

Whither U.S. Immigration?

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The United States is *the* nation of immigration, with 20% of the world's international migrants and half of the world's unauthorized migrants. Debates over the best package of enforcement, legalization, and guest workers to deal with illegal migration continue to divide Americans and Congress.

The United States is a nation of immigrants yet unsure about the best migration policy for the future. With 5% of the world's people and 20% of the world's 232 million international migrants, the U.S. is the major country of immigration; its 45 million foreign-born residents are almost four times the 11 million in number two Russia. However, the U.S. is unique among industrial countries in having one-fourth of its migrants unauthorized. What to do about them has dominated policy debates over the past two decades.

The U.S. had 45 million foreign-born residents in 2015, making migrants almost 14% of U.S. residents. The U.S. has a higher share of foreign-born residents than most European countries, but a lower share than Australia and Canada, where over 20% of residents were born outside the country. The major sources of migrants to the U.S. differs from other industrial countries as well. Over half of U.S. migrants are from Latin America and a quarter are from Asia, while over half of migrants to Australian and Canada are from Asia.

Most Americans think that immigration is good for the U.S., but more want immigration reduced than increased, although the gap has narrowed in recent years. Most Americans also believe it is very important that the government take steps to reduce illegal migration

and deal with the unauthorized foreigners in the United States. Congress has held hearings and debated bills on how to accomplish these goals, but none had become law, allowing illegal migration to take center stage when Republican presidential contender Donald Trump made the issue the centerpiece of his campaign in summer 2015.

This article explains the three major doors through which foreigners arrive in the U.S., the effects of migrants on the U.S. economy and society, and the responses of the federal and state governments to the largest wave of newcomers in a century. There is unlikely to be any new immigration law until after the 2016 elections, but an improved understanding of the data may make it easier to reach consensus.

Three Entry Doors

Foreigners enter the U.S. through three major doors: front, side, and back. The U.S. admitted 990,500 front-door immigrants in FY13, an average of over 2,700 a day. For the past several decades, most immigrants have been from Latin America, but in 2013 the number of Asian immigrants (400,500) slightly exceeded the number from Latin America (390,000). Mexico was the birthplace of more immigrants than any other country, about 135,000 or as many as from China and India combined.

The U.S. has a family-oriented immigration system, meaning that two-thirds of all immigrants are admitted because a relative in the U.S. sponsored them; that is, the U.S.-based relative asks the government to issue an immigrant visa to the relative. Two-thirds of family immigrants are spouses, children, and parents of U.S. citizens who can immigrate without waiting, while one-third are spouses and children of immigrants or more distant

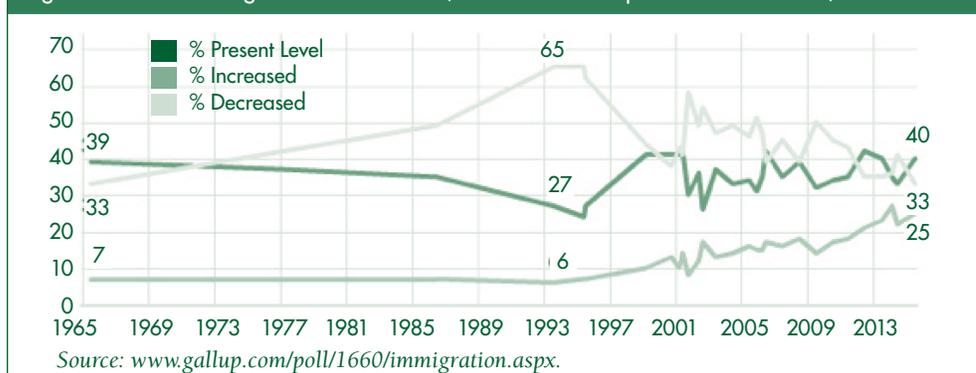
relatives, such as married and unmarried adult children of U.S. citizens and their families, some of whom must wait for visas. One-sixth of immigrants are sponsored by U.S. employers, and the remaining immigrants are refugees, diversity, and other immigrants.

