

COUNCIL ON FOREIGN RELATIONS

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Edward Alden
*Bernard L. Schwartz Senior
Fellow*

June 18, 2008

Mr. Andrew Kohut
President
Pew Research Center for the People and the Press
1615 L Street, NW - Ste. 700
Washington, DC 20036

Dear Mr. Kohut:

On behalf of our co-chairs, Jeb Bush and Thomas "Mack" McLarty, I write to share with you the details of the first meeting of the Independent Task Force on U.S. Immigration Policy. It will take place on **Tuesday, June 24, 2008, from 9:00 a.m. to 12:00 p.m. in the Council's office in New York** (58 East 68th Street). A buffet breakfast will be available.

If you are not able to attend in person, please dial in to our **teleconference at 1-800-593-9038. The passcode is 15104.**

We will be discussing the issues raised in the scope paper (which can be found among the attached materials) and the overall direction of the task force.

Enclosed please find reading materials selected to provide a background on the issues this task force will address. We hope that these will be useful to you in preparing for a discussion of these issues at our session. We do not expect you to read them in their entirety, but hope that you will find those that you have time to read valuable in helping to frame our discussions. Please feel free to contact me at any time with questions at ealden@cfr.org or 202-518-3474. My research associate, Andy Rottas, may also be contacted at arottas@cfr.org or 202-518-3438.

We look forward to hosting you on June 24.

Sincerely,

Edward Alden
Project Director
Independent Task Force on U.S.
Immigration Policy

Andrew Kohut

From: Edward Alden [arottas@cfrr.org]
Sent: Tuesday, August 12, 2008 12:33 PM
To: Andrew Kohut
Subject: Upcoming CFR Task Force Meetings: Please Save the Date

Follow Up Flag: Follow up
Flag Status: Red

Dear Task Force Members,

Thank you again for your participation in the Council's Task Force on Immigration. In an effort to help with your advance planning, we have coordinated with our two chairs, Jeb Bush and Mack McLarty, and set the dates for the next two Task Force Meetings.

The first will be held on Monday, September 8th, from 12:30 to 3:30. The second will be held on October 31st, time TBD. Both will take place in the Washington offices of the Council on Foreign Relations (1779 Massachusetts Avenue, NW).

Since our first meeting in June in New York, we have been working with our chairs to complete the membership of the Task Force. The following people have generously agreed to participate and to lend their expertise to the report:

- 1) Allan Goodman, the president and CEO of the Institute for International Education, who was a former Executive Dean of the School of Foreign Service at Georgetown and has held a number of senior intelligence and foreign policy posts in the government;
- 2) Gordon Hanson, a professor of economics at the Graduate School of International Relations and Pacific Studies at the University of California, San Diego, and one of the country's foremost immigration economists;
- 3) Steve Padilla, who served as the mayor of Chula Vista, California from 2002 to 2006 and was a police officer for 13 years, and is currently CEO of Aquarius Group, a consulting organization he founded;
- 4) Vin Weber, who was a Republican member the House of Representatives from Minnesota for more than a decade, and is currently managing partner at Clark & Weinstock as well as chairman of the National Endowment for Democracy.

We are extremely fortunate to have such excellent additions to the Task Force.

We have been working over the summer to build on the superb discussion in our first meetings. The work plan as it stands at the moment is to follow the outline laid out in the scope plan, and consider four issues in turn: 1) Legal immigration; 2) Illegal immigration; 3) Terrorism prevention; 4) Foreign Policy and National Security

The most important element of Task Force report will be the section we refer to as "Findings", which are analytical judgments that will provide the basis for our recommendations. We should aim to produce findings in each of these four areas.

Based on our initial discussion in June, I am working to draft a partial set of potential findings with regard to the issue of legal immigration, which will be sent to all members in advance of the September 8 meeting. My hope is that we will focus our discussion on these findings -- or others that the members of the group believe we should be making -- in the first half of our September 8 meeting. The goal would be to come away with a reasonably clear picture of the collective judgment of the group regarding the current state of government policy regarding legal immigration to the U.S. Of course there is nothing to prevent us from revisiting or reconsidering any particular set of findings as the work of the Task Force proceeds (or as they like to say in international trade negotiations, "nothing is agreed until everything is agreed.")

In the second half of the meeting, the working plan is for the group to shift the discussion to the topic of illegal immigration and begin thinking about findings on this

topic. As with the first meeting, we will send out a packet of readings, though it will be shorter and focused on the illegal immigration issue.

We are also working at the moment on arranging some outside meetings with experts that should be helpful to the work of the Task Force.

As always, please feel free to contact me directly, or my RA Andy Rottas, with any substantive ideas, suggestions for outside meetings, procedural matters or any other issues.

I look forward to seeing you in September.

Best regards,

Ted

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Andrew Kohut

From: Edward Alden [arottas@cfr.org]
Sent: Friday, June 27, 2008 3:55 PM
To: Andrew Kohut
Subject: Resent: CFR Immigration Task Force Update

Follow Up Flag: Follow up
Flag Status: Red

Dear CFR Immigration Task Force members,

This e-mail is to follow up on the very successful first meeting of the Task Force in New York on June 24. For those of you who were able to attend or to participate by telephone, we very much appreciated your many insights, which were extremely valuable for kicking off the work of the Task Force. As project director, I came away with an excellent initial sense of the directions in which we should be heading.

For those of you who were unable to attend the first meeting, this is a brief synopsis of the main ground we covered and our tentative plans going forward.

In line with the "Scope Paper" that was Tab 4 in your briefing book, the Task Force members agreed to break down our work into three broad categories: 1) Legal immigration, which will include refugees and various forms of temporary status, be those students or foreign employees; 2) Illegal immigration; 3) Foreign policy, national security and public diplomacy, including terrorism prevention issues.

During the initial introductions, a number of the speakers commented on the political difficulty that this issue poses. Governor Bush mentioned, for instance, that he faces hostile audiences in many parts of the country when he speaks about immigration policy, and said that it is an issue where it is easy to offend either side in a heated debate even where no offense is intended. Mr. McLarty noted that it is critical to get the tone, as well as the substance, of the report correct because it is such a divisive issue.

We then moved pretty quickly into a discussion of some of the main questions regarding the U.S. regime for legal immigration. The conversation covered a broad range of issues, including:

- the national interest in having an immigration system that is predictable and efficient, that responds to our economic needs and enhances our competitiveness, that enhances our national security, and that represents American values and strengthens our public diplomacy;
- the immense frustration over the malfunctioning of the immigration bureaucracy, and the lengthy delays for processing even routine applications;
- the need for both temporary and permanent immigration schemes, and for flexibility in allowing some temporary migrants to seek permanent status;
- the advantages and disadvantages of a points system to identify skilled immigrants;
- problems in the labor certification programs for temporary migrants;
- the need for better treatment of refugee claimants;
- the national security need to facilitate the recruitment of immigrants into the American armed forces;
- the importance of attracting and retaining foreign students;
- the question of government reorganization, especially the creation of a single immigration department, to give the issue higher priority.

There was also some initial discussion of issues surrounding illegal immigration, such as the need for measures to reduce the "push" factor that impels some people to migrate illegally, and the strong demand from many Americans for more effective enforcement. We will engage this issue more fully at a later meeting, but there was a general consensus that getting the legal immigration regime right is critical if we are to tackle illegal immigration more effectively.

I will be drafting some preliminary thoughts (known as "findings" for the Task Force) over the summer, and will circulate those well in advance of the next meeting. I would be

extremely interested in hearing ideas from any Task Force members regarding the above issues, or other issues you believe need to be considered as part of the "legal immigration" portion of our work. Feel free to contact me directly at ealden@cfrr.org, or by telephone at 202-518-3474.

Our staff here is working to establish a meetings schedule for the fall so that Task Force members can plan appropriately. We are also considering holding some outside meetings to be briefed by immigration experts or others who could be valuable for our research. Any suggestions on people we should meet with, or materials that should be circulated within the Task Force, would be much appreciated.

Thank you all again for a successful start to the Task Force.

With best regards,

Ted

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COUNCIL ON FOREIGN RELATIONS

Independent Task Force on Immigration

Briefing Book

June 2008

INDEPENDENT TASK FORCE ON IMMIGRATION
BRIEFING BOOK

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5. Economist Special Report on Immigration, January 3, 2008
6. Camarota, Steven A., "Immigrants in the United States, 2007: A Profile of America's Foreign-Born Population," Backgrounder, Center for Immigration Studies, November 2007
7. Wadhwa, Vivek, et al, "Intellectual Property, the Immigration Backlog, and a Reverse Brain-Drain: America's New Immigrant Entrepreneurs, Part III," Introduction and Summary, August 2007
8. Jordan, Miriam, "Visa Violators Swept Up in Widening Dragnet," *The Wall Street Journal*, April 10, 2008
9. "The Decline in America's Reputation: Why?," House Report on America's International Image, June 11, 2008

Full Readings

10. Martin, David A., "The Immigration Debate," The Miller Center of Public Affairs at the University of Virginia, 2008
11. Cornelius, Wayne A., et al, "Controlling Unauthorized Immigration from Mexico: The Failure of "Prevention through Deterrence" and the Need for Comprehensive Reform," Immigration Policy Center, June 10, 2008
12. Scott, George A., "Higher Education: Challenges in Attracting International Students to the United States and Implications for Global Competitiveness," GAO Report, June 29, 2007
13. Orszag, Peter R., "The Role of Immigrants in the U.S. Labor Market," CBO Testimony, May 3, 2007
14. Bartlett, David L., "U.S. Immigration Policy in Global Perspective: International Migration in OECD Countries," Immigration Policy Center, Winter 2007

COUNCIL ON FOREIGN RELATIONS

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Independent Task Force on Immigration

Co-Chair:

Jeb Bush

Jeb Bush and Associates, LLC

Co-Chair:

Thomas "Mack" McLarty

McLarty Associates

Project Director:

Edward Alden

Council on Foreign Relations

Director, Task Force Program:

Anya Schmemann

Council on Foreign Relations

First Session:

Tuesday, June 24, 2008

9:00 a.m. - 12:00 p.m.

The Harold Pratt House

58 East 68th Street

New York, NY

*To protect the work product of the Task Force,
the papers produced for this meeting and the information and ideas discussed in it should be
treated as privileged and should not be shared outside the group without the permission of the
Task Force co-chairs and director.*

CFR Immigration Task Force Membership List

Edward Alden
Council on Foreign Relations

Mary Boies
Boies & McInnis LLP

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Gibson Dunn & Crutcher, LLP

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Frances Townsend
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Kathleen C. Walker
Brown McCarroll L.L.P.

Raul H. Yzaguirre
Arizona State University



GUIDELINES

COUNCIL ON FOREIGN RELATIONS

INDEPENDENT TASK FORCE ON U.S. IMMIGRATION POLICY GUIDELINES AND BACKGROUND FOR MEMBERS

The Council sponsors three or four task forces each year. They are a major priority of the institution. We appreciate the time you are devoting to this process, and the institution promises to match your commitment with its full backing. This memo highlights salient points that we have found to be important to the success of this effort.

Background. The Council sponsors a task force when it judges that a group, diverse in backgrounds and perspectives, can reach a strong consensus on an important issue through private and non-partisan deliberations. A task force report is not a government report, but an independent statement by concerned and respected citizens from different walks of life. The goal is to produce a statement with strong and clear judgments and recommendations, not a lowest common denominator report.

Staffing. As a formal matter, task forces operate out of the Council's executive office and are overseen by the director of the task force program, **Anya Schmemann**, on behalf of Council president Richard Haass. This task force is led by two co-chairs, **Governor Jeb Bush** and Mr. **Mack McLarty**. As project director and Bernard L. Schwartz Senior Fellow, **Edward Alden**, who has drafted the terms of reference and will serve as the report's primary author. Alden also serves as a full member of the task force. Research Associate **Andrew Rottas** will assist in planning and staffing task force meetings.

Membership. Most task forces are comprised of some two dozen individuals representing a range of expertise and political perspectives. The preponderance are members of the Council, with representation from the Council's New York, Washington, and National membership, as well as younger term members. CFR also has provisions to allow observers (including CFR senior fellows, congressional staff, or executive branch officials) to participate in task force discussions, though they are not asked to join the final consensus.

Elements of a Task Force. We ask that each task force report include the following elements:

1. **Baseline.** Each task force must include a fair statement of existing U.S. policy, be it that of the administration, Congress, or both. This serves as a baseline against which the judgments and recommendations of the task force will be measured.
2. **Findings.** Each task force report must include a series of findings or analytical judgments that provide a baseline for recommendations. Findings are often the most important element of a task force report, and often make the biggest mark on the public debate. (The report of the Iran Task Force, for example, reached the judgment that the conservative regime in Tehran was "solidly entrenched," and that the country was "not on the brink of revolutionary upheaval." That judgment differed significantly from the administration's judgment at the time, and provided the basis for the task force's recommendation of "selective engagement" with Tehran, instead of a policy of waiting out the regime, or trying to overturn it.)
3. **Recommendations.** Recommendations flow from findings. The most effective recommendations are specific and directed toward a particular actor, i.e., the

administration, Congress, the EU, etc. (For example, the Post-Conflict Capabilities Task Force recommended that the Defense Department put the mission of stabilization and reconstruction on par with war-fighting as a security priority, a recommendation the Pentagon adopted formally in a 2005 Directive.)

Consensus and Dissents. A task force report should state strong conclusions and recommendations with which most task force members agree. This is a better outcome than a diluted report that commands 100 percent consensus. To that end, members are asked to join a consensus signifying that they endorse “the general policy thrust and judgments reached by the group, though not necessarily every finding and recommendation.” In addition, task force members who join the consensus have the option of submitting additional or dissenting views, which are appended to the final report. The option of dissents will help you write the strongest possible report. In this respect, additional views and dissents are to be welcomed, not resisted.

Operation. Task forces generally meet four or five times before publishing a report. We have found task forces are most successful when they reach certain benchmarks at specific times. To that end, we ask that each task force work to conform to the following schedule:

1. Not later than the third meeting, and preferably by meeting two, the task force project director presents preliminary findings to the full task force, which are then the subject of discussion at the session. Each preliminary finding is supported by written analysis. These findings, amended by the task force membership, will form the building blocks of the final report.
2. Not later than the fourth meeting, and preferably by meeting three, the project director circulates preliminary recommendations supported by analysis for discussion. This will provide building blocks for the recommendation section of the report.
3. The full draft can be considered via email, or during a final meeting, depending on the preferences of the co-chairs.

The Council’s Role. Our role is to support you in producing the strongest possible report, and to help you get the word out once the report is completed. We will intrude on your work by urging you to reach the strongest possible conclusions. We do not wish to tell you what to say, but we will work with you to ensure strong analysis and concrete policy prescriptions. The program director and Council president will review preliminary findings and recommendations and drafts on that basis. As is Council tradition, final reports must be approved by the president prior to release to ensure they meet Council guidelines and standards of scholarship and civility.

Outreach. Task forces are one of the Council’s highest-profile activities. As an institution, we will work with you to maximize the impact of your report by tailoring a specific marketing strategy to reach media, practitioners, and other important constituencies in a position to influence policy or the public debate. We will ask you and the task force leadership to be directly involved in promoting the report during your deliberations, at the time of release, and in the weeks and months following publication. In addition, we will ask you to meet with Council members who are not members of the task force while the deliberations are under way. This gives more Council members an opportunity to participate in the work of task forces, and will provide an opportunity to test run your findings and recommendations.



SCOPE PAPER

**Council on Foreign Relations
Independent Task Force on U.S. Immigration Policy
Governor Jeb Bush and Thomas F (Mack) McLarty, co-chairs
Edward Alden, Project Director
Terms of Reference Paper**

PURPOSE

The mission of the Independent Task Force on U.S. Immigration Policy would be to try to break free of the divisive debate over illegal immigration and to make recommendations on a future immigration policy that would better serve U.S. economic, diplomatic, and national security interests. The policy discussion over immigration has, for nearly 30 years, been focused almost solely on securing the borders against illegal entry and dealing with unauthorized immigrants already living in the country. As a result, the United States has failed to tackle the urgent task of overhauling its regime for legal immigration, which was designed more than 40 years ago for a very different world than the one in which we now live. In addition, immigration has long been treated as essentially a domestic policy issue, concerned with the domestic economic and social consequences of immigration, both legal and illegal, and with the assimilative capacity of American society. But in the modern global economy, attracting talented immigrants is increasingly crucial if the United States is to maintain its global technological and economic lead in the world.

The failure to get immigration policy right could have very serious consequences for American power and for America's standing in the world. *By engaging a group of bipartisan, high-level foreign policy experts, the Council on Foreign Relations has the opportunity to recast this debate away from purely domestic policy concerns and reframe it in terms of American national interests.*

NATURE OF THE PROBLEM

Since the passage of the Hart-Celler Act in 1965, the United States has had one of the most liberal immigration regimes in the world, and the most liberal of any large country. Due largely to the family reunification provisions of that act, the last two decades have seen the largest absolute inflow of legal immigrants in U.S. history, and proportionally the largest numbers since the two decades prior to World War I. There is every reason to believe those trends will continue. Despite such large numbers, legal immigration has generally remained uncontroversial in the United States.

Instead, since the early 1980s, the United States has struggled without success to get a handle on the problem of illegal immigration. The growing ease of international travel, rising U.S. demands for labor, the limited number of legal channels for non-family immigrants to work in the United States, and tougher border security that has reduced "circular migration" between the United States and Mexico, have all contributed to a dramatic increase in the number of illegal immigrants living here permanently. Current estimates of the illegal population in the United States range from 11 million to 15 million, with 400,000 to 500,000 continuing to arrive each year, though that number is likely declining due to the recent economic slowdown and tougher

U.S. enforcement measures. Congress passed significant legislation in 1986 and 1996 that was unsuccessful in slowing the flow of illegal immigrants, and then deadlocked over a third attempt in 2007. The issue is likely to be high on the agenda of a new president and a new Congress in 2009.

