.

Congress may revise the H-2A program. The House in December 2019 approved HR 5038, the Farm Workforce Modernization Act (FWMA). It would legalize currently unauthorized farm workers, streamline the H-2A program as proposed by DOL, and require farm employers to use the internet-based E-Verify to check newly hired workers, so that employers know instantly if a worker is authorized. Almost all House Democrats supported the FWMA, while three-fourths of Republicans opposed it.

The FWMA would allow unauthorized farm workers who did at least 180 days of farm work in the previous 24 months to apply for Certified Agricultural Worker (CAW) status, which would give the CAW worker and his/her dependents renewable 5.5 year work permits that allow employment

in any industry. However, CAW workers could receive immigrant visas only if they continued to do farm work and paid a $1,000 fine. After implementation of the CAW legalization program, farm employers must use E-Verify to check the status of new hires, making agriculture the first industry to be required to use what is now a voluntary program.

The FWMA would modify the H-2A program and grant 3-year rather than the current maximum 10-month visas. This means that H-2A workers who complete a contract with one farmer, but have time remaining on their 3-year visas, could remain in the U.S. up to 45 days to find a new employer who is certified to hire H-2A workers. The FWMA would freeze the 2020 AEWR, which averages $14 an hour, and allow it to increase by a maximum of 3.25% a year through 2030.

Beginning in July 2018, the Social Security Administration revived the issuance of no-match letters that inform employers that the information they provided when reporting worker earnings and income tax deductions does not match government records (none were issued between 2012 and 2018). No-match letters do not prove that a worker is unauthorized, since the mismatch could be due to data entry mistakes or marriage and name changes, but the letters do put employers on notice that particular

workers may be unauthorized. Employers notify the workers named in no-match letters and ask them to correct their government records, prompting many to quit.

Farmers: Where to Invest

Farmers face significant uncertainty about the cost and availability of farm labor. State minimum wages are rising, more states are requiring overtime pay after eight hours a day and 40 hours a week, and the absence of unauthorized newcomer workers is putting upward pressure on labor costs. The issue for farmers is where to invest: machines to replace workers, housing for migrant guest workers, or production abroad.

Agriculture's usual response to rising labor costs is labor-saving mechanization. The slowdown in unauthorized Mexico-U.S. migration has spurred interest in labor-saving machines, including mechanical pruners and weeders. However, mechanizing harvests presents difficult technical challenges that often require coordination throughout the supply chain, from nurseries that develop dwarf trees to farmers planting orchards designed for machines to consumers accepting machine-harvested produce. Commodities that are expanding or replanting new varieties, such as changes in apple varieties, are mechanizing faster than commodities whose acreage is shrinking, such as apricots and peaches.

Farmers must provide free and approved housing for H-2A guest workers. Most labor-intensive agriculture is in metro counties with high housing costs. The 40th percentile fair market rent for a two-bedroom apartment in Monterey County in 2020 is over $1,800 a month, so that a worker earning $15 an hour for 160 hours would spend three-fourths of $2,400 in earnings on rent. Some farmers are building barracks for H-2A workers at a cost of $20,000 to $30,000 per bed.

Figure 5. H-2A Jobs Certified and Visas Issued, FY2005–2018

Source: U.S. Departments of Labor and State

Still, many note that if mechanization or trade reduces the demand for hand labor, an investment in housing could be a stranded asset with limited value.

The third option is to produce labor-intensive commodities abroad and export them to the United States. Half of U.S. fresh fruit, and a third of U.S. fresh vegetables, are imported, and Mexico supplies about half of U.S. fresh fruit imports and three-fourths of U.S. fresh vegetable imports. Many U.S. farmers have operations or partners in Mexico and other countries to produce fresh fruits and vegetables year-round for U.S. consumers. Rising U.S. labor costs are encouraging more investment abroad.

Migration and Uncertainty

President Trump's first three years of migration policy making have had several major impacts. First, the threat of government shutdowns at home, and tariffs and the suspension of foreign aid abroad, resulted in more miles of barrier on the Mexico-U.S. border and a sharp reduction in the number of Central American asylum seekers.

Second, many migration policy changes were blocked by judges who issued injunctions that prevented their immediate implementation. Appeals reversed or revised many of these injunctions, allowing policies to go into effect that range from transferring funds to build the wall to requiring asylum seekers to wait in Mexico for hearings before U.S. immigration judges.

Third, refugee admissions are at historic lows, and entries from particular countries are blocked. Closer scrutiny of student and other visa applications from particular countries have discouraged some foreigners from seeking to visit the United States.

Many migration patterns have not changed. Legal immigration continues at 1.1 million a year, including two-thirds who are sponsored by family members already in the United States. Enforcement of the "public charge" rule, a longstanding law that allows the denial of visas to foreigners likely to become dependent on federal welfare programs or are unable to provide proof of U.S. health insurance, may make it more difficult for some immigrants to obtain visas.

Border apprehensions of 851,000 in FY19, over 2,300 a day, obscure the fact that much has changed on the Mexico-U.S. border. The 20,000 Border Patrol agents are the most ever, and there are more barriers and cameras than ever before to detect and deter unauthorized entries. Instead of solo Mexican men seeking to elude the Border Patrol in order to work seasonally in U.S. agriculture, most unauthorized border crossers are

Central American families who seek out Border Patrol agents to apply for asylum.

Farmers who hire workers are unsure where to invest. California farm labor costs are likely to keep rising due to state minimum wage and other laws and the absence of new unauthorized arrivals. Many farmers hoped that President Trump would facilitate a low-cost transition from unauthorized to guest workers. Since that has not happened, farmers are weighing the merits of investing in mechanization, housing for guest workers, and production abroad. Many are doing all three until the optimal choice becomes apparent.

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Author's Bios

Philip L. Martin is an emeritus professor in the Department of Agricultural and Resource Economics at UC Davis. He can be reached at martin@primal.ucdavis.edu,

For additional information, the author recommends:

Martin, Philip. 2018. Immigration and Farm Labor. Chapter 3 in Martin, Philip L., Rachael E. Goodhue, and Brian D. Wright, Eds. California Agriculture: Dimensions and Issues. https://giannini.ucop.edu/publications/cal-ag-book/

Passel, J. and D'V. Cohn. 2019. U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade. Pew.

For more articles by Phil Martin on immigration, see https://giannini.ucop.edu/publications/are-update/search/?q=martin.