Over half of all immigrants are already in the U.S. when they receive immigrant visas, so that they adjust their status from temporary visitor, student, or worker to immigrant. There were 173 million visitor admissions of foreigners in FY13, but most involved Canadians and Mexicans entering the U.S. for daily shopping or work. There were 61 million so-called I-94 admissions, meaning that a foreigner entered the U.S. as a tourist, student, or worker and planned to stay from several weeks to several years, an average of 167,000 a day.

Most foreign visitors leave after a few weeks, months or years, but some become immigrants by marrying U.S. citizens or finding U.S. employers to sponsor them. Many of the almost 900,000 foreign students in U.S. colleges and universities stay in the U.S. after graduation, sometimes as paid interns under Optional Practical Training (OPT) programs and sometimes as temporary foreign workers with H-1B visas. A foreign student who begins as an undergraduate in the U.S. and earns a graduate degree before becoming an intern and worker can be in a temporary status in the U.S. for almost two decades, during which time many find U.S. sponsors and become immigrants.

Some temporary visitors do not depart as required, or violate the terms of their admission, as when a tourist goes to work in the United States. These foreigners become illegal, undocumented, or unauthorized, and about 45% of the 11.3 million unauthorized in 2014 arrived legally but violated the

Figure 1. Should Immigration be Increased, Decreased or Kept at Its Present Level, 1965–2014



terms of their visas. The number of unauthorized foreigners has stabilized since the 2008-09 recession. Over half of the unauthorized are Mexicans.

Almost three-fourths of the unauthorized foreigners are in the U.S. labor force—over eight million—making unauthorized workers over 5% of the 156 million-strong workforce. Unauthorized workers are concentrated by geography, industry and occupation, with especially heavy concentrations among farm workers employed in agriculture in California; laborers, drywallers, and roofers in construction in Nevada; and service jobs in major cities, from lawn and gardening services to food preparation in restaurants.

One indicator of illegal immigration is how many foreigners are apprehended just inside the Mexico-U.S. border, a number that has been falling. In FY00, over 1.8 million foreigners were apprehended, an average of almost 5,000 a day. The number of apprehensions fell to less than 2,000 a day in FY11, and has continued to fall to an average of less than 1,000 a day in recent years.

The unauthorized population in the U.S. increased by an average 1,000 a day between 2009 and 2014. The slowdown in unauthorized border crossers means that the unauthorized foreigners in the U.S. have been here longer, with almost two-thirds in the U.S. at least a decade. Almost 40% of unauthorized adults live with their U.S.-born children.

Debates

Each of the three major flows of foreigners to the U.S. is controversial, raising questions about integration, labor market competition, and the rule of law. Immigrants sponsored by U.S. relatives should have a relatively easy time integrating into the U.S., since their relatives can help them to find housing and jobs. However, if the U.S. relatives who sponsor immigrants have low levels of education and do not speak English, what happens to their relatives?

Many economists believe that the U.S. should imitate Australia and Canada and select immigrants whose personal characteristics make them likely to be successful in the United States. Instead of selecting a sixth of immigrants on the basis of economic considerations, they would give half or more of available immigrant visas to young foreigners with high levels of education, English, and U.S. job offers. Foreign graduates of U.S. universities are the ideal immigrants, in this view, and both Republicans and Democrats have decried immigration policies that force some who want settle in the U.S. to leave when they fail to find a sponsor.

Over 20% of U.S. residents five years and older speak a language other than English at home. By far the largest at-home language is Spanish, spoken by two-thirds of those who do not speak English at home, followed by Chinese. Those studying immigrant integration say that today's immigrants are assimilating into American society

as fast as previous immigrants, and learning English as fast as those who arrived early in the 20th century. Half of immigrants report that they speak English at least well, and the National Academies acknowledge that the penalties for not knowing English may be greater in today's service economy than they were a century ago in an agricultural and manufacturing economy.

Temporary guest workers have long been controversial, raising fears of “unfair” competition with U.S. workers. A series of Mexico-U.S. programs that admitted so-called Braceros to work on U.S. farms between 1942 and 1964 is widely blamed for depressing U.S. farm wages and sowing the seeds of future illegal Mexico-U.S. migration by developing a mutual dependence between rural Mexico and rural America. Creating new guest worker programs for low-skilled workers, some fear, could sow the seeds for future illegal migration again.