The gridlock over illegal immigration has spilled over into the broader realm of immigration policy. Despite the high overall legal immigration rates, many U.S. companies are finding it harder and harder to attract talented immigrants under the various restrictions of the legal immigration system, and the political stalemate has made reform impossible. American universities, which as recently as two decades ago attracted some 40 percent of all students studying outside their home countries, have seen that share fall from 26 percent to less than 22 percent in the past five years. Canada, Australia, the European Union, and even Japan are taking advantage to compete more aggressively with the United States for foreign talent, offering new legal channels for skilled immigrants to study, work and live in their countries.

After 9/11, the United States also implemented a series of measures to try to tighten border security and screen out potential terrorists, using the tools of immigration enforcement as weapons in the war on terrorism. In the short run, those measures contributed to a sharp decline in foreigners coming to the United States to travel, study, and do business. Improved procedures, coupled with a declining U.S. dollar, have helped to stimulate a recovery, though the U.S. share of international travel still remains well below pre-9/11 levels. The United States also generated much ill-will around the world through the sometimes arbitrary enforcement of immigration laws in the name of fighting terrorism.

The narrow focus on stopping illegal immigrants and terrorists has had other costs as well. U.S. spending on border security measures has increased by more than 150 percent since 2000; the Border Patrol is now by far the largest single law enforcement agency in the country, and yet still far too small to accomplish the task of securing the border. And in its efforts to stop illegal immigration, the United States is showing a harsher, less welcoming face to the world. The construction of a vast fence along the southwest border with Mexico, for example, is at the least ironic for a country whose greatest foreign policy accomplishment of the last 50 years was the tearing down of the Berlin Wall. At a time when the United States is at war in two Muslim countries, and is facing many obstacles trying to promote its economic and political vision abroad, such measures give the appearance that the country is turning inward, which could hurt America's broader strategic interests.

Focusing primarily on illegal immigration and undocumented aliens, and conflating the issues of immigration and terrorism, has produced a policy gridlock in Washington, preventing a broader overhaul of immigration policy that is long overdue. And as a result, the initiative in immigration policy has increasingly devolved to state and local governments, which lack both the tools and the broader national interest perspective needed to deal with immigration issues.

Immigration policy is a vital component of overall U.S. foreign and economic policy. There is a serious need for Washington to reassert its leadership on this issue by developing an immigration policy for the twenty-first century that strengthens the United States at home and abroad.

FINDINGS:

To help the next administration and Congress find a new direction, the task force should address four issues: legal immigration, illegal immigration, terrorism prevention, and the foreign policy and national security goals of U.S. immigration policy.

Legal Immigration:

International migration is driven largely by economic pressures. In particular, the major flows are now from poorer countries in the developing world to the richer countries of North America and Europe, and to Australia. The economic incentives are powerful. As the *Economist* recently noted, an immigrant who moved from Europe to North America in the early twentieth century could expect a doubling of his income. Today, an immigrant from a poor country can anticipate a five-fold increase in income if he or she succeeds in moving to a rich country. Remittances have now outstripped foreign aid as a source of income in many developing countries. In addition to the push factor of poor immigrants seeking to better their lives, there is a strong pull factor as well. Low birthrates in Europe, and to a lesser extent in North America, combined with greater wealth and the concomitant demand for services, have produced a steady demand for low-skilled labor that cannot be fully met by domestic workers. At the same time, a global competition has emerged for the most valuable employees in science, engineering, the arts, and other fields where global companies increasingly scour the world for the best talent and locate their operations accordingly. Other nations have become more open to these immigrants at precisely the time the United States has been raising new hurdles. In addition, U.S. demand for skilled immigrants is likely to continue rising because the number of Americans receiving advanced university degrees, particularly in science and engineering, has remained fairly static.

Despite the vast changes brought about by globalization over the past two decades, the U.S. regime for legal immigration has remained largely unchanged since 1965. Its primary feature is that it favors family members over immigrants with no family ties to the United States, such that more than two-thirds of all new legal immigrants each year are related to green card holders or to recently naturalized U.S. citizens, and the overwhelming majority of those new immigrants are coming from a single region, Latin America. But visas reserved for skilled immigrants are in extremely short supply. Employment-based green cards are capped at 140,000 each year, with a range of sub-caps that have produced backlogs of five years or more for applications from China and India. The H-1B visa, which is the most important temporary work authorization for skilled foreigners, is capped at 65,000 annually. Though an extra 20,000 visas are permitted for foreigners who have received graduate degrees from United States universities, the demand for these visas has far exceeded the allotment in recent years. This issue has become a major concern for many American companies. Microsoft's Bill Gates told a Senate committee last year: "We need to attract and retain the brightest, most talented people from around the world. This will not happen until we reform our immigration policies for highly skilled workers. America should be doing all it can to attract the world's best and brightest. Instead, we are shutting them out and discouraging those already here from staying and contributing to our economic prosperity."

On legal immigration, the Task Force should address the following questions:

- *How does U.S. immigration policy affect its overall economic competitiveness?*
- *To what extent will the United States need in the future to import labor from abroad, both high-skilled and low-skilled?*
- *Does the United States need a more targeted approach to trying to attract the skilled immigrants it wants, as many other countries are doing?*
- *What should the United States be doing to attract and retain foreign students?*
- *Should family reunification remain the central principle of American immigration policy?*
- *Should the current country and skill-based quotas that limit the number of green cards remain, or are there better mechanisms for determining who should get permanent residence in the United States?*

Illegal Immigration

Despite deep political divisions in the United States over how to deal with illegal immigration, there is something of a consensus that has emerged: that the country must secure its borders before implementing any other reforms to its immigration policy. While unobjectionable in theory, in practice this could be a recipe for continued gridlock on policy reform. The United States has vastly increased its enforcement efforts at the border without making any serious dent in the flow of illegal migrants to the country. The main effect has been to drive up the costs of illegal migration, feeding the expansion of human smuggling networks that profit from finding new ways to move people across the border. Holding broader reform hostage to effective border security may therefore make impossible the much-needed overhaul of U.S. immigration policy.

Illegal migration is a concern for a host of reasons. From a terrorism and law enforcement perspective, it is dangerous to have people in the country who operate in the shadows, largely unknown to the government. From an economic perspective, while illegal migration has provided a readily available work force in low-skilled agricultural and service jobs where domestic labor is in short-supply, it has produced unfair wage competition in some sectors and has left immigrant workers vulnerable to exploitation. In the southern border regions, illegal migration has encouraged the expansion of criminal cartels that profit from smuggling people across the border into the United States. Finally, a continuing high level of illegal migration is corrosive for the rule of law, which is the foundation of any advanced society.

But it is not clear that the United States can, or should, be trying to halt illegal immigration through enforcement measures alone. Much of the debate over immigration is conducted with little regard to the immense difficulties in managing the enormous flows of people that are a feature of the modern world, and that bring so many benefits to the United States. Even if the United States were to seal its southern border with Mexico through fencing or virtual barriers, some 40 percent of illegal immigrants in the United States are here because they overstay legal visas. Despite many years of effort, the government has yet to solve the technical problems associated with accurately identifying visa overstayers, much less the enforcement challenge of tracking down and deporting such a large number of people.

For the past 30 years, the United States has tried to square the circle on illegal immigration with little success. The formula embodied in the 1986 Immigration Reform and Control Act (IRCA)

was to offer an amnesty for illegal migrants already living in the United States, and to promise tough enforcement, including employer sanctions, to discourage future illegal migrants. In practice, however, illegal immigration to the United States grew more rapidly after IRCA than before, driven by the strong U.S. economy, a demographic bulge of young, working-age Mexicans who could not find stable work at home, and lax U.S. enforcement of the IRCA restrictions on the hiring of illegal immigrants. The failed 2007 immigration reform legislation envisioned a variant of the IRCA solution, granting an amnesty (with harsh financial penalties) to most illegal migrants already in the United States, a new temporary worker program to accommodate future labor demands, and tough enforcement at the borders and at U.S. worksites.

The question of how to deal with illegal migration will likely be the thorniest issue addressed by the Task Force. There are several avenues for consideration. First, some 60 percent of illegal migrants in the United States are Mexicans. In 2001, the United States and Mexico had entered into negotiations on a bilateral accord to manage migrant flows across the border. Those negotiations, which already faced significant difficulties before 9/11, were brought to a halt by the terrorist attacks. Would a similar initiative be worth reviving in the next administration? Secondly, the 1986 law had originally envisioned tough sanctions on employers who hire illegal immigrants, and the development of secure identification systems to identify those legally authorized to work. But in practice the scheme was never implemented, largely because of opposition from business. The current administration is gradually trying to construct a similarly tough workplace enforcement regime, but there continues to be strong resistance from many employers. The Task Force would need to consider the costs and benefits of workplace enforcement as a tool for discouraging illegal immigration. Thirdly, the United States is in the midst of the most ambitious effort in its history to stop unauthorized crossings of its southwest border, through the planned construction of nearly 700 miles of fencing, the use of sensors, cameras, drones and other technology to detect border crossers, and a huge expansion in the number of Border Patrol agents. The effort has provoked much anger in Mexico, and in many U.S. communities that lie along the border, but also appears to be having some impact in reducing the number of illegal crossings.

The international dimensions of illegal immigration have largely been overlooked. The various efforts at policy reform have focused exclusively on the “pull” factors encouraging illegal migrants to come to the United States while ignoring the “push” factors that lead them to leave their countries in the first place. The United States has historically insisted on a firm separation between immigration policies, on the one hand, and trade, aid, and development policies on the other. Efforts by countries like India, for instance, to open negotiations on the temporary movement of workers within the framework of the World Trade Organization have been firmly rebuffed by the United States. But it is not clear that the United States, acting on its own, can reasonably implement measures that will discourage illegal migration.

Finally, the Task Force will need to consider the extremely difficult question of how to deal with illegal migrants already settled in the United States. Estimates of their number range from as few as 10.5 million to as many as 15-20 million. Every proposal for policy reform has envisioned some method that would allow most of these to remain in the country, largely because the costs of expelling them have been considered too high. And yet any proposal that smacks of “amnesty” seems politically untenable. In the absence of legislation, the current situation has

become one of “attrition through enforcement.” Many states and local governments have passed laws to discourage hiring of illegal migrants, and to empower local and state police to check the immigration status of individuals stopped for traffic or other minor violations. The early evidence is that such initiatives have led some illegal migrants to leave those communities and relocate in the United States or even to return to their home countries. But it has turned immigration policy—a quintessentially national responsibility—into a patchwork of competing local initiatives.

On illegal immigration, the Task Force should address the following questions:

- *How serious a problem is illegal immigration, and how urgent is the need to resolve it?*
- *What are the most effective enforcement tools available, and how much emphasis should the United States place on controlling illegal immigration through enforcement?*
- *What are the alternatives to enforcement? Can the United States improve cooperation on migration issues with those countries that send the greatest number of illegal migrants to the United States, particularly Mexico?*
- *Can U.S. trade, aid, and development policies help to reduce incentives for people to attempt to come to the United States illegally?*

Terrorism Prevention:

Since the attacks of September 11, 2001, the primary rationale for improving U.S. border security has been to keep out terrorists planning follow-on attacks. The United States has instituted a range of new measures that have made it harder for terrorists, and in many cases for legitimate travelers as well, to come to the country. These measures include: 1) Tighter screening of foreign visa applicants, including personal interviews and fingerprints, and lengthy background checks on travelers from Muslim countries or those working or studying in military-related fields; 2) Fingerprinting of all travelers entering the United States, including those who do not need visas, excepting only Canadians and some Mexicans; 3) The checking of names against a growing watch list of suspected terrorists; 4) New passport requirements for travel in the Western Hemisphere.

The United States has not faced another terrorist attack inside the country, and tighter border security has almost certainly played a role in that success. Michael Chertoff, the secretary of homeland security, recently said that these and other new measures are an important reason that the United States has not been hit again since 9/11. But the United States has also become a much less attractive destination for foreigners. A survey last year by the U.S. travel industry found that foreign travelers consider the U.S. entry process to be the worst in the world by a two to one margin over the next most difficult region, which was the Middle East.

Since 9/11, there have been two broad approaches to using border and immigration powers to fight terrorism. The first has been to strengthen the enforcement of immigration laws across the board, on the grounds that some terrorists, including several of the 9/11 hijackers, have skirted U.S. immigration rules to arrive or remain in the country. The second has been to use more targeted approaches—watch lists, advanced passenger information, biometrics, and other intelligence-driven means—to try to identify terrorists with the least possible disruption to

innocent travelers or immigrants. These are sometimes referred to as “smart border” mechanisms, and the United States has been a world leader in developing such tools.

The United States currently faces a difficult dilemma with regard to anti-terrorist border measures. Many of the harshest of the post-9/11 security measures—such as the special screening regime for males from Muslim countries that resulted in thousands of people being deported for often minor immigration violations—have been scaled back in favor of more intelligence-driven methods. But much of the low-hanging fruit has already been picked, such that further efforts to secure the borders against terrorist infiltration are likely to prove more disruptive to ordinary travel and commerce than the measures already put in place.

- *What is the appropriate balance between terrorism prevention and the facilitation of travel and cross-border commerce in U.S. policy?*
- *Can the United States work more closely with allies to improve security while minimizing disruption to legitimate travelers?*
- *What are the privacy implications of such “smart” mechanisms?*

Foreign Policy and National Security:

The openness of the United States to foreign people and ideas has long been one of its most powerful assets, and a strong challenge to the leaders of closed, undemocratic societies. The successful great powers in history have been those that were best able to attract the most valuable human capital the world has to offer in order to build and maintain their economic, technological, military, and ideological lead. In this regard, the United States has had no rivals in recent years.

Economically and technologically, the value of immigration is increasingly evident. The U.S. lead in information technologies, for example, has been driven in significant part by immigrant engineers and entrepreneurs, including Andy Grove of Intel, Sergey Brin of Google, Pierre Omidyar of eBay, and Jerry Yang of Yahoo. Nearly 40 percent of the U.S. doctorates in science and engineering and 30 percent of the master’s degrees are awarded to foreign-born students, and the proportions are even higher in mathematics, computer science, and the physical and life sciences. On one important measure of innovation—the number of patents issued each year—the United States ranks far ahead of any country in the world. And half those American patents are issued to foreign-owned companies and foreign-born inventors.

Militarily, the United States is increasingly dependent on commercially-generated technologies, such that a slowdown in innovation by companies based in the country could have serious consequences for the projection of American power and American national defense. Foreign scientists and engineers, many trained in U.S. universities, are critical to maintaining this advantage

Ideologically, American openness has long been one of its greatest strengths. For example, the United States has also benefited enormously from educating foreigners who go on to be influential leaders in their countries. As former Secretary of State Colin Powell put it: “Foreign students return home with an increased understanding and often a lasting affection for the United

States. I can think of no more valuable asset to our country than the friendship of future world leaders who have been educated here.” Former UN Secretary-General Kofi Annan, Gloria Macapagal Arroyo, president of the Philippines, Vicente Fox, the former Mexican president, and Prince Saud al Faisal, Saudi Arabia’s minister of foreign affairs are just a handful of the hundreds of foreign leaders who attended American universities. In addition, American openness has been a powerful sign of its confidence. To critics of the United States, the best retort has long been to encourage people to come here and see for themselves what the country is like.

Post-9/11, however, the United States has become far more aware of the risks associated with that openness, and has partially pulled back the welcome mat through measures that have made it more difficult to come to the United States, particularly for those from Muslim countries or for anyone working in fields that are deemed to be sensitive for national security reasons, which include many Chinese, Russian and Indian students. Those restrictions have had unintended consequences. As the United States has made it harder for talented foreign students, scientists and engineers to come here, other countries have accelerated their recruiting efforts, leading to a sharp decline in the percentage of foreign students educated in the United States. Visa delays and other restrictions have discouraged some foreign investors from coming to the United States, an effect that is difficult to quantify but has been noted by state officials responsible for attracting investment to their states. Similar restrictions have encouraged some American companies to move research operations offshore to countries where the international talent can most easily be assembled.

Since 9/11, the debate over immigration has largely been about how to keep out of the country the people we do not want: terrorists, criminals and illegal immigrants. But in the longer run, the security of the United States will depend more on who we let into the country than who we keep out.

- *Should immigration policy be designed deliberately to achieve foreign policy and national security goals?*
- *What are the foreign policy and national security consequences of the more restrictive visa rules and procedures adopted since 9/11?*
- *How should these considerations be weighed against the need to protect the United States from terrorist attacks?*
- *What sort of risks should the United States be prepared to run to maintain its long tradition of openness?*

OTHER STUDIES

A Council on Foreign Relations-sponsored task force on immigration could be extremely valuable to policymakers because the issue has rarely been looked at through such a broad lens. The last big congressionally-sponsored task force was the U.S. Commission on Immigration Reform, which was created by Congress in 1990 and expired in 1997. It was chaired by the late congresswoman Barbara Jordan and issued three reports. It summarized the immigration policy problem succinctly: “Serious problems undermine present immigration policies, their implementation, and their credibility; people who should get in find a cumbersome process that often impedes their entry; people who should not get in find it all too easy to enter; and people

who are here without permission remain with impunity.” On illegal immigration, it called for the federal government to increase border enforcement, to reduce the economic “pull” by making it harder for employers to hire illegal aliens, and to help mitigate the education and health costs that states were facing in dealing with illegal immigrants. It also recommended denying publicly-funded services to illegal aliens, except for emergencies or broader public health reasons. On legal immigration, it recommended tweaks to the current system to give somewhat higher priority to skilled immigrants over unskilled immigrants, and recommended an annual immigration cap of 550,000 people, roughly the level of the 1980s.