Two of the most debated groups of temporary visitors are students and guest workers. The U.S. had 900,000 foreign students in 2013-14, including almost a third from China and an eighth from India. Of those studying for U.S. degrees, there were slightly more graduate than undergraduate students, with over half of the graduate students in master's degree programs. Over 100,000 foreign graduates of U.S. colleges and universities were in OPT programs that allow all foreign graduates to find a (paid) internship with a U.S. employer related to their field of study for 12 months and, if their degree is in a STEM field, for 29 months.

Many foreign students aim to become immigrants by having a U.S. employer sponsor them. Sponsoring a foreigner requires the employer to prove that qualified U.S. workers are not available to fill the job, a process called certification or certifying the need to hire a foreigner. Employers often hire foreigners as OPT interns

Figure 2. Unauthorized Migrants in U.S., 1990–2014



or guest workers with H-1B visas, and the foreigner is often filling the job when the employer advertises for U.S. workers in order to win certification.

The practical problem with the U.S. system of student, guest worker, and immigrant is numbers. Imagine a funnel that begins with foreign students, where there are no limits on how many can be admitted. However, there are only 65,000 H-1B visas available for profit-seeking firms hiring foreign workers with bachelor’s degrees each year, plus 20,000 for foreigners with master’s from U.S. universities, and they and their families must compete for 40,000 immigrant visas a year. Foreigners in the U.S. a decade or more can become very frustrated by the uncertainty and wait for an immigrant visa.

The H-1B program allows U.S. employers to hire foreigners who have at least a bachelor’s degree and who are filling U.S. jobs that require such degrees. When the program was created in 1990, the assumption was that employers would request all available visas and then requests would decline as more Americans earned computer-related degrees. The opposite occurred. Employer requests climbed slowly until outsourcers appeared, usually Indian-based firms that employ some H-1B workers in the U.S. to understand the

IT needs of a U.S. firm, and then do most of the firm’s IT work in India.

Most U.S. firms are not required to have their need for H-1B workers certified, meaning they do not have to try to find U.S. workers before hiring H-1B foreigners, and they may lawfully lay off U.S. workers and replace them with H-1B foreigners, as Walt Disney and Southern California Edison did in 2014-15. Investigations of both firms found that they did not violate laws, prompting proposals to tie an increase in the number of H-1B visas available with more protections for U.S. workers.

The U.S. also has programs that admit low-skilled seasonal workers, H-2A for farm workers and H-2B for nonfarm workers. There is no cap on the number of farm jobs that can be filled by H-2A foreigners, but there is a 66,000 a year cap on H-2B jobs. In recent years, about 140,000 farm jobs were certified to be filled by H-2A workers and 66,000 by H-2B workers.

All guest worker programs are controversial. Employers say that foreigners fill jobs that Americans shun, and that the availability of guest workers helps to keep farms, restaurants, and ski resorts in business and creates jobs for U.S. workers. Critics say that there is no shortage of U.S. workers, only a shortage of decent wages and working

conditions, meaning that U.S. workers shun jobs that demand hard work for low wages. Immigration reform proposals that would create new guest worker programs try to balance the competing interests of employer and worker advocates on issues that range from how many visas should be available to the minimum wages and working conditions that must be paid to U.S. and guest workers.

Reform Proposals

Immigration reform proposals over the past decade include three major elements: more enforcement to deter illegal migrants, legalization for at least some of the unauthorized in the U.S., and new or modified guest worker programs. The major policy debates involve exactly what to do in each of the three areas, and how to phase in each element.

A bipartisan bill, S 744, with all three elements, was approved by the Senate in June 2013. The enforcement sections of the bill included billions of dollars to “secure” the Mexico-U.S. border, so that at least 90% of foreigners attempting to cross illegally would be apprehended. The number of Border Patrol agents would have doubled to 40,000, and the amount of fencing on the Mexico-U.S. border doubled to 700 miles.

In order to deter all unauthorized foreigners, including visa violators, employers would have had to begin checking all newly hired workers with the Internet-based E-Verify system. This involves newly hired workers presenting proof of their right to work in the U.S. to employers, and the employers sending the information to the federal government for verification. The U.S. has over seven million employers who make over 50 million hires a year, and the major issue that remains is what to do about mistakes, as when the federal government says someone is not authorized to work when they in fact are authorized.

The main legalization program would have allowed unauthorized foreigners who had been in the U.S. at least two years to become “registered provisional immigrants” for six years, with the right to live and work in the United States. When unauthorized migration was deemed to be “under control,” registered provisional immigrants could prove that they were working and paying taxes and apply for regular immigrant status and eventually become naturalized U.S. citizens. There would have been a separate and easier legalization program for unauthorized farm workers.

The U.S. now has three major temporary worker programs that admit over 200,000 guest workers a year. The number of H-1B visas available would have almost doubled, and could have increased even more if employers requested all available visas and took steps to ensure that at least outsourcing firms that hire mostly guest workers try to hire U.S. workers first. There would have been a new nonfarm guest worker program for low-skilled workers, and the number admitted would have been determined by a new Bureau of Immigration and Labor Market Research that studied labor market indicators, including unemployment rates and employer labor shortage complaints. The farm worker program would have had two options. Employers could have opted to offer contracts to foreign farm workers that tied them to their farms or hired “floating” foreign guest workers who could stay in the U.S. as long as they were not unemployed more than 60 days.

What Next

The trade-offs embodied in the Senate’s comprehensive immigration reform bill were satisfactory to most Democrats, whose main goal was a path to U.S. citizenship for most unauthorized foreigners. However, many Republicans objected to

“amnesty” and persuaded the House that a piecemeal approach focused on enforcement was best. The House dealt with several immigration enforcement bills, but none was enacted.

President Obama, who made comprehensive immigration reform a top domestic priority during his 2008 campaign, repeatedly told migration advocates that he did not have the power to change immigration law by executive action. However, in November 2014, Obama by executive action announced the Deferred Action for Parental Accountability (DAPA) program, which would have allowed four million unauthorized foreigners with legal U.S. children to apply for renewable work permits. Along with an expansion of the 2012 Deferred Action for Childhood Arrivals (DACA) program, Obama would have given legal status to at least half of the unauthorized foreigners in the U.S. However, some states sued, arguing that DAPA was unconstitutional, and federal courts have so far blocked DAPA from going into effect.

Debate over what the federal government should do about immigration sometimes obscures actions in the states, which have gone in different directions. Arizona, Alabama, and some other states enacted laws requiring employers to use E-Verify to check the legal status of newly hired workers and to make it more difficult for unauthorized foreigners to live in these states. California and a dozen other states, on the other hand, began to issue driver’s licenses and to offer in-state tuition to unauthorized foreigners.

Republican presidential contender Donald Trump made unauthorized foreigners the centerpiece of his campaign in summer 2015, accusing illegal Mexicans of “bringing drugs. They are bringing crime. They’re rapists. But some, I assume, are good people.” Trump’s position paper on immigration issued in August 2015 called for a wall on the Mexico-U.S. border financed by

fees paid by border crossers, and an end to birthright citizenship; that is, babies born in the U.S. to unauthorized parents would no longer be U.S. citizens.

Most Democratic presidential contenders, including Hillary Clinton, support the comprehensive immigration reform bill approved by the Senate in 2013, albeit with some changes. Republicans are divided into three major camps. Trump represents the enforcement-only camp that wants to remove unauthorized foreigners and build fences and walls to prevent illegal migration. Jeb Bush, Marco Rubio, and other Republicans support the additional enforcement and guest workers included in comprehensive immigration reform, but they promise unauthorized foreigners only a legal status in the U.S. that may not result in U.S. citizenship. A third camp exemplified by Paul Ryan is more libertarian, urging Republicans to move away from walling off the borders and instead wall off welfare benefits; that is, admit migrants, but make it hard for them to receive welfare benefits.

What’s next for U.S. immigration? Legal immigration seems likely to continue at a million a year, all signs point to a rising number of temporary visitors, especially those whose numbers are not capped such as students, and the unauthorized population is stabilizing in number and integrating into the United States. There are unlikely to be any major federal policy changes until 2017. When the reform debate continues, whether the emphasis is on enforcement or legalization will depend largely on the results of the elections.

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