The most recent substantial contribution was a 2006 task force entitled *Immigration and America’s Future: A New Chapter*, which was organized by the Migration Policy Institute under the direction of Doris Meissner, the former INS commissioner, and co-chaired by former Republican senator Spencer Abraham and former Democratic congressman Lee Hamilton. It was focused heavily on the problem of illegal immigration, but made a range of recommendations as well for overhauling the legal immigration system. It recommended creating three new categories of immigrants—temporary, provisional and permanent—and a Standing Commission that would adjust annual levels of immigration based on labor market needs and economic and demographic trends. It also called for tougher employer verification procedures and a range of “smart border” mechanisms to protect against terrorist travel.

Most of the work done on immigration policy has been carried out by immigration specialists of one sort or another—immigration lawyers, former immigration officials, and economists and demographers who specialize in migration patterns. As such, they have tended to focus on questions about the appropriate levels of immigration, the ideal mix of immigrants, the best institutional mechanisms for managing immigration, and the best tools for enforcement. There has been less thinking about the broader foreign policy and national security elements of immigration policy, and on the extent to which maintaining national power and influence depends on getting this policy right. These dimensions of immigration policy have become increasingly urgent in the wake of 9/11 and the threat from Islamic extremism, and in light of the new economic challenges the United States faces from China, India, and Europe. This is a very substantial advantage that a Council on Foreign Relations-sponsored task force could bring to the issue.

METHOD

The task force will convene its first meeting in June 2008 and aim to issue a report early in 2009. The first session will introduce the task force members to each other and initiate the discussion about issues presented in the Terms of Reference paper and other issues that members wish to raise. We will agree on a plan for the future activities of the task force.

At least two additional meetings will be held to discuss specific issues that the task force wishes to address. We could also arrange sessions with outside experts or government officials to the extent it is deemed helpful for the project.

The final meeting will focus on recommendations. The goal is to produce a report that will give compelling answers to the question: what type of immigration policy should the United States

aspire to in order to maintain a competitive economy, a safe and protected homeland, and leadership and influence abroad?" The recommendations will be relevant for the new administration and Congress, but more broadly, will seek to start a reasoned national conversation about a viable and desirable future U.S. immigration policy.



QUICK READS

SPECIAL REPORT - 2007 ONWARDS

Open up

Jan 3rd 2008

From The Economist print edition

Despite a growing backlash, the boom in migration has been mostly good for both sending and recipient countries, says Adam Roberts ([interviewed here](#))

Eyevine



ENOCH POWELL had a point. The Conservative British politician gave warning, nearly four decades ago, that immigrants were causing such strife that "like the Roman, I seem to see the River Tiber foaming with much blood." That proved to be nonsense, as did his advice that migrants should be encouraged to leave. Had they done so, Britain and other rich countries that depend heavily on foreign labour would be in a dreadful state. But one prediction he made was spot on: that by about now, one in ten people in Britain would be migrants. And indeed, at the last count in 2005, the foreign-born made up 9.7% of the British population.

By historical standards, that is high. It is a lot more than a decade ago, and the trend is resolutely upwards. Yet it is not dissimilar to that in many other rich countries, which have mostly seen equally rapid increases. And it is still lower than in America, where the proportion is now about 13%, not far off the 15% peak reached just before the first world war, in the previous great era of migration. What is particularly striking in Europe is that

many countries which until recently had known only emigration, such as Ireland or Greece, are now seeing the sort of influx more typical of countries such as Australia and America.

This special report will argue that both emigration and immigration countries, as well as the migrants themselves, have been coping remarkably well with this new force that is reshaping our world. Yet there are now signs of a serious backlash against immigration on both sides of the Atlantic. In 2007 activists in America smashed a bill to make immigration easier that had the backing of the president and the leaders of both big parties in Congress. In France, Nicolas Sarkozy won the presidential elections partly thanks to his anti-migrant rhetoric. But this is still a far cry from Mr Powell's doom-mongering.

Politicians in rich countries may tinker with migration policies. They will certainly, under public pressure, put extra resources and energy into building more fences and walls to keep people out. And by making a connection between immigration and terrorism, they may cause their societies to become more heavily policed. But the basic forces driving migration are unlikely to ebb.

Counting the ways

People who cross international borders are often categorised by their motives, and some of these categories are seen as less desirable than others. Most migrants move for economic reasons, many in search of jobs, some to be united with relatives. Most appear to be doing so legally. America in 2002-06 allowed in an average of just over 1m legal immigrants a year who planned to settle permanently, more than half of them sponsored by relatives. Another 320,000 a year entered temporarily.

The number of illegal migrants is by definition hard to ascertain, but likely to be smaller than the legal sort. The illegals also go for economic reasons, and they probably make up the bulk of people seen floating on rafts in the Mediterranean or scrabbling over the fence from Mexico to America. Many illegal migrants do not risk the high seas or physical borders but instead enter under some other guise, perhaps as tourists, and then stay on. In that same period of 2002-06, America's population is thought to have seen a net gain of 500,000 illegal migrants every year. Within the European Union it has become impossible to keep a tally because people can move legally among most of the member countries without asking anyone. Britain, as an island, should find it easier than most to know how many foreigners it has allowed in, but its statistics on migrants have recently turned out to be way off the mark.

Lastly, there are refugees and asylum-seekers, strictly defined as those escaping persecution but often including anybody forced to flee, for example from a war. According to the UN's refugee agency, at the close of 2006 some 10m people fell into this category. Many go through legal channels, applying for refugee status and then asylum. But others join illegal migrants in trying to reach host countries by raft or by jumping over a fence. Genuine refugees may have no alternative.

The 200m question

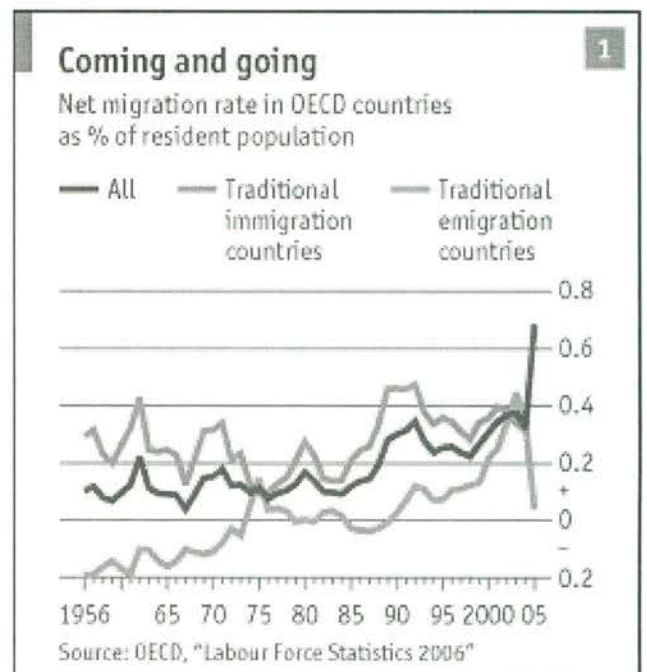
The number of migrants in the world today, both legal and illegal, is thought to total perhaps 200m (though many of the figures, even those used by governments, are at best educated guesses). That sounds a lot, but it adds up to only 3% of the world's population, so there is great potential for growth. Migration has turned out to be a successful strategy for the world's poor to make their lives a little better. Nor is it the very poorest who travel. You need money to move to another part of the world. Thus as Africa, China and other emerging countries become less poor, many more people can aspire to travel in search of a better life.

In the 100 years to 1920, such prospects encouraged some 60m Europeans to uproot themselves and move to the New World. A European who crossed the Atlantic could expect to double his income. Today the incentives are even more enticing. Those who move from a poor country to a rich one can expect to see their income rise fivefold or more. As long as such differentials persist, the draw will continue.

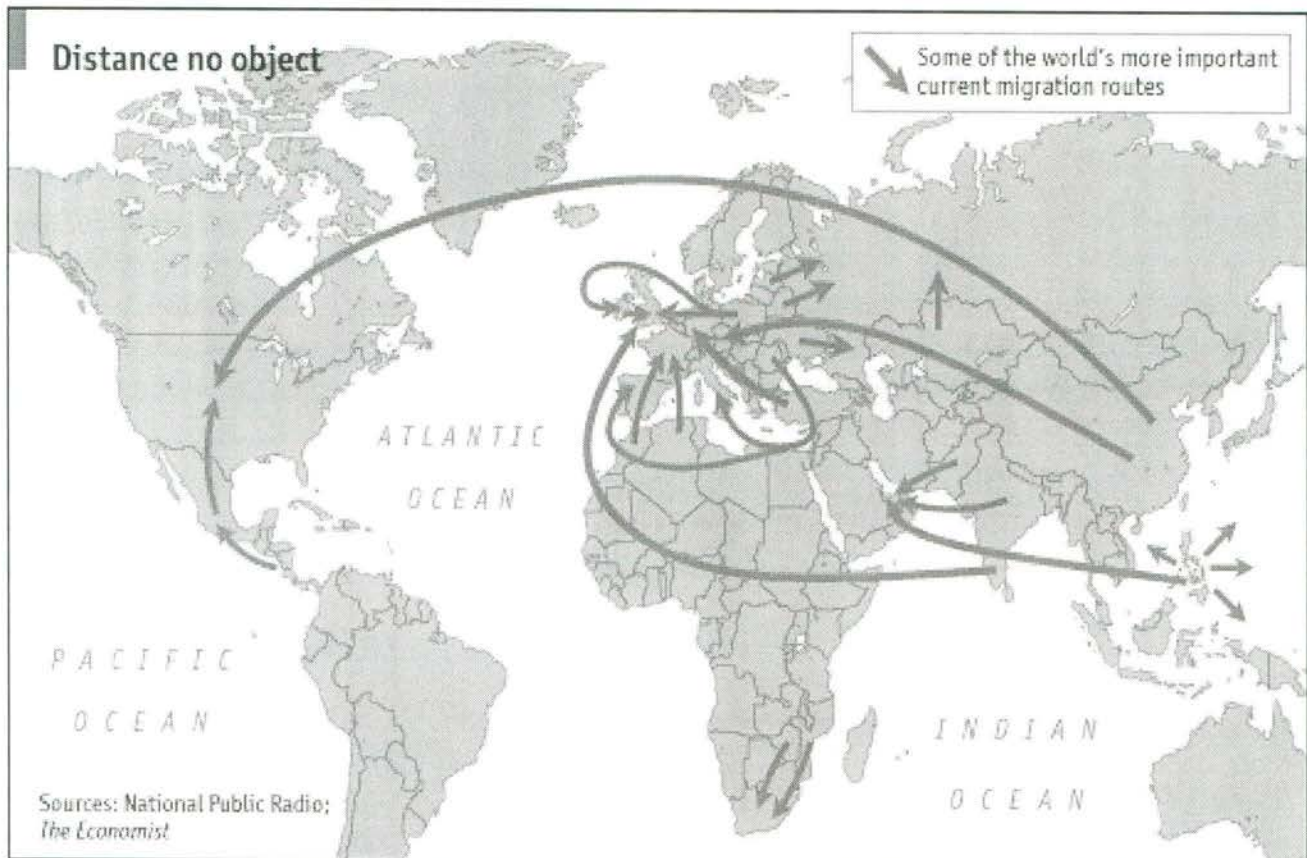
These days, too, demography is playing a big part in migration. Not every migrant is aiming for America or Europe: perhaps two in every five move to another poor or middle-income country. But those who go to the richest parts of the world do their inhabitants a favour. Without migrants, the greying and increasingly choosy populations in much of the rich world would already be on the decline today. That matters for their fast-changing economies, which increasingly demand either highly skilled workers or people willing to do unpleasant and tiring jobs.

One reason why much of the world has enjoyed a sustained economic boom with low inflation in the past decade is that the effective global workforce is expanding so fast. The IMF says it has quadrupled since 1980 as China and India have plugged their huge young populations into the world economy. It is likely to keep on growing, though at a slower pace, with a 40% increase in the world's working-age population forecast by 2050. According to the UN, the global stock of migrants has more than doubled in the past four decades. Not enough young natives have the right skills or motivation, so the rich must hope that outsiders will keep coming.

And they will. Luckily for Europe and America, there are huge pools of eager workers ready to jump on the next plane, train or leaking raft to work abroad. This can be beneficial for their home countries as well, at least as long as the population is growing



fast. The IMF says that emigration from Belize, El Salvador, Guyana and Jamaica, for example, may have led to higher wages and less poverty. Some Chinese from the heavily populated east coast are moving out, despite a fast-growing economy. Researchers in Africa report a recent rapid inflow of Chinese workers.



If exporting brawn generally makes sense for a poor country, sending its better brains away may not. Most, perhaps all, poor and middle-income countries face chronic shortages of skilled workers. In South Africa, although universities churn out graduates at a fast clip, many well-qualified people promptly depart for Britain or Australia, leaving tens of thousands of jobs unfilled at home. In Morocco those with science and engineering degrees, computer skills and languages go to France, the Netherlands and Canada, whereas the students of literature and public administration stay at home. Professor Mohamed Khachami, of AMERM, a migration think-tank in Rabat, laments that his country lacks people to build better internet connections, yet Paris now has an association for Moroccan IT engineers. Hospitals and clinics in southern Africa struggle to cope with huge public-health problems as doctors and nurses pack their bags for jobs in the Gulf, Europe and elsewhere. It is a similar story for schools.

Those in demand abroad are the hardest people to keep at home. Some European countries tried, and failed, to stop artisans emigrating to America in the early 19th century. In fact it is almost impossible to block the exit for the highly skilled if the lure is strong enough. Small countries such as Jamaica, Trinidad and Senegal have seen half to three-quarters of all their graduates move abroad.

Rich countries have taken in more highly skilled migrants than ever before. The World Bank looked at a sample drawn from 52m migrants in 20 rich countries in 2000 and found that 36% of them had a college education, a sharp rise on a decade earlier. Yet emigration of skilled workers may be a consequence rather than a cause of problems in the sending country. For example, nurses may be quitting Malawi because their salaries are not being paid or because hospitals are crumbling; entrepreneurs may be moving abroad because the business climate back home is wretched. Stopping emigration, even if you could, would not solve the problems. The nurses might still leave their jobs, the would-be entrepreneur might sit on his hands.

Indeed, some argue that emigration can help to add to the stock of brainpower. Migrants who go abroad may spend more time studying, pick up more skills and experience and then bring them all home again. Remittances are often used to fund schooling. And the prospect of emigration and prosperity abroad may be an inducement for many more to get an education. All this suggests that the consequences of skilled emigration are difficult to calculate, even if they are not negligible.

Governments of sending countries would do well to tackle whatever factors are pushing their skilled people out in the first place. Malawi, which exports a lot of nurses, should of course worry that it lacks medical staff. It is said that there are more Malawian nurses in Manchester than back home. But, perhaps with donors' help, more investment in public health could be combined with a strategy of training many more nurses than are needed, allowing for future emigration and the other benefits that brings. If migrants can be tempted back home, even for short spells, all the better. Ghana, for example, has raised wages for some medical staff and offered incentives to the highest-skilled to come back. Money is not the only concern: staff are also allowed parts of the year to work abroad, giving a boost to their careers.

There is no guarantee that migration will carry on at record rates. It is possible to seal borders tightly enough to keep more people out if those inside are ready to pay the price. An earlier period of great migration came to an end, for example, when America some 90 years ago shut its doors to immigrants for a while.

But easier movement of capital and goods has helped to make the world a much richer place in the past decade or two, and more human mobility has both created wealth and helped to share it out more equally. The billions sent around the world in remittances each year is testimony to that. The price of keeping people out would be high.

And unexpected things keep happening. Wars can suddenly displace millions of people who may start off as refugees but end up as migrants. Some people think that climate change might force tens of millions of people to get moving within just a few decades. Misguided policies, a backlash over terrorism or a failure to integrate migrants could all cause serious problems. All the same, it seems clear, 40 years on, that Mr Powell got everything but his sums completely wrong.

SPECIAL REPORT - 2007 ONWARDS

Of bedsheets and bison grass vodka

Jan 3rd 2008

From The Economist print edition

Rich economies gain from high levels of migration, but the benefits are unevenly spread

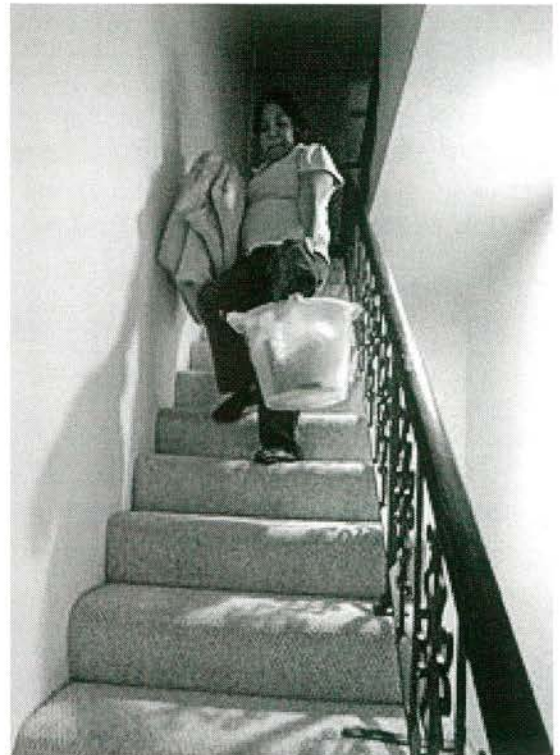
FOR the past two decades or so, high rates of immigration into OECD countries have coincided with prolonged economic growth in much of the Western world. Consider Cobh, a bustling tourist town in southern Ireland which used to be famous for exporting people. Some 2.5m Irishmen and women embarked for America from its quayside, and its great and gloomy neo-gothic cathedral was paid for by remittances.

Now, like the rest of Ireland, Cobh heaves with foreign workers. There are Poles on building sites, Latvians who own a shop selling dumplings, *sauerkraut* and other continental delicacies, a South African in the tourist office and another driving a taxi, Chinese in restaurants, a Bangladeshi managing a fishing business, and so on. A hotel owner says that he could not do without the migrants: when he recently advertised for a receptionist, none of the 200 applicants was Irish.

Migration can be both a consequence and a cause of economic well-being, but many people in host countries with lots of migrants have yet to be convinced of the economic benefits. A poll in November 2007, for France 24, found that 55% of Spaniards consider migrants a boon for their economy, and so do 50% of Italians, but only 42% of Britons and Germans and a mere 30% of French respondents.

Some of the hostility towards immigration seems linked to worries about the economy. If recession looms, locals are more afraid that outsiders will take their jobs or scrounge on their welfare systems. The last time that immigration in America was as high as it is now, just under a century ago, xenophobia rose as recession took hold. Today, amid concerns that a housing slide could lead to a general economic slump, American anxiety about migration is rising

Reuters



They need her

again. But the poor worry about immigration even when the economy is thriving.

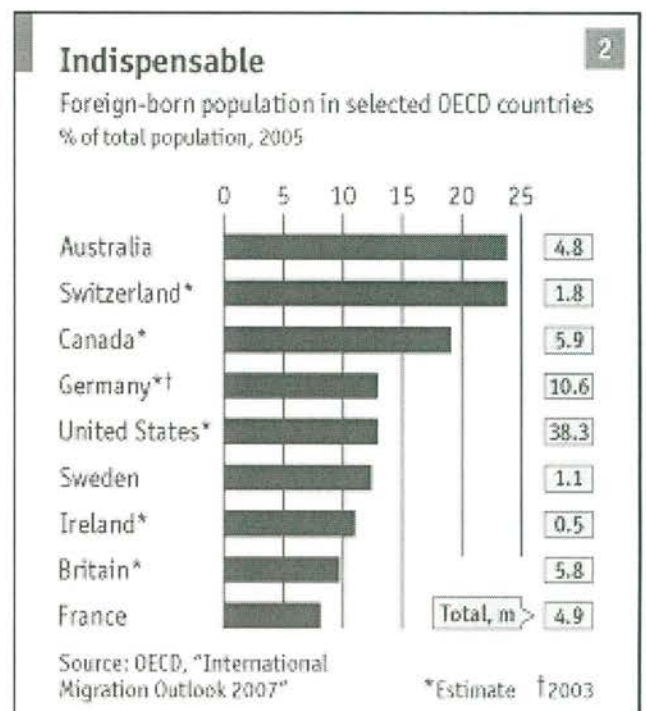
Legal migrants usually have better job prospects than illegal ones, and the more educated outdo the rest. Not all of them stay. Nearly a third of those who crossed the Atlantic to America between 1890 and 1914—and as many as half the Spaniards and Italians—re-emigrated. Similarly, surveys today show that a majority of Poles in Britain plan to go home within a few years.

Some migrants do better not only than those left behind but also than those in their destination countries. The Institute for Public Policy Research, a British think-tank, found in 2007 that the foreign-born of many ethnic groups are both more likely to have a job and to be better paid than the average Briton. In America, over the past century, studies have shown migrants' wages catching up with, and then often surpassing, those of average Americans. Migrants' children do well too. This is not surprising. Migrants need health, skills, determination, a willingness to take risks and some entrepreneurial nous to take the plunge, which marks them out as special people.

Assuming that migrants are in work, they are bound to benefit the economy of the host country as a whole. Most simply, an expanding workforce permits faster growth. More people can do more work, and many migrants are young adults who are particularly productive. Moreover, migrants increasingly alleviate specific labour shortages in rich economies. Some economies could not function without foreign workers. In the United Arab Emirates, for instance, they make up an astonishing 85% of the population.

For the moment few other countries rely so heavily on outsiders (see chart 2), but in a number of rich countries, including Britain and America, foreigners typically make up 10-15% of the labour force and their share is rising. Around half of the new jobs created in Britain today are filled by migrants, often because they have skills that locals lack (from plumbing to banking) or because natives scorn the work (from picking fruit to caring for the elderly).

Low jobless rates in Ireland, Sweden, Britain, America and other countries with high migration suggest that, so far, foreigners are not squeezing out natives. Migrants also help to create jobs, because a good supply of labour encourages those with capital to invest more. For example, the hotel owner in Cobh, knowing he can find affordable staff, has added an extension with extra rooms. In contrast, countries where migrants have been kept at arm's length, such as Germany, complain about a chronic shortage of skilled workers such as engineers, scientists or programmers.



Just say the word

Foreign workers are often more flexible than native ones, too. Having already moved from Mexico to California, say, they are probably willing to take a job in Chicago. Migrant labour helps to keep economies on an even keel. At times of strong growth, an influx of workers reduces the risk of wage pressures and rising inflation. If growth weakens, migrants can go home or move to another country, or choose not to come in the first place. For example, the flow of Mexicans to America is probably slowing as the housing slump worsens and construction jobs disappear.

Migrants can also release skilled natives to do a job (for example by providing child care that allows a parent to go back to work). And they are consumers, too, renting accommodation and buying goods and services. The owner of the off-licence in Cobh is delighted by his Polish customers, who are fond of bison grass vodka and east European lager. Cobh's supermarket, fast-food restaurants and other shops are flourishing too.

Quantifying the impact of all this is tricky. A 2007 report by PricewaterhouseCoopers concluded that a surge in migration has helped to lift Britain's growth rate above its long-term trend. Alexandros Zavos, of the Hellenic Migration Policy Institute in Athens, reckons that immigration into Greece has recently added as much as 1.5-2.0% to its GDP every year. For countries that have long had high rates of immigration, such as America, sustained economic growth partly reflects an ever-growing workforce.

Sceptics say that migration may boost the economy as a whole, but on a per-head basis the benefits for the natives are less impressive. Migrationwatch, an anti-migration group in Britain, reckons that for the average Briton the inflow of foreigners provides just a few extra pence a week. Roy Beck, an anti-immigrant activist in America, suggests that countries with ageing workforces should try to make their economies less labour-dependent. His country is "addicted to foreign labour", he says, and more capital investment and more training for locals would reduce the need for foreign workers. But some jobs (such as cleaning or nursing) cannot be sent abroad or mechanised. And even if more natives can be trained to do highly skilled work, shrinking native workforces in many countries could mean economic contraction.

Some of the sceptics' arguments touch raw political nerves, particularly when it comes to the least well-off natives in the host country. In America the share of national income that is going to the poorest has been shrinking in recent decades. Inequality has increased and the real wages of the least skilled have fallen. Circumstantial evidence suggests that foreigners, who typically work in less skilled jobs, might be partly to blame. According to one estimate, they make up around 28% of legal construction workers in America and over a third of maids and housekeepers. If the illegal workers could be counted, the figures would probably be much higher still.

Cheap and cheerful

Do migrants make life worse for poor natives? Studies comparing wages in American cities with and without lots of foreigners suggest that they make little difference to the income of the poorest. George Borjas of Harvard University, who compared wages for different kinds of jobs where migrants most obviously compete with natives, estimated that immigration in America in the two decades to 2000 may have kept wages 3% lower than they would otherwise have been. For the least skilled the difference may have been as much as 8%. But Mr Borjas also calculated how a rise in the number of migrants might have encouraged the creation of jobs, which reduced the impact on wages.

This tallies with the outcome of natural experiments in recent history, such as the influx of 610,000 Russian Jews into Israel in the early 1990s, the return of 900,000 Frenchmen from Algeria in 1962 or the homecoming of 600,000 Portuguese after the collapse of their empire in Africa in 1974-76. Each time the influx of workers expanded the workforce and wages dropped slightly, but subsequently recovered. Given prolonged immigration, argues Steven Camorata of the Centre for Immigration Studies, the impact is sustained. He thinks that "it's the poorest 10% [of Americans] who seem to lose out, cutting their wages by perhaps 5%."

Worse, say the sceptics, migration may limit poor natives' chances of moving up to better-paid jobs. With changing economies that reward skills, it is anyway getting harder to move up the ladder from low-wage jobs to better-paid ones. Now migrants, especially those with skills and drive, are making life even harder for the weakest natives.

A second worry is that migrants will put a strain on public services and the tax system. It is in schools, public housing and doctors' surgeries that natives come face to face with migrants and it is often at the local and state level, where responsibility for such services usually lies, that hostility to migrants seems strongest. Local councils in Britain complain that clinics and schools are overloaded and central government is slow to dish out help, and local police in areas with many immigrants blame foreigners for a rise in crime.

In Greece, as new illegal immigrants arrive at remote spots on the border, officials complain that they lack funds for policing and social services. The prefect of Samos laments that "we are given a short bedsheet to cover our body." In America hostility to migrants is greatest where they have recently been arriving in large numbers, not where their absolute numbers are highest (near the borders or in big cities, such as New York). Several states have passed tough new laws banning illegal migrants from using their public services.

But crowding, although likely to cause resentment, results from the unexpected arrival of those migrants, with bureaucracies taking time to allocate resources to the right places. In itself, it does not prove that migrants are a drag on public services as a whole. Indeed, migrants often make a large contribution to the public purse. When a foreign worker first arrives, usually as a young adult, fully educated and in good health, he makes few demands on schools or clinics. A legal immigrant will pay taxes just like any native; even

an illegal one will contribute something (if only through the tax on those bottles of bison grass vodka). If the immigrant stays on (and quite a few do not), the benefits will diminish as he ages, but at least he has given his host country a breathing space.

To complicate matters, highly skilled migrants contribute much more to tax and social-security systems than do less skilled ones. A study in America by the National Research Council suggests that migrants with an education beyond high school contribute an average of \$105,000 to the tax coffers over their lifetime. By contrast, the least educated migrants are reckoned to leave the taxman with a \$89,000 hole. But migrants as a whole, in the long term and counting the contribution of their children when they grow up and get jobs, are not a drain on public services. For rich countries with ageing workforces in particular, gains from importing the young, the energetic and those willing to take risks comfortably outweigh the costs.

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SPECIAL REPORT - 2007 ONWARDS

The politics of the gun

Jan 3rd 2008

From The Economist print edition

Migration has once again become a touchy political issue

UNTIL recently, politicians who inveighed against immigration could expect support from an angry minority of voters in many Western countries. Some, like Australia's Pauline Hanson, won moments in the limelight and then faded away. Others got closer to political power: in France in 2002 the anti-immigrant Jean-Marie Le Pen reached the run-off stage of the presidential election; Denmark's centre-right government has been kept in office with support from an anti-migrant party; and in Austria in 2000 Jörg Haider's far-right party joined a coalition government. On each occasion this was controversial, but could be explained as a quirk of the electoral system, not a reflection of widespread anti-migrant sentiment.

Today, however, hostility to immigration is becoming mainstream. Britain's prime minister, Gordon Brown, whose Labour government has allowed remarkably high rates of immigration for years, recently called for "British jobs for British workers", a meaningless slogan previously used by the far-right National Front. The opposition Conservatives' leader, David Cameron, says he wants to see "substantially lower" immigration. Both government and opposition say they will keep out workers from Bulgaria and Romania, along with those from any other new EU members, for as long as possible.

In France Nicolas Sarkozy campaigned for the presidency in 2007 sounding as hostile to foreigners as Mr Le Pen, and swept to office. He is now proposing immigration policies that have liberals quivering with anger. Most controversially, a new law passed in November will allow DNA testing of immigrants' relatives who apply to come to France under a family reunification programme.

Italian politicians whipped up violence against migrants

Reuters



Woolly thinking

after the death of a woman in Rome last October, allegedly at the hands of a Romanian Roma (gypsy). Officials ordered the expulsion of Romanians with criminal records and set about bulldozing migrants' camps. Local thugs took that as a cue to beat up foreigners in the streets.

In countries where proportional representation gives a say to small parties, support for anti-immigrant populists has gradually risen. The second-largest grouping in Norway's parliament is the misnamed Progress Party, which wants to discourage the entry of "far-foreigners" (migrants from beyond the Nordic region, especially dark-skinned ones). The right-of-centre People's Party in Switzerland, which had campaigned with a crude poster showing white sheep booting out a black one, got 29% of the vote in elections last October.

Across the Atlantic, mainstream candidates for the 2008 presidential elections are lining up to talk tough about border controls and cracking down on illegal migrants. The dramatic collapse of an immigration-reform bill in the Senate in June, despite the support of President George Bush and the leaders of both the Democrats and Republicans in both houses of Congress, signalled that many ordinary voters are troubled by high rates of immigration. A coalition of radio hosts and internet activists arranged for opponents of reform to send 1.5m faxes to senators and congressmen in June.

Roy Beck, who heads NumbersUSA, one of the internet activist groups, says that membership of his organisation has grown from just 3,000 active members in 2001 to more than 490,000 today. He also claims an e-mail list of 1.6m sympathisers from across the political spectrum. Some of the anxiety may be explained by worries about economics, language, crime and a general fear of the outside world raised by terrorism. More important, he suggests, is anger about the presence in the country of perhaps 12m illegal immigrants. He wants to see the number reduced by things like deportation, stronger fences and fines for employers who use illegal labour.

The camel's nose

Opponents condemned the Senate reform bill as an amnesty: "It teaches aliens that all they have to do is get in and wait. It is letting the camel's nose into the tent, the rest follows," says Mr Beck. But the bill would not have been a soft option. It envisaged higher spending on border defences and an obstacle course on the way to legal residence. Applicants for legal status would have had to pay \$5,000 and return home to await a decision. Yet the bill damaged the presidential chances of John McCain, a Republican senator who supports reform.

Immigration is likely to prove a divisive factor in some states in the 2008 presidential election. Republican strategists think voters are especially troubled by migration where there have been big new inflows, for example in the south-east (see

map). Democrats are divided. Some are anxious not to alienate their traditional and growing support among Latinos and new migrant voters who might help to swing states such as New Mexico, Utah, Nevada and Arizona. But others want to get tough in places like Virginia, a formerly solid Republican stronghold that might be up for grabs, where rapid immigration has provoked anger. For Mr Beck this is an opportunity to push Democrats to take a harder line on immigrants, just as they have done in other policy areas: "To win competitive elections, Democrats now often oppose gun control," he says. "I want immigration to be an issue like guns."

Perhaps the surprise is not that American voters are now reacting to high immigration, but that it has taken them so long. The last time the share of foreigners in America's population was anything like as high as now, in 1913 (when it was 15%, including illegals), the public demanded, and eventually got, tough limits on migration that slowed the inflow for decades. Nearly a century on, a similar dramatic clampdown seems unlikely, but hostility could slow the flow of legal migration, and greater efforts will be made to crack down on undocumented migrants.

Yet public hostility to migration should not be overstated. In Spain and Greece, for example, natives seem relatively at ease with a big influx, at least as long as their economies are doing well. For some analysts the backlash against immigration is part of a wider response from hard-up activists who feel that elites do not properly represent their interests. But many people in host countries also see the gains from migration—and indeed some of them try it out for themselves. Some 5.5m British nationals, for example, currently live abroad, many in Spain, Australia and Greece. That amounts to nearly a tenth of the population back home, putting Britain on a par with Mexico as an exporter of people.



SPECIAL REPORT - 2007 ONWARDS

Keep out

Jan 3rd 2008

From The Economist print edition

Voters like the idea of tougher borders, but the cost is high and the benefits are limited

ILLEGAL migrants risk their lives to better themselves. Europeans are more aware of Africans drowning in the Mediterranean in the summer holiday season, but boats are wrecked all year round. In mid-December 51 migrants drowned off the Greek island of Samos, one of the worst such incidents in recent memory. Mexicans dying in Arizona's desert rarely make headlines any more. And not a lot is heard about the 600,000 people a year, perhaps more, who the UN says are trafficked and often forced into prostitution. Bonded labour, too, is dismally common.

AFP



India's way with a fence

Europe and America are both making big efforts to control their southern borders. The EU's system, run by its member countries, is called Frontex. In 2006 most sea-borne African migrants washed up on the Canaries; in 2007 it was the turn of the central

Mediterranean, especially Malta and Italy. In the coming year watch Greece and Cyprus, where a trickle of boat people from Egypt and Turkey may turn into a flood. With some 100 patrol craft, plus spotter planes, land-based radar and other technology, Frontex does seem to be making it more difficult to get in.

A trip with a night patrol on a Greek coastguard vessel from the island of Samos shows how. The boat, with tinted and bullet-proofed windows, accelerates above 30 knots as a searchlight illuminates a 350-metre radius and a radar scans the nearby Turkish coast. Six guards aboard, some brandishing M4 rifles, peer into the darkness. Fishing and tourist craft appear in the gloom. Spotting a raftload of immigrants would be easy, though those on small rubber dinghies or swimming with snorkels and flippers would be harder to find. The boat is kept busy. In the 24 hours before this patrol several dozen illegal migrants were plucked from the sea and the rocky shore and taken to a detention centre in Samos. Greece has 30 such boats, plus four aeroplanes for air-sea surveillance.

Even the bright and well-educated risk misery. An Ethiopian law student in Greece tells of his wretched trip to Europe: he bribed Ethiopian border officials, hid in a truck carrying coffee in Sudan, endured seven days in the Sahara, spent months in a grim camp in Libya, suffered a terrifying voyage across the Mediterranean, hitched a lift in a frozen-meat lorry in Turkey, scavenged in a forest for days and feared he would drown in a fishing boat that carried him into the EU. He paid several thousand dollars for the journey and ended up locked in a cramped and stinking warehouse on the island of Samos, crammed with asylum-seekers. Dejected, he says he wants to go home.

America's frontier with Mexico has even more gear, gadgets and manpower on display. Unmanned Predator Bee drones float at 12,000 feet, helping to guide officers in bulletproof helicopters, in jeeps, on horseback, on mountain bikes and on all-terrain buggies towards any would-be migrants. Seismic sensors catch footfalls, magnetic ones notice cars, infra-red beams are useful for tunnels. Some 18,000 officers man the border crossings and a further 15,000 (due to rise to 18,000 by the end of 2008) patrol in-between them.

Perhaps the best way to look at the border is from the air. As an A-star helicopter lurches into the late-morning haze above San Ysidro, southern California, it becomes obvious that crossing from Tijuana on the Mexican side is no longer easy. Running a dozen miles inland from the Pacific ocean is a wide double fence, one to block cars, the other to stop pedestrians. Watchtowers and surveillance cameras, tall wire mesh and lots of border guards line the frontier. Occasionally migrants still scamper over the fence with improvised ladders. From the air a series of concrete paths becomes apparent, running crossways. These are tunnels, regularly dug from the southern side, regularly filled in again by the border patrol. Some have stretched for half a mile, complete with lighting, ventilation and a track for rolling carts.

After 12 miles the fence becomes a single line, and two miles after that it stops. From here on the hills rise, providing a natural barrier. Now the "virtual fence" takes over—drones, helicopters, sensors. By the end of 2008 some 670 miles of fencing will be erected along the 1,969-mile border. In many places the fence is made of Vietnam-era concrete slabs

designed for runways and turned on their sides.

Europe and America are not alone in their taste for well-policed borders. South Africa, deluged by migrants from north of the Limpopo river, is trying to enforce its own. In 2007 it reportedly deported an average of 4,000 people a week. India is finishing an iron barrier 2.5 metres high along the 4,100km (2,500 mile) boundary with Bangladesh, at a cost of more than \$1 billion, to mark a fuzzy frontier and keep out poor Bangladeshis.

Are the barriers doing any good? The answer depends on your objectives. With Frontex in Europe, for example, the craft, for all their guns and scary looks, sometimes have to act as rescue boats. It is said that some migrants, once they have arrived in EU waters, phone ahead to get someone to collect them, confident that they will not be turned away. To make sure, they sometimes slash their dinghy with a knife as the patrol boat arrives.

In America, look down from the helicopter at the spot where the fence stops. Here the paths begin: thousands of jagged tracks in the scrubland, stretching north to south, worn into the rust-coloured earth by millions of human footsteps. The migrants have a simple way of dealing with the technology: they walk around the fence. Only some are then stopped.

Even those detained at the border have every reason to expect to make it across eventually. On the day your correspondent visited, two men had been chased, tackled, dragged through a bush and handcuffed in the back of a border patrol car. They were taken to a processing centre in the nearby town of Nogales, their fingerprints scanned and checked against a database of criminals. Those not on a wanted list are usually deported within 24 hours. But many will turn round and try again.

In Europe an even larger proportion of those stopped at the borders end up staying. Many will attempt to claim asylum, saying they are escaping from a war. Those who are not able to convince officials that they are refugees may still be able to stay if the EU lacks a deportation agreement with their home country. If deportation is impossible, they are released after a time and melt away.

Don't even think about it

No doubt the borders are becoming harder to cross. Franco Frattini, Europe's commissioner for justice and home affairs, is delighted with Frontex. The first eight months of 2007 showed 72% fewer migrants crossing to the Canaries and 41% fewer in the central Mediterranean than the year before. "It shows it is possible to cut because of the impact of deterrence," he says. America's fence-builders are also pleased. Official figures released in November showed a one-fifth decline in cross-border apprehensions, from just over 1m in fiscal 2006 to 858,000 in fiscal 2007, the lowest number in five years.

The high prices charged by people-smugglers reflect the growing difficulty, as well as the

relative risk and discomfort of the journey (see table 3). The cheapest way to reach San Diego is to curl up in the boot of a willing driver's car and hope that sniffer dogs will not find you, or to use a fake or stolen passport. Tunnels and guided hikes are more pricey. Ten years ago a trip from Mexico to Phoenix, Arizona, cost \$250-500, but now it will be more like \$3,000. If you are an "OTM" (Other Than Mexican, in the language of the guards), rates are higher.

Fences are popular with those who live on the right side of them. The first barriers in San Ysidro went up in the early 1990s as part of "Operation Gatekeeper", helping to end chaos and violence. Huge numbers of illegal migrants used to gather on the border, then run across, thousands at a time, overwhelming border guards. Today shopping malls, warehouses and housing fill an area that was once scrubland too dangerous for the police to patrol. Land and property prices have soared. But although some illegal migrants are deterred by fences, the recent drop in apprehensions in America may have as much to do with the housing-market slump, which means fewer are drawn north in the first place.

Other illegal migrants are diverted to new and more dangerous routes. Thus African boat people endure longer trips in wilder seas. More Mexicans strike out over those natural barriers. With inadequate water, high-caffeine drinks, garlic to ward off rattlesnakes and a goat's foot for luck, the ill-prepared are dying in alarming numbers in Arizona's desert. Since 2000, in the sector around Tucson alone, some 1,137 bodies have been found. There are probably many more still out there.

Nor does it seem much to celebrate that job-seekers are handing more of their savings to criminals, such as the Arellano Felix cartel that controls much of the Mexican side of the California border. Some fund their crossings by becoming criminals themselves, either as guides for other migrants or as drug mules. They are also carrying knives and guns more often.

The bigger concern is that fences might in fact push up the total number of illegal migrants inside any given rich country. After all, the more costly and dangerous it is to cross, the less people will feel like leaving. Migrants quite often return home for a while—but only if they know it will be relatively easy to get back in. The tougher the border, the more incentive migrants have to stay and perhaps to get their families to join them instead.

One migration expert in Washington, DC, says that higher walls will keep people in as well as out: "The more that is spent on the border, the more illegal migrants stay here. Our politicians are not stupid. They know that walls do not stop people. It is a loser's game." That argument is well understood in Europe, too. One official dealing with immigration

The price of safety and comfort

3

Cost of being smuggled over borders
Selected routes

	Year	Price, \$
Mexico-Nogales, AZ	2007	1,000
Mexico-Phoenix, AZ	2007	2,500-3,000
Mexico-San Diego, CA	2007	1,500-3,000
Morocco-Spain (<i>lorry</i>)	2007	5,000-6,000
Morocco-Spain (<i>boat</i>)	2007	1,000-1,500
Turkey-Samos, Greece (<i>boat</i>)	2007	1,000
Horn of Africa-Yemen	2007	100-150
China-New York (<i>boat</i>)	2005	60,000

Sources: *The Economist*; Moisés Naim, "Illicit"

policy in Brussels says: "It is playing King Canute to say that you can stop illegal migration. It has never worked. It is no easier to stop than prostitution." But, on both sides of the Atlantic, tough borders are popular with voters, so they are here to stay.

They may become more effective if combined with other high-tech enforcement. The EU has a pan-continental fingerprint database for asylum-seekers called Eurodac which lets officials track those who have been detained. Britain is introducing identity cards for foreigners, including biometric information, and in France Mr Sarkozy will now go ahead with DNA testing of supposed blood relatives. In America every detained illegal immigrant has his fingerprints recorded through a system called IAFIS, which is linked to the FBI and other crime databases.

American employers are also facing tougher checks on whether they use undocumented labour. An electronic database, E-verify, lets registered employers check instantly whether workers are authorised to be in the country. And more employers who break the law are facing arrests and fines: 863 arrests were made in 2007, against only 25 five years earlier.

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SPECIAL REPORT - 2007 ONWARDS

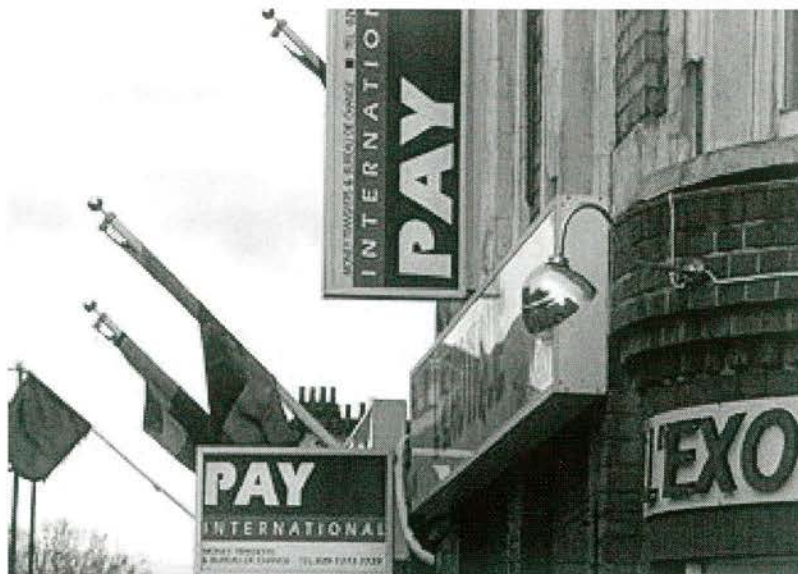
Send me a number

Jan 3rd 2008

From The Economist print edition

Migrants' remittances help ease poverty back home, but they are not a cure-all

SEVEN years into the century a remarkable figure was produced. Foreigners in America sent home \$275m in a single year, a total not far short of the value of all the gold mined in America. They used 2,625 money agents to do so, mostly through grocers, bakers and other small immigrant shops. New York alone had 500, Chicago 75 and Pittsburgh 50. The *New York Times* gasped at the numbers a little later, in 1910, and noted that migrants were shunning bigger banks as "the Italian and the Magyar and the Croat and the Slovak [are] simple, ignorant foreigners".



Flying money in the Seven Sisters Road

The sum of \$275m in 1907 was \$6.2 billion in today's money. That sounds a lot until you look at the current figures, which are probably in the region of \$240 billion-300 billion. Neglected for some time by academics and policymakers, remittances have recently been rediscovered and have become the darling of many development experts.

Because of fears after September 11th 2001 that terrorists might be using informal money transfers to fund their activities, agents had to register and submit to closer monitoring.

For a flavour of what the Arabs call *hawala* and the Chinese *fei ch'ien*, or flying money, try north London's Seven Sisters Road. With 105 different ethnic groups, north London is thought to be Britain's most diverse area, and at first glance most of the 2,700 remittance agents registered in the country as a whole seem to congregate here. "JN" promises Jamaicans that "As yu quint it reach" (once sent, your money is there). "Giros sur" specialises in Brazil, Chile and Venezuela; "Maggie Gold" serves Ghana. "Homeboy, Instant transfer" is doing good business.

The agents are wedged between *halal* butchers, Chinese herb shops, Greek dry-cleaners and bustling grocers selling green bananas, cassava and sweet potatoes. Pavements are crowded with shoppers and crooning preachers. A sign in one shop, hand-written in Luganda, invites "all our people, come all. We send money to Uganda at a good rate, here in the internet café of the Somalis." Another agent, with a line of phone booths, has a dozen clocks on the wall, showing the time in places like Sebastopol, Addis Ababa, Kinshasa, Johannesburg and New Delhi.

According to the clock in London, it is 3pm in Kampala, Uganda's capital, when Julius Mucunguzi hands over £20 intended for his sister. His receipt says she will be able to collect 64,800 Ugandan shillings from the firm's partner office in downtown Kampala. There is no fee, she can get at the cash almost immediately and the exchange rate is reasonable (though the agent will make a profit on it). Mr Mucunguzi sends her a text message with a code that she will use to collect the money. These texts are now treasured back home. When friends and relatives need help, they plead: "Send me a number!"

The mechanism is relatively simple. The money agent needs an office in London, say, to collect the cash and take details of the person sending it, and another in the destination country to hand over the money. The internet provides a safe and easy means of sending the code, specifying the amount and checking rates. The agent may invest the money he has been paid in London in some other business, or buy goods to be exported for sale in, say, Uganda (secondhand cars are popular), where the profits are used to pay salaries and provide the cash to be paid out locally. Trust is vital to this business, and reputations are made, and spread, by word of mouth among émigrés. Most agents are registered, but a few illicit ones drum up trade by offering good rates. Some even lend cash for the migrant to send, with repayment required only on confirmation that it has been collected.

Banks find it hard to compete with this kind of personal service. A Bangladeshi in Ireland complains that it takes two weeks to send money home through the bank, compared with half an hour via Western Union. Banks may also lack the necessary infrastructure, and may feel that frequent small transfers are not worthwhile.

For most poor countries remittances are more valuable than aid. For many they provide more than aid and foreign direct investment combined.

According to the World Bank's Dilip Ratha, an expert on remittances, small countries gain most: migrants' cash accounts for 27% of Tonga's GDP, he estimates, and 21% of Haiti's (see chart 4 for other examples where it matters even more).

The total of global flows is disputed. The World Bank talks of \$240 billion a year whereas a recent report by IFAD, an agriculture arm of the UN, claimed that \$300 billion went to poor countries in 2006. Allowing for goods in kind and cash carried by travellers, perhaps one in ten people on the planet gains from remittances.

Good as gold

Remittances have many virtues. Sent directly to families, money cannot be stolen or frittered away by middlemen in aid agencies or governments. Flows are less volatile than aid or investment, and can be stepped up quickly if the need arises. For example, South-East Asians abroad sent extra cash home after the tsunami in 2004. Migrants often feel morally obliged to send money back. A survey of Mexicans in America in 2007, by the Inter-American Bank, found that three-quarters of them earned less than \$20,000, yet on average they sent home \$3,550 a year. And not just for a short while: Kathleen Newland of the Migration Policy Institute in Washington, DC, points to a study of 9,000 African doctors in America who sent home an average of \$20,000 a year, some of them after 20 years away from home.

Mr Mucunguzi in London certainly does his bit for Uganda, sending home several hundred pounds each month. Some of this pays for his grandfather to drink a litre of milk each day and for relatives' hospital bills. Some goes on education. He is "100% sure" that his sisters stayed on at school in Kampala only because of his cash. His parents sold land to fund his own education, so now he is building them a big new house. He is also investing in property, buying plots and houses in Kampala and in his home town, Kabale. Next he may set up a business, building a commercial centre and internet café in Kabale.

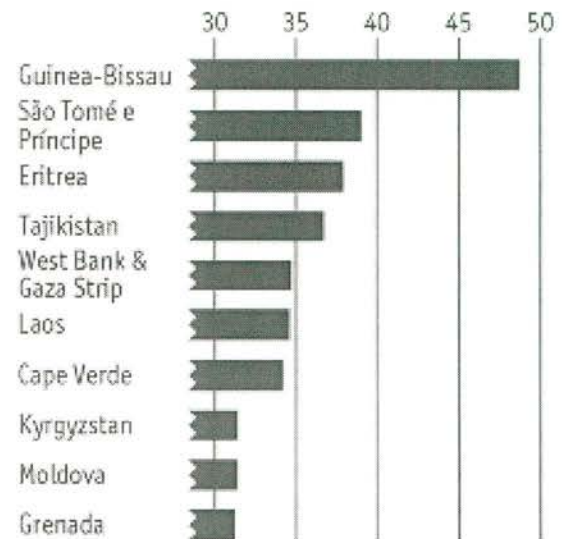
His experience is typical. IFAD thinks that perhaps 90% of remittances to poor countries go on food, clothes, housing, education and health. A World Bank study in 2007, reviewing evidence from 115 poor countries in 2003, found that when official international remittances rose by 10%, the share of people living on less than \$1 a day fell by 3.5%. Countries such as Uganda, Bangladesh, Ghana and Nepal saw the biggest gains. Babies had a higher birth weight and families spent more on education, with girls thought to

The receiving end

Remittances to developing countries, 2006, \$bn

Asia	115.8	Africa	38.9
Latin America	68.1	Middle East	17.6
Europe	61.0	Total	301.4

Biggest recipients of remittances by % of GDP



Source: International Fund for Agricultural Development

benefit especially. Consumption creates jobs too, for example in housing. Morocco's minister for émigrés, Mohammed Ameer, explains the advantages: "The impact is decisive, enormous, we have a construction boom across the country. This is an important safeguard against poverty and helps to modernise our rural society."

Even so, remittances do not necessarily help those most in need. The biggest recipients are in fact middle-income countries; the most destitute places are usually remote from rich ones and send few migrants abroad. And recipient families are rarely the poorest within a given country, so remittances may end up in the hands of middle-income earners with few knock-on benefits for poorer neighbours.

Remittance money flows along some curious routes: Pakistan receives some Nkr350m (\$5.7m) each year from migrants in Norway, with more perhaps carried by travellers. India collects \$24 billion a year, more than any other country, yet its diaspora has been reluctant to invest in the home country because of corruption, red tape and tricky finance. As with aid, oil revenues and other unearned wealth, a flow of cash risks making recipients passive and dependent. The most extreme possibility is that remittances may indirectly help to ease domestic pressure on awful regimes. IFAD says that in 2006 Zimbabwe got \$361m in cash transfers, Cuba \$983m and North Korea a whopping \$1.8 billion.

At least more governments are thinking about using remittances to step up investment. India now offers special incentives to PIOs (people of Indian origin) to invest. Ethiopia, too, is tapping its diaspora in America, making investment easy. Other countries could do more to use the capital being sent home. Morocco should encourage rural investment, says Hein de Haas, a researcher at Oxford University. Farmers lack confidence in property rights, so they spend remittances on housing, not on irrigation. Mexico typically sees more than \$20 billion a year flow across the Rio Grande, yet only a quarter of the start-up capital for small businesses in its towns and cities is drawn from remittances.

Wisely, governments in recipient countries have held off taxing the flows of cash, which would be a sure way to make them dry up. In the financial sector, remittances are an opportunity to extend banking services to more of the unbanked (who are not always the poorest) to encourage savings, insurance and loans. And where the cost of sending remittances is high, more competition could cut prices. Britain's government has set up a [website](#) where rival remittance services can be compared. Where there is plenty of competition—from rich to middle-income or poor countries—the cost tends to be low. But sending money from one middle-income country to another can be painfully expensive.

SPECIAL REPORT - 2007 ONWARDS

You don't have to be rich

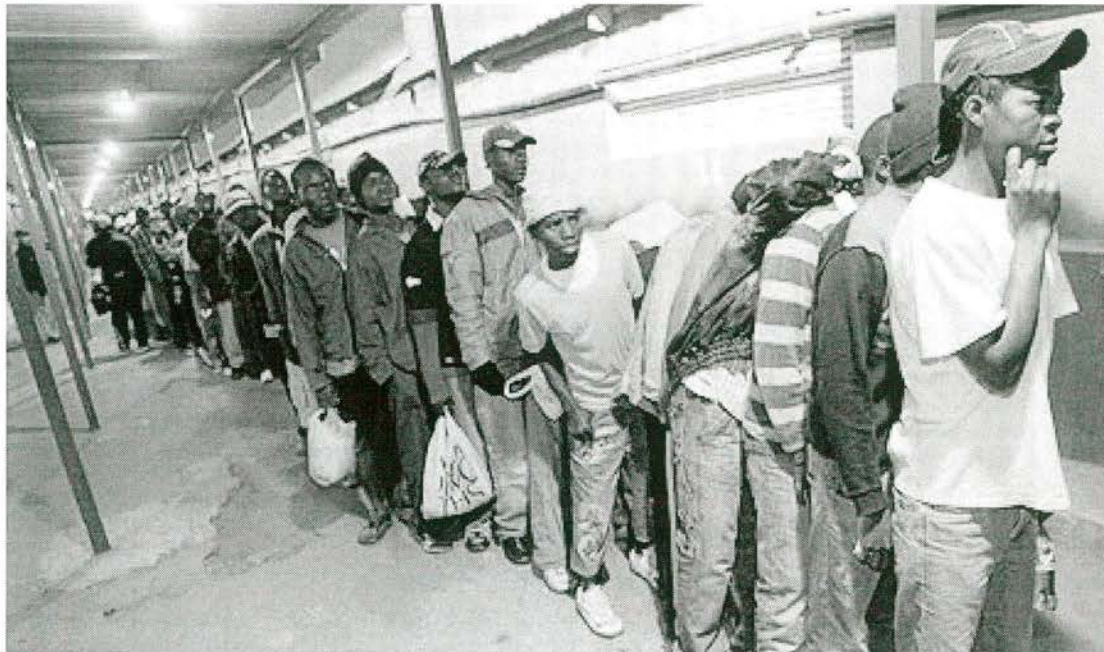
Jan 3rd 2008

From The Economist print edition

Developing countries attract migrants too

THE complaints sound familiar. Foreigners steal our jobs. Aliens cause a rise in crime. The corrupt interior ministry cannot cope. The border is ineffective and deporting illegal migrants does not work: removed by train, they return on foot. Outsiders put a strain on housing, especially for the poor, and on hospitals and schools. But employers do not care: farmers want cheap labour, and rich families need skilful foreign gardeners and housekeepers.

Reuters



Turfed out of Little London

Residents of Soweto, or other urban areas in South Africa, are likely to grumble about foreigners in the same way as in rich countries. The *makwerekwere*, as African foreigners are insultingly known, are attracted by South Africa's relative wealth. Some Tanzanians talk longingly of Johannesburg as "Little London". One in four Little Londoners may now be a foreigner. Zimbabwean teachers, forced out by hunger and repression, work as security

guards and shop assistants. Congolese lawyers toil as waiters and chefs.

In 2005 two World Bank researchers, Mr Ratha and William Shaw, estimated that two in five migrants—about 78m people—were outside rich countries. But who in the poor world is counting? South Africa's government does not know how many foreigners it has (2m? 5m? more?). Mexico, India or Turkey cannot be sure either. Total numbers are skewed by those displaced by the collapse of the Soviet Union or who became de facto migrants when borders moved.

Ms Newland of the Migration Policy Institute in Washington, DC, says the flows between poor and mid-income countries are huge but "desperately understudied". One reason why outsiders pay little attention is that most poor migrants do not move far. Roughly half of all South-East Asian migrants are thought to have remained in the neighbourhood, and nearly two-thirds of migrants from eastern Europe and Central Asia have stayed in their own region. Nearly 70% of migrants from sub-Saharan Africa remain on their continent. West African countries do not limit immigration from their neighbours, so lots of people cross borders, for example from Ghana to oil-rich Nigeria.

Some middle-income countries, such as Morocco, Mexico, Turkey and Libya, are well-trodden transit routes with migrant populations of their own. A senior civil servant in Morocco laments that his country is "between the hammer and the anvil" of Africa and Europe. Others, like India, Russia, South Africa and Argentina, are destinations in their own right. With all this come the same opportunities and threats as in the rich world. Chile imports doctors and maids from Peru, raising worries about a brain drain. Zambians fret about an invasion by Chinese, whose numbers in Africa are said to be between 80,000 to 400,000, many in oil-rich countries such as Sudan, Nigeria and Angola.

Remittances from one low-income country to another probably help to cut poverty. A 2006 study of 4,700 households by the Southern African Migration Project found that 40% of Zimbabwean households received some money from this source. How much is hard to measure, but a World Bank estimate for 2006 gives a range for remittances among poor countries of \$17 billion-55 billion.

Some middle-income countries are extraordinarily welcoming. Venezuela, awash with oil revenues, even allows Colombians to use its social-welfare system. Argentina has lifted most restrictions on immigration from South America, again guaranteeing access to public health and education, even for illegal migrants. But many other countries show signs of xenophobia. On one occasion a newspaper in Morocco gave warning that "black locusts"—African migrants—were invading. Russian authorities, especially in Moscow, regularly throw out traders from Georgia and elsewhere in the Caucasus. Libya occasionally expels African migrants.

Many poor people are drawn to somewhat less poor countries in the hope of finding work, just as they are to rich countries. But with war, repression and economic collapse, push factors are much stronger in the poor world. The invasion of Iraq in 2003, and the violence since, has uprooted more than 4m Iraqis. Some 95% of them have remained in the Middle

East, including 2m in hard-pressed Jordan and Syria. Sweden, with an admirable history of taking in refugees, has welcomed 23,600 Iraqis, but few other rich countries have followed suit. Some of the displaced are beginning to return home. Since the Taliban were booted from power in 2001, Afghanistan has seen the voluntary return of at least 3.2m people from Pakistan, Iran and elsewhere.

Climate of fear

Could a changing climate cause similarly big ebbs and flows? Scientists agree that average temperatures are likely to rise significantly by the end of this century. Rainfall patterns are already shifting. Those in marginal areas, for example on the edges of deserts, will suffer most, along with those in countries with the least resources to adapt. The sea is also rising, which might mean floods on vulnerable coasts. Some 12% of Africa's urban population, and 18% of Asia's, live in low-lying coastal zones and may be exposed to extreme weather or floods. The Intergovernmental Panel on Climate Change suggested in 2007 that millions may face water shortages, hunger and flooding as a result of climate shifts. Some would migrate, although probably over a period of time.

Environmental change has already set off some migration. Because the Sahel region gets much less rain than it did a century ago, farmers in Mali are moving to the cities. According to the UN Environment Programme, over the past four decades the desert in Sudan has crept south by about 100km and forests have disappeared. Rainfall in north Darfur, in Sudan, has dropped by a third over the past 80 years.

All this has displaced people and, some believe, encouraged war. Morocco's government is anxious about it. "There is a direct impact on migration. You see people leaving sub-Saharan Africa in search of more habitable land," says Mr Ameer, the minister for Moroccans abroad. Abdelhay Moudden, a migration expert in Rabat, suggests that the first to leave may be struggling farmers: "If the urban economy cannot absorb them, then it may also push international migration."

A 2005 report by the Institute for Environment and Human Security in Bonn suggested that rising seas and extreme weather, among other things, could uproot 150m people by 2050. Ms Newland of the Migration Policy Institute cautions against talking up the figures, but thinks that if drought and rising temperatures cause crop yields to fall in, say, the Sahel, they will probably encourage migration. If climate change were to cause wars or spread disease, that could compound the effects. Another reason, then, to switch to low-energy light bulbs.

SPECIAL REPORT - 2007 ONWARDS

Circulate or integrate?

Jan 3rd 2008

From The Economist print edition

A choice of migration policies

THOSE setting migration policy in rich countries face an almost impossible task. The demands of demography and economics—shrinking and ageing workforces, a growing shortage of people to fill jobs requiring both high and low skills, and increasingly flexible and open economies—all point to more migration. Moreover, within the European Union workers from the 12 countries that have joined in the past few years will soon have the legal right to live and work in any part of the union. On the other hand, voters in many rich countries seem increasingly hostile to immigration, which suggests that politicians may find it more and more difficult to allow immigration to continue at its current high level.

AFP



Work is here, but where is home?

If only there were some means of getting all the benefits of migration but none of the costs. That is the thinking behind the latest solution now being promoted: circular migration. Europe's commissioner for justice and home affairs, Franco Frattini, wants to

see more temporary migrants in the EU. For the highly skilled, he suggests a blue card (similar to America's green one) to ease the temporary entry of professionals and their families into Europe. Foreign workers with the most skills make up just 1.7% of the workforce, about half the rate in America and far less than in Canada or Australia, and competition for them is getting more intense as some of the brightest head to China and other parts of Asia. A blue card would at least make it clear to migrant professionals that they would be welcome. On the other hand, highly skilled workers go in search of dynamic economies, along with the high pay and bright careers they offer, and a blue card would do nothing to bring more dynamism to Europe.

What of the less skilled? Mr Frattini points to a pilot project in Spain over the past two years in which Moroccans—especially women—have been brought in to do specific jobs on farms and in hotels for a few months at a time and then sent home again. Contracts are drawn up beforehand, travel is part-funded by the EU, everything is above board, and so far every migrant has gone back as agreed. As a result, 10,000 Moroccan workers did not have to run the risk of taking a *patera* across the Strait of Gibraltar. They were able to send remittances home but put no strain on Spain's public services. Mr Frattini wants to launch another pilot programme in his native Italy, where southern farmers might recruit workers from Egypt or Tunisia. Moldova and Ukraine want to get involved in similar schemes.

A new kind of Gastarbeiter...

If the projects work (one in Corsica was less successful), Mr Frattini would like to scale them up, with member countries eventually setting import quotas for foreign labour. The EU is planning to establish job centres in north Africa, beginning with one in Mali, to offer a legal route to jobs in Europe, and also provide some language training.

But this part of what Mr Frattini and others call circular migration has been tried before and seems unlikely to bring the hoped-for benefits. Germany's *Gastarbeiter* scheme began in 1955, drawing workers first from southern Europe and north Africa and then Turkey. Something similar was done in France and the Netherlands, mostly with workers from north Africa. America imported Mexican farm labourers under its Bracero programme.

The trouble is that such a dirigiste design is not well suited to today's liberal democracies and their flexible labour markets. And unless schemes are tightly regulated and the exit of workers is enforced by law, everybody has an interest in keeping the supposedly temporary workers in place. Employers would much prefer not to have to train new people every six months, and workers want to keep their jobs or move on to better ones. Many of the guest workers who arrived in northern Europe from Turkey and north Africa in the 1960s and 1970s never left, and eventually brought their families to live with them too. The old joke that there is nothing so permanent as a temporary migrant has more than a grain of truth in it.

It might be possible to create financial incentives for migrants to leave at the end of their

contract period. Co-operation between the governments of the host and the sending countries would be essential, says Mr Frattini. And migrants could be policed more tightly with the aid of new technology: ID cards, databases with biometric details, systems like E-verify in America that allow employers to check whether workers are authorised to be in the country. Proponents of circular migration admit that it would entail a loss of privacy.

The biggest problem, though, is that people who expect to be packed off home after six months will be seen as second-class residents, and will have less incentive to integrate with their hosts. Why learn the language or adopt local habits and values for just a few months? Locals, for their part, are likely to view temporary labourers with the same sort of hostility as longer-term immigrants.

When migration is made legal and easy, many migrants choose to go home after a year or two. Easily crossed borders allow people to become what some researchers call "pendulum migrants", those who split their year between two different countries. This is already a well-established habit in rich countries. Growing numbers of wealthy Germans, Britons or Nordics spend parts of the year somewhere sunny and then go home again. Perhaps more of this sort of movement could be encouraged, with rich countries offering workers multi-entry visas valid for several years at a time.

Yet any sort of circular migration brings challenges of integration. Faster movements of people, combined with technology—cable television piping entertainment from the sending country, cheap phone and video calls back home—slow the rate at which migrants adopt their host country's language, values and identity. Migration, suggests Mr Moudden in Rabat, "is changing our whole understanding of citizenship, of the nation".

In the past a third-generation migrant, for example in America, would have been expected to have shed much of his grandparents' identity. Academics reckoned that a second-generation migrant would be fluent in his host country's language but would use his mother tongue at home. By the third generation descendents of migrants had usually swapped to English alone. That pattern may be changing as migrants feel loyalty to more than one country. Moroccans in Europe, for example, even third- and fourth-generation ones, are encouraged by the government in Rabat to identify with the north African country. All are granted irrevocable Moroccan citizenship under the constitution, even as European countries, notably the Netherlands, are turning against the idea of their nationals holding dual citizenship. The incentives for Morocco are clear: it wants citizens abroad to remit funds, to invest back home and to support its political ambitions. "We look at how the Jews in America do it, how that community has the ability to maintain ties with Israel and be good Americans, that is how we want it," says Mr Moudden.

...and of citizenship

The idea of dual identities may be unsettling for some—in France, for example, all citizens are considered French—but governments of sending countries increasingly want close ties with their émigrés. Hyphenated migrants like Italian-Americans and African-Americans

may become more widespread in other countries too. As India, China, Ethiopia and others grow more intent on tapping their diaspora for remittances and other support, migrants, even several generations on, may come under greater pressure to retain some of their old identity.

Conversely, the governments of receiving countries, especially in Europe, are doing far more to encourage migrants to absorb the values and habits of their host societies, giving up on an idea of multiculturalism that left ethnic groups free to preserve their languages and habits as they wished. In Britain a newly formed Justice Ministry is planning to draw up a statement of British values to which all residents might be expected to subscribe. In Britain, the Netherlands, Australia and many other countries, those applying for citizenship are expected to demonstrate their knowledge of their host society by passing an exam. France's Mr Sarkozy wants to inculcate French values into all French nationals.

When France takes up the rotating presidency of the EU in 2008 Mr Sarkozy plans to launch a campaign for the promotion of "European values". More countries will push the idea of a "contract for citizenship", suggests Gregory Maniatis, a migration expert in New York, under which migrants will have to learn the language and way of life of their host country.

These rival pressures on migrants' identity are likely to get stronger and more complex as patterns of migration change, with people moving greater distances and settling among different ethnic, religious and cultural groups. Danes in Sweden or Albanians in Greece have little trouble integrating into the relatively familiar societies next door. Even Poles in Ireland prosper, perhaps thanks to the incomers' good standard of education and skill and the shared Catholic faith. But Iraqis in Sweden, Somalis in Canada or Pakistanis in Norway typically find integration harder. Migrants who preserve—or even develop for the first time, perhaps as second-generation immigrants—a strong religious sense that cuts across any national loyalty may be the hardest of all to assimilate in broadly secular Western societies.

The touchiest question these days is how best to help Muslims to integrate into Western countries. Providing a decent education, offering language training, enforcing anti-discrimination laws to ensure access to jobs and discouraging ghettos are all tried and trusted methods to help any migrant to feel more at home. The lesson from America, Britain and elsewhere is that the more highly skilled people settle in very quickly and that many of the lower-skilled also catch up eventually.

But tackling an extremist minority, or its sympathisers, is quite another matter. Specific initiatives to encourage better co-operation with moderate Muslim countries such as Morocco, which are as worried as host countries in the West that their diaspora could become radicalised, may be worth trying. Deploying moderate *imams* and Muslim scholars to counter extremist propaganda within some Islamic migrant communities might also be helpful. Taking care that anti-terrorist efforts do not vilify Muslims in Western countries is self-evidently sensible.

Yet it is worth remembering that over the years democracies on both sides of the Atlantic

have managed to absorb large numbers of migrants from diverse backgrounds. Robert Putnam, an academic at Harvard, is worried that greater diversity in rich countries may mean a short-term decline in what he calls social capital—trust, co-operation, shared values—within those countries. He points to research in America showing that greater diversity—usually in areas with high rates of immigration—is often associated with more fear of crime and other social problems.

But Mr Putnam also points to the experience of once divided institutions in America, such as the army, where people of different backgrounds, with some encouragement, have learned to integrate well. And he considers the example of immigrants who came to America a century ago, including those of different religious beliefs, such as Russian Jews and Polish Catholics, who went on to share social capital in the same way as anybody else.

There is evidence that foreigners are still following that model. For example, a survey in America by the Pew Hispanic Centre shows that the vast majority (94%) of Hispanic adults in the country who were born of immigrant parents claim to be fluent English speakers. It may take a few decades for rich countries to integrate newcomers, but history suggests that it will happen before too long.

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SPECIAL REPORT - 2007 ONWARDS

The long term

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From The Economist print edition

Too much or not enough?

WHAT will happen to global migration in the next half-century? Whether they think migration is good or bad, experts agree on one thing: that governments are generally failing, or not even trying, to manage it properly. Some would like to see the establishment of a new international body, along the lines of the World Trade Organisation, or give more powers to the UN's existing International Organisation for Migration. Others hope to decouple migration policy from party politics. In America, hostility to migrants has been making serious policy reform impossible for nearly two decades.

AP



Available now: young risk-takers, willing to travel, lots of get-up-and-go

"We can't touch a comma without killing each other," complains Demetrios Papademetriou of the Migration Policy Institute in Washington, DC. "The only discretion we have is whether to enforce the law or not." There is a lot of nasty rhetoric about illegal migrants, but politicians also lobby for cheap migrant workers in their constituencies.

Those who think about the longer term agree that some of the assumptions of recent decades need revisiting. There is more scepticism, for example, that family reunification benefits host countries. But not many of them weigh up the most extreme scenarios: how would the world fare if either the flow of migrants were to slow down radically or, conversely, there were no legal limits on migration at all?

Rates of migration might slow if countries were to slam their doors shut, or because the supply of migrants declines. If political pressure became strong enough, rich countries might decide to squeeze foreign labour whatever the economic price. That is what happened in America just before the first world war. Within a few years Congress, overturning a veto by President Woodrow Wilson, passed laws that sharply cut the inflow of migrants. Immigration slumped and stayed low until the 1960s. Other rich countries also slapped on restrictions.

If something similar happened today, there might be some benefits. For example, it might become easier to integrate existing immigrant communities. Perhaps, as Japan appears to be hoping, more jobs could be carried out by machines. Possibly, ageing natives in rich countries might do more of the jobs that they now shun. Such countries would probably have to lower their expectations of economic growth.

It is also possible that the steady supply of workers from nearby countries could one day dry up. Patterns of migration will certainly change. Note how quickly countries switch from exporting to importing labour as they develop. Until recently Spain and other parts of southern Europe were sending lots of workers abroad, but demographic and economic changes have made them into net labour importers. Portugal now attracts Ukrainians, Spain draws in Romanians and Moroccans.

In the coming decades, the next lot of emigration countries will grow richer and older too. The average age in Ukraine is already 40 and in Poland 38, not very different from the west European average. Even Moroccans and Mexicans are, on average, already in their mid-20s. With rapid growth in their own economies, wages back home rise too, and the supply of emigrants will eventually drop. Those countries, in turn, will then start to attract more workers from farther away. For the foreseeable future there will always be another pool in which to fish for workers, but that will mean drawing migrants from more and more distant cultures.

The other scenario, of a world wide open to migration, is less likely but would be more beneficial. Some regions—most of the EU, much of west Africa—do have unrestricted movement, and seem to be faring well with it.

Philippe Legrain (formerly a writer on *The Economist*), in his recent book, "Immigrants: Your Country Needs Them", argues that stopping people from migrating is both "morally wrong and economically stupid". Lant Pritchett, of the Kennedy School of Government at Harvard, argues that faster global migration would bring huge gains for poor countries, exceeding the combined rewards offered by foreign aid, debt relief and trade reforms

proposed under the Doha development round.

How to make the world richer

If labour flowed without restraint, social and political systems would be disrupted on a huge scale, but global poverty would be vastly relieved. A study in 1984 suggested that if the flow of labour were freed completely, the size of the world economy would double. Another study in 2003 more modestly put the gains to world GDP at nearly 10%. An estimate in 2004 of the impact of letting 16m more migrants into OECD economies suggested a global gain of \$156 billion, or about 0.6% of world GDP—not a large rise, but again the poor would be winners.

Opening borders to let many more job-seekers go where they please would be radical, but it would not mean allowing criminals, drug-smugglers or terrorists to move freely between countries. And there are many ways of doing it. Holger Kolb, a migration expert, has suggested allowing unlimited numbers of foreign workers into rich countries but charging them a fee on arrival. That would cut out the people-smugglers, and the revenues could help to pay for public services. Another option would be to charge foreign workers higher rates of tax than locals. Such ideas should be explored.

The moral case for migration is incontrovertible: it greatly lessens human misery. The cultural gains from migrants are usually obvious, too. But the economic case needs to be made more forcefully. Over the past few decades the freer movement of capital and traded goods has brought enormous gains to human welfare. Similar benefits can be expected from a freer flow of people. Policymakers in rich countries must make those benefits more transparent. They need to persuade voters that natives and migrants alike gain as larger workforces speed up economic growth; and that foreigners not only fill jobs but act as entrepreneurs who in turn create jobs and wealth. In the longer term, migrants will be essential to supplement shrinking native workforces. The question currently being asked in the rich world—whether immigration rates are unsustainably high—may be the wrong one. Perhaps they are not nearly high enough.

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Immigrants in the United States, 2007 A Profile of America's Foreign-Born Population

By Steven A. Camarota

This *Backgrounder* provides a detailed picture of the number and socio-economic status of the nation's immigrant or foreign-born population, both legal and illegal. The data was collected by the Census Bureau in March 2007.

Among the report's findings:

- The nation's immigrant population (legal and illegal) reached a record of 37.9 million in 2007.
- Immigrants account for one in eight U.S. residents, the highest level in 80 years. In 1970 it was one in 21; in 1980 it was one in 16; and in 1990 it was one in 13.
- Overall, nearly one in three immigrants is an illegal alien. Half of Mexican and Central American immigrants and one-third of South American immigrants are illegal.
- Since 2000, 10.3 million immigrants have arrived — the highest seven-year period of immigration in U.S. history. More than half of post-2000 arrivals (5.6 million) are estimated to be illegal aliens.
- The largest increases in immigrants were in California, Florida, Texas, New Jersey, Illinois, Arizona, Virginia, Maryland, Washington, Georgia, North Carolina, and Pennsylvania.
- Of adult immigrants, 31 percent have not completed high school, compared to 8 percent of natives. Since 2000, immigration increased the number of workers without a high school diploma by 14 percent, and all other workers by 3 percent.
- The share of immigrants and natives who are college graduates is about the same. Immigrants were once much more likely than natives to be college graduates.
- The proportion of immigrant-headed households using at least one major welfare program is 33 percent, compared to 19 percent for native households.
- The poverty rate for immigrants and their U.S.-born children (under 18) is 17 percent, nearly 50 percent higher than the rate for natives and their children.
- 34 percent of immigrants lack health insurance, compared to 13 percent of natives. Immigrants and their U.S.-born children account for 71 percent of the increase in the uninsured since 1989.
- Immigrants make significant progress over time. But even those who have been here for 20 years are more likely to be in poverty, lack insurance, or use welfare than are natives.
- The primary reason for the high rates of immigrant poverty, lack of health insurance, and welfare use is their low education levels, not their legal status or an unwillingness to work.

- Of immigrant households, 82 percent have at least one worker compared to 73 percent of native households.
- There is a worker present in 78 percent of immigrant households using at least one welfare program.
- Immigration accounts for virtually all of the national increase in public school enrollment over the last two decades. In 2007, there were 10.8 million school-age children from immigrant families in the United States.
- Immigrants and natives have similar rates of entrepreneurship — 13 percent of natives and 11 percent of immigrants are self-employed.
- Recent immigration has had no significant impact on the nation's age structure. Without the 10.3 million post-2000 immigrants, the average age in America would be virtually unchanged at 36.5 years.

Data Source and Methods

Data Source. The data for this *Backgrounder* comes from the March 2007 Current Population Survey (CPS) collected by the Census Bureau. The March data, which is also called the Annual Social and Economic Supplement, is one of the best sources of information on the foreign-born.¹ The foreign-born are defined as persons living in the United States who were not U.S. citizens at birth.² In this report the terms foreign-born and immigrant are used synonymously. We also use the terms illegal immigrant and illegal alien synonymously. The CPS does not include persons in “group quarters,” such as prisons and nursing homes. The March CPS found 37.3 million immigrants in the country. Data collected in 2006 indicates that 613,000 immigrants live in group quarters, for a total foreign-born population of 37.9 million in

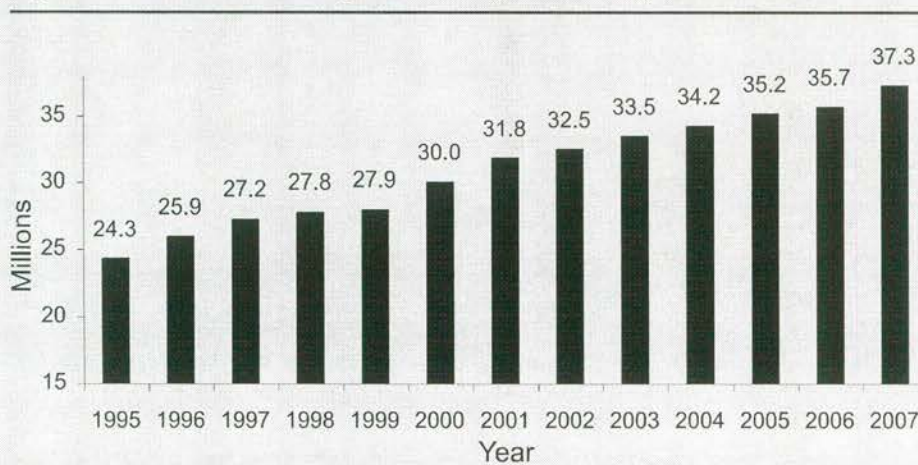
March 2007.³ The immigrant population in the 2007 CPS included an estimated 11.3 million illegal aliens and roughly one million persons on long-term temporary visas, mainly students and guest workers.⁴ The CPS is such a valuable source of information because unlike the decennial Census or the American Community Survey, it includes detailed questions on things like welfare use and health insurance coverage.

Recent Trends in Immigration

Figure 1 reports the number of immigrants living in the United States based on the CPS collected in March of each year from 1995 through 2007. Again, the CPS does not include persons in group quarters. The figure shows that between March 1995 and March 2000, the foreign-born population grew by 5.7 million, or about 1.1 million a year.⁵ The figure

also shows that between 2000 and 2007 the immigrant population grew 7.3 million, or 1.04 million a year. These two numbers are the same statistically. It would appear that the growth in the foreign-born during the economic expansion in the second half of the 1990s was about the same as in the period from 2000 to 2007.⁶ The seeming large growth from 2006 to 2007 (1.6 million) should be interpreted with caution. While

Figure 1. Number of Immigrants Living in the U.S., 1995-2007



Source: Center for Immigration Studies analysis of March 1995 through 2007 Current Population Surveys (CPS). The CPS does not include persons in group quarters, such as prisons and nursing homes. Figures for 1995 to 1999 have been re-weighted to reflect the larger number of immigrants revealed in the 2000 Census.

the growth in the last year is statistically significant, one or even two years of data are not necessarily a trend. What Figure 1 does show is that the growth from 1995 to 2007 in the foreign-born has been very high despite changes in the economy over this time period.

Deaths and Out-Migration. When growth in the foreign-born population is discussed, it must be remembered that all children born in the United States to immigrants are by definition natives. The sole reason for the dramatic increase in the foreign-born population is new immigration. Moreover, the increase over time represents a net figure and does not reflect the level of new immigration. New arrivals are offset by deaths and out-migration. Given the age, sex, and other demographic characteristics of the immigrant population, it is likely that there are about 7,500 deaths per million immigrants each year. This number does not change much from year to year, but it does increase gradually over time as the immigrant population grows. As a result, there were roughly 100,000 more deaths a year among immigrants in 2007 than in 1995 because the overall population is 13 million larger. This means that a slower net increase in the immigrant population may not indicate a falling level of new immigration. In addition to deaths, new arrivals also are offset by return migration.

There is an ongoing debate about the size of return migration, but the Census Bureau has estimated that some 280,000 immigrants living here return home each year.⁷ In total, deaths and return migration equal between 500,000 and 600,000 a year. It should also be remembered that like any survey, there exists sampling variability in the CPS. The margin of error, using a 90-percent confidence interval, for the foreign-born is between 640,000 and 700,000 for data from 1995 to 2001 and between 520,000 and 555,000 for 2002 through 2007 data. (The survey was redesigned in 2002, so the size of the statistical error changed.) Thus, one could say that in 2007 the immigrant population was 37.3 million plus or minus 552,000 and the growth from 2006 to 2007 was statistically significant. However, because of sampling error, even seemingly large year-to-year changes may not be meaningful. When looking for trends, it is much better to compare differences over several years. When we do so, we find that the growth has been dramatic.

Flow of New Immigrants. Another way to examine trends in immigration is to look at responses to the year of arrival question. The CPS asks individuals when they came to America to stay. The 2007 CPS indicates that 10.3 million immigrants (legal and illegal) settled in the United States between January 2000 and March 2007.

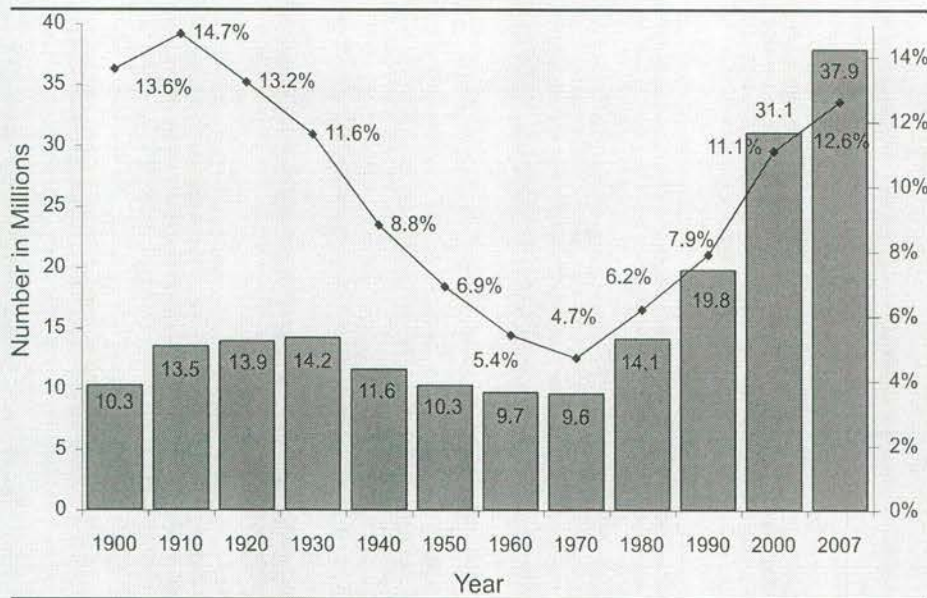
This implies that slightly less than 1.5 million arrived annually in the United States in the last seven years. Of course, some of the immigrants who arrived in 2000 through 2006 would have died or returned home by 2007, so the actual level of new arrivals is somewhat higher. Some share of the foreign-born population is also missed by the Census Bureau. Prior research indicates that 5.2 percent of immigrants are missed in the CPS.⁸ So the actual level of new immigration is probably closer to 1.6 million a year. In comparison to the 1990s, the current level seems very similar. The 2000 CPS showed that 8.9 million immigrants (legal and illegal) settled in the country from 1993 to 2000.⁹ This compares to the 10.3 million who settled in the country from 2000 to 2007. The last seven years match or exceed any seven-year period of immigration in American history.

A Peak After 2000? It is reasonable to wonder how the flow of immigrants has been affected by the downturn in the economy and the 9/11 attacks. There is some evidence that immigration may have dipped after 2001. However, it is very difficult to say because Census Bureau data, including the CPS, are not designed to measure year-to-year changes in the flow of new immigrants. For those interested in a detailed analysis of this issue, please see a CIS study published in December 2005.¹⁰ It makes far more sense to compare differences over several years. From a policy perspective, the year of entry question in the 2007 CPS indicates that immigration to the United States continues at record levels. Figure 1 also shows that when we examine 12 consecutive years of the March CPS, the growth in the immigrant population has been remarkably steady, averaging about one million a year for over a decade.

Illegal Immigrants

Illegals in the CPS. It is well established that illegal aliens do respond to government surveys such as the decennial census and the Current Population Survey. While the CPS does not ask the foreign-born if they are legal residents of the United States, the Urban Institute, the Department of Homeland Security (DHS), former INS, the Pew Hispanic Center, and the Census Bureau have all used socio-demographic characteristics in the data to estimate the size of the illegal-alien population. We follow this same approach.¹¹ Our preliminary estimates for the March 2007 CPS indicate that there were between 11 and 11.5 million illegal aliens included in the survey, with 11.3 million as our best estimate. It must be remembered that this estimate only includes illegal aliens captured by the March CPS, not those missed by the

Figure 2. Immigrants in the U.S., Number and Percent 1900-2007



Source: Decennial Census for 1900 to 2000. For 2007 we used the March Current Population Survey, which does not include those in group quarters. The 600,000 immigrants in group quarters have been added to the 2007 CPS to make it comparable with the historic censuses.

survey. By design, this estimate is consistent with those prepared by the Census Bureau, DHS, Urban Institute, and Pew Hispanic Center.¹² Our estimate for the number of illegals included in the 2000 CPS is 7.3 million. This means that the illegal-alien population in the CPS grew by four million between 2000 and 2007. Figure 1, which compares CPS to CPS, shows a total increase in the immigrant population (both legal and illegal) of 7.3 million from 2000 to 2007. This means that growth in the illegal immigrant population accounted for at least half of the growth in the total immigrant population. We also estimate that 5.6 million of the 10.3 million immigrants in the March 2007 CPS who indicated that they arrived in 2000 or later are illegal aliens.

We estimate that 57 percent of the illegal alien population comes from Mexico, 11 percent is from Central America, 9 percent is from East Asia, 8 percent is from South America, and Europe and the Caribbean account for 4 percent. Of all immigrants from Mexico, 55 percent are illegal; for Central Americans it is 47 percent; and it is 33 percent for South Americans. Again these figures do not adjust for undercount of the legal or illegal populations in the CPS. If we did make this adjustment, it would mean that an even larger share of all immigrants from these regions are illegal because the undercount of illegal immigrants is much larger than the undercount of

legal immigrants. Although these estimates are consistent with other research findings, including those produced by the federal government, it should be obvious that there is no definitive means of determining whether a respondent in the survey is an illegal alien with 100 percent certainty.

Illegals as a Share of Growth. The fact that illegals account for at least half of the overall growth in the immigrant population may seem surprising to some, especially since illegal aliens account for 30 percent of the total foreign-born population. There are several reasons for this. First, prior to the mid-1970s, there was little illegal immigration to the United States, thus older immigrants who entered at that time and are still here are almost all legal residents. Because long-time residents are almost entirely legal immigrants, they are older on average than illegal immigrants. Therefore they account for most of the deaths among the foreign-born. Moreover, the United States has conducted broad amnesties for illegal aliens in the past and also each year grants tens of thousands of illegal aliens legal status as part of the normal "legal" immigration process. For example, 2.6 million illegals were given green cards (permanent residency) in the late 1980s and early 1990s as part of the Immigration Reform and Control Act (IRCA). The immigration service also estimated that during just the 1990s, 1.5 million illegal aliens received green cards, not including IRCA.¹³ Because there is this constant movement out of illegal status to legal status, the size of the existing legal population is much bigger than the existing illegal population. Finally, it must be remembered that although the number of illegal aliens entering and remaining in the country is now enormous, the level of legal immigration is also very high, adding to a very large legal immigrant population.

Historical Perspective

While immigration has played an important role in American history, the level of immigration and the size of the immigrant population has varied considerably. Figure 2 shows the number of immigrants living in the United States over the course of the last 100 years. The figures 1900 to 2000 are from the decennial census. A question on whether a respondent was foreign-born was not included in the CPS on a regular basis until the mid-1990s, so the decennial census is the only historical data source for the size of the immigrant population prior to that date. In order to make the CPS comparable to decennial census data, it is necessary to include persons in group quarters such as prisons and nursing homes, which are not part of the CPS. Data collected in 2006 indicate that 614,000 immigrants lived in institutions. Adding this to the 37.3 million found in the 2007 CPS creates a total immigrant population 37.9 million in March 2007, assuming no immigrants (legal or illegal) are missed by the survey.¹⁴

Figure 2 shows that the 37.9 million immigrants residing in the United States in 2007 is by far the most ever recorded. Even during the great wave of immigration at the turn of the 19th century, the immigrant population was much less than half what it is today. The figure shows that after growing in the early part of this century, the immigrant population stabilized at around 10 or 11 million for about four decades. In the mid-1960s, changes in immigration law and other factors caused the annual level of legal immigration to rise steadily, from about 300,000 a year in the 1960s to nearly a million today. The latest data indicates that this rapid growth has continued into the first decade of the 21st century, adding 6.8 million in the last seven years. This is slightly lower than the 7.2 million growth found in Figure 1, which compared the 2000 CPS to the 2007 CPS. The foreign-born population's growth rate in every decade since 1970 has been higher than at any other time in history, surpassing the 31 percent increase between 1900 and 1910.

Unlike in the past, the growth in the immigrant population now accounts for a large share of the increase in the size of the U.S. population. Even during the first decade of the last century, the 3.2 million increase in the size of the immigrant population accounted for only 20 percent of the total increase in the U.S. population. In contrast, the 11.3 million increase in the immigrant population from 1990 to 2000 accounted for 35 percent of U.S. population growth in the 1990s. And the 6.8 million increase in the size of the immigrant population in the last seven years equals 34 percent of U.S. popula-

tion growth between 2000 and 2007.¹⁵ It should be noted that the 34 percent does not represent the full impact on population growth in the United States because it includes deaths. Net immigration is the way one measures the impact of immigration on population growth, not the net increase in the size of the immigrant population. To measure the full impact of immigration on population growth it also would be necessary to include births to immigrants.

Population growth is measured by taking the number of births minus the number of deaths and then adding net immigration (the difference between people coming and going). The U.S. population is growing by 2.9 million a year according to the Census Bureau.¹⁶ The growth in the foreign-born reflects deaths as well as net immigration. Thus, using growth in the foreign-born to measure immigration's impact on population would be double counting immigrant deaths. For this reason, net immigration is used when estimating the impact of immigration on population growth. As already discussed, annual net immigration is 1.25 million or 1.15 million, depending on how it is calculated. When this is added to the 950,000 births to immigrants each year, the total impact of immigrations is equal about three-fourths of U.S. population growth.

Immigration now accounts for such a large percentage of population because the fertility of natives was much higher in the early 1900s, during the last great wave of immigration. As a result, the U.S. population grew regardless of immigration. Today, natives have only about two children on average, with the result that without immigration the U.S. population would very slowly move to stabilization.¹⁷ Also, in contrast to the past, a higher percentage of today's immigrants remain in the United States rather than returning home. Because so many immigrants in the early 20th century eventually returned to their home countries, immigration at that time did not add permanently to the overall size of the U.S. population in the way that it does today.¹⁸

Immigrants as a Share of the Population. While the number of immigrants and the growth rate of the immigrant population are higher now than at any other time in the last 100 years, Figure 2 shows that the foreign-born percentage of the population was higher in the first few decades of the 1900s, reaching 14.7 percent of the total U.S. population in 1910. As a result of World War I and changes in immigration law in the early 1920s, the level of immigration fell significantly. The 1920 census was the last time the percentage of immigrants was higher than it is today.

Table 1. Immigrants by State, 2007 (thousands)

	Number of Immigrants	Share of Pop. that Is Immigrant	Immigrants Who Arrived 2000 to 2007 ¹	Immigrants and Their U.S.-Born Children (Under 18) as a Share of Population ²
1 California	9,980	27.6 %	2,022	37.9 %
Los Angeles County	3,629	36.6 %	602	50.0 %
2 New York	4,105	21.6 %	877	27.9 %
New York City	2,918	36.0 %	593	46.7 %
3 Florida	3,453	19.1 %	1,068	23.8 %
4 Texas	3,438	14.8 %	1,071	21.0 %
5 New Jersey	1,869	21.6 %	501	27.5 %
6 Illinois	1,702	13.5 %	491	18.3 %
7 Georgia	953	10.2 %	383	13.3 %
8 Massachusetts	897	14.2 %	203	17.4 %
9 Arizona	891	14.2 %	284	19.7 %
10 Virginia	856	11.4 %	276	14.8 %
11 Maryland	731	13.0 %	276	16.3 %
12 Washington	722	11.4 %	239	14.7 %
13 North Carolina	623	7.0 %	282	9.4 %
14 Pennsylvania	581	4.7 %	154	6.0 %
15 Michigan	493	4.9 %	113	6.9 %
16 Nevada	457	18.0 %	105	25.2 %
17 Connecticut	443	12.8 %	134	15.9 %
18 Colorado	435	9.1 %	124	12.1 %
19 Ohio	421	3.7 %	139	5.2 %
20 Minnesota	375	7.3 %	135	9.8 %
21 Oregon	357	9.6 %	107	13.3 %
22 Tennessee	286	4.8 %	144	5.5 %
23 Wisconsin	257	4.7 %	81	6.1 %
24 Utah	239	9.4 %	79	14.1 %
25 Indiana	236	3.7 %	93	5.0 %
26 Hawaii	226	18.0 %	47	22.2 %
27 Missouri	208	3.6 %	77	4.4 %
28 Alabama	190	4.2 %	99	5.1 %
29 New Mexico	179	9.2 %	68	12.5 %
30 Kansas	148	5.4 %	66	7.8 %
31 South Carolina	144	3.4 %	67	4.5 %
32 Rhode Island	140	13.3 %	21	17.7 %
33 Iowa	132	4.5 %	49	5.9 %
34 Louisiana	113	2.7 %	37	3.4 %
35 Nebraska	113	6.4 %	30	9.4 %
36 Arkansas	111	4.0 %	37	5.5 %
37 Oklahoma	111	3.2 %	26	4.4 %
38 Kentucky	110	2.7 %	67	3.4 %
39 New Hampshire	83	6.3 %	29	7.8 %
40 D.C.	78	13.7 %	30	16.5 %
41 Delaware	77	8.9 %	35	11.6 %
42 Idaho	72	4.9 %	17	7.3 %
43 Mississippi	66	2.3 %	26	2.6 %
44 Alaska	39	5.9 %	11	7.7 %
45 Maine	34	2.6 %	6	3.1 %
46 Vermont	30	4.8 %	10	5.8 %
47 South Dakota	19	2.5 %	8	3.5 %
48 Montana	15	1.6 %	4	1.7 %
49 West Virginia	15	0.8 %	1	1.2 %
50 Wyoming	14	2.7 %	7	3.7 %
51 North Dakota	13	2.1 %	2	2.8 %
Nation	37,280	12.6 %	10,258	16.7 %

Source: Center for Immigration Studies analysis of March 2007 Current Population Survey.

¹ Indicates the year that immigrants said they came to the United States. Included in totals are a tiny number of people who did not indicate a year of arrival.

² Includes all children of immigrant fathers under age 18, including those born in the United States.

In terms of the impact of immigrants on the United States, both the percentage of the population made up of immigrants and the number of immigrants are clearly important. The ability to assimilate and incorporate immigrants is partly dependent on the relative sizes of the native and immigrant populations. On the other hand, absolute numbers also clearly matter. A large number of immigrants can create the critical mass necessary to foster linguistic and cultural isolation. Whether the immigrants in question represent 10 percent or 30 percent of a city or state's population may not be so important; it's the raw numbers that may be the most meaningful. And the current numbers are approaching triple what they were in 1910.¹⁹ Moreover, absent a change in policy, the number and immigrant-share of the population will continue to increase rapidly for the foreseeable future.

Intellectual Property, the Immigration Backlog, and a Reverse Brain-Drain

America's New Immigrant Entrepreneurs, Part III



Ewing Marion
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Foundation

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**Intellectual Property, the Immigration Backlog, and a Reverse
Brain-Drain
America's New Immigrant Entrepreneurs, Part III**

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Introduction

The founders of the United States considered intellectual property worthy of a special place in the Constitution—“*To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.*”¹ In today’s knowledge-based economy, capturing value from intellectual capital and knowledge-based assets has gained even more importance. Global competition is no longer for the control of raw materials, but for this productive knowledge.

This paper is the third in a series of studies focusing on immigrants’ contributions to the competitiveness of the U.S. economy. Earlier research revealed a dramatic increase in the contributions of foreign nationals to U.S. intellectual property over an eight-year period. In this paper, we offer a more refined measure of this change and seek to explain this increase with an analysis of the immigrant-visa backlog for skilled workers. The key finding from this research is that the number of skilled workers waiting for visas is significantly larger than the number that can be admitted to the United States. This imbalance creates the potential for a sizeable reverse brain-drain from the United States to the skilled workers’ home countries.

Summary

Our earlier papers, “America’s New Immigrant Entrepreneurs” and “Entrepreneurship, Education and Immigration: America’s New Immigrant Entrepreneurs, Part II,” documented that one in four engineering and technology companies founded between 1995 and 2005 had an immigrant founder. We found that these companies employed 450,000 workers and generated \$52 billion in revenue in 2006. Indian immigrants founded more companies than the next four groups (from U.K., China, Taiwan, and Japan) combined. Furthermore, these companies’ founders were very highly educated in science, technology, math, and engineering-related disciplines, with 96 percent holding bachelor’s degrees and 75 percent holding master’s or PhD degrees.²

The analysis of the World Intellectual Property Organization (WIPO) database in this earlier work revealed that the percentage of foreign nationals contributing to U.S. international patent applications increased from an estimated 7.3 percent in 1998 to 24.2 percent in 2006. The largest foreign-born group was from China (mainland and Taiwan). Indian nationals were second, followed by Canadians and the British. As the WIPO database records inventor nationality at the time of filing, these numbers do not include the contributions of immigrants who became U.S. citizens before filing patent applications.³

In this paper, we expand on this earlier research to gain a more robust understanding of the impact of foreign-born citizens to U.S. intellectual property and to explain the increasing numbers of foreign nationals contributing to U.S. international patent applications. First, our research team downloaded several years of additional data from the

WIPO database to refine our previous estimates and obtain demographic information. We inspected each record to identify inventors with Indian- and Chinese-heritage names to identify and include foreign-born citizens. In an effort to explain the increase in the contributions of foreign nationals, we examined extensive information published by the U.S. Departments of Homeland Security, Labor, and State. We used this information to create detailed estimates of the numbers of foreign nationals residing in the United States who are waiting for legal permanent resident status. We also reviewed the “New Immigrant Survey” to gain insight into the process of becoming a legal permanent resident and the potential that, even after becoming legal permanent residents, they might return home.

Our key findings include:

Foreign-National Contributions to U.S. International Patent Applications

- Foreign nationals residing in the United States were named as inventors or co-inventors in 25.6 percent of international patent applications filed from the United States in 2006. This represents an increase from 7.6 percent in 1998.
- Foreign-national contributions to international patent applications were highest in California, Massachusetts, and New Jersey.
- Foreign nationals and foreign residents contributed to more than half of the international patents filed by a number of large, multi-national companies, including Qualcomm (72 percent), Merck & Co. (65 percent), General Electric (64 percent), Siemens (63 percent), and Cisco (60 percent). Foreign nationals contributed to relatively smaller numbers of international patent applications at other firms, such as Microsoft (3 percent) and General Motors (6 percent). Forty-one percent of the patents filed by the U.S. government had foreign nationals or foreign residents as inventors or co-inventors. (Foreign-national inventors are individuals with foreign citizenship working in the United States. Foreign resident inventors have foreign citizenship and are not based in the United States.)

Indian and Chinese Inventors

- In 2006, 16.8 percent of international patent applications from the United States had an inventor or co-inventor with a Chinese-heritage name, representing an increase from 11.2 percent in 1998. The contribution of inventors with Indian-heritage names increased to 13.7 percent from 9.5 percent in the same period.
- Chinese inventors tended to reside in California, New Jersey, and New York. Indian inventors chose California, New Jersey, and Texas.
- Both Indian and Chinese inventors tended to file most patents in the fields of sanitation/medical preparations, pharmaceuticals, semiconductors, and electronics.

The Growing Immigration Backlog

We estimate that as of 30 September 2006 there were 500,040 principals in the main employment-based categories and an additional 555,044 family members awaiting legal permanent resident status in the United States.

- The number of employment-based principals waiting for labor certification—the first step in the U.S. immigration process—was estimated at 200,000 in 2006.
- The number of pending I-140 applications—the second step of the immigration process—stood at 50,132 in 2006. This was more than seven times the total in 1996 (6,743).
- The number of employment-based principals with approved I-140 applications and unfiled or pending I-485s—the last step in the immigration process—was estimated at 309,823 in 2006, representing almost a three-fold increase from the previous decade.
- Overall, we estimate that the number of employment-based principals (in the three main employment visa categories—EB-1, EB-2, and EB-3) waiting for legal permanent residence in the United States in 2006 was 500,040.
- The total number of employment-based principals in the focal employment categories and their family members waiting for legal permanent residence in the United States in 2006 was estimated at 1,055,084. We further estimate that 126,421 residents abroad were also waiting for U.S. legal permanent residence, giving a worldwide total of 1,181,505.

We also gathered estimates of the numbers of students and skilled temporary workers. There is some overlap between this group and the estimates above; the two totals, therefore, cannot be added together.

- In the 2005-2006 academic year, 259,717 international graduate students were studying in the United States. In addition, 38,096 were in practical training, and at least some of these individuals were likely to be postdoctoral scholars.
- A previous study estimated the 2004 population of all H and L workers (all Hs except H4 spouses, plus L1) at 704,000.

A Reverse Brain-Drain?

Approximately 120,120 permanent resident visas are available annually for employment-based principals and their family members in the three main employment visa categories (EB-1, EB-2, and EB-3). Additionally, the number of visas that can be issued to immigrants from any one of the major sending countries—China, India, Mexico, and Philippines—is less than 10,000 per year (7 percent of the total pool of 120,120 available visas per country). Our estimates indicate that there are more than 1 million individuals waiting in line for legal permanent resident status. The wait time for visas for countries with the largest populations, like India and China, ranged to four years in June—not counting visa

processing time – and may be even higher when visas are again available in October. This backlog is likely to increase substantially, given the limited number of visas available.

Evidence from the “New Immigrant Survey” indicates that approximately one in five new legal immigrants and about one in three employment principals either plan to leave the United States or are uncertain about remaining. Moreover, media reports suggest that increasing numbers of skilled workers have begun to return home to countries like India and China where the economies are booming.

Given the substantial role of foreign-born residents in the United States in international patent creation, and the huge backlog in granting visas to employment-based principals, the potential exists for a reverse brain-drain of skilled workers who contribute to U.S. global competitiveness.



April 10, 2008

PAGE ONE

Visa Violators Swept Up In Widening Dragnet

By MIRIAM JORDAN
April 10, 2008; Page A1

CHICAGO -- Polish native Andrezej "Peter" Derezinski came to the U.S. 18 years ago and was soon living the American dream. The 41-year-old father of three owns two homes, some commercial property and a thriving heating and cooling business here.



**Andrezej "Peter"
Derezinski**

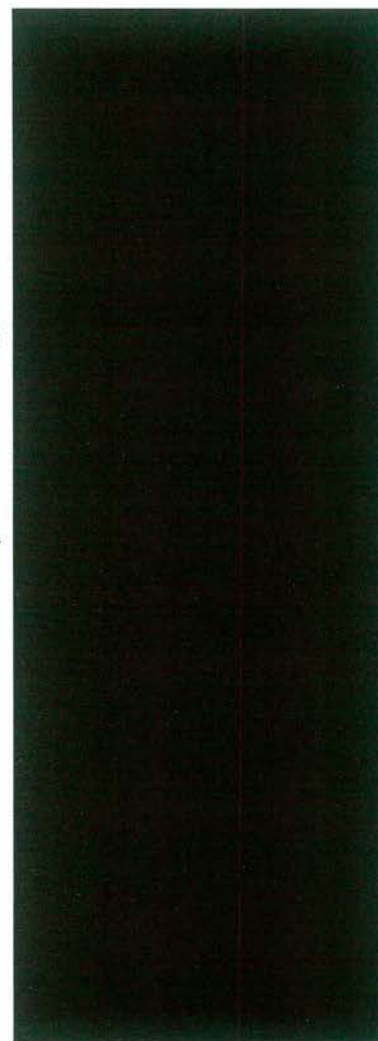
Thursday evening, Mr. Derezinski is scheduled to be deported. On July 13, 2006, a police officer stopped Mr. Derezinski for talking on his cellphone while driving, in violation of a ban here. The officer tapped the Polish man's name into a database and generated a "hit" that indicated Mr. Derezinski was in the U.S. unlawfully. He had overstayed a tourist visa when he initially came to the U.S. and then ignored a deportation order in the mid-1990s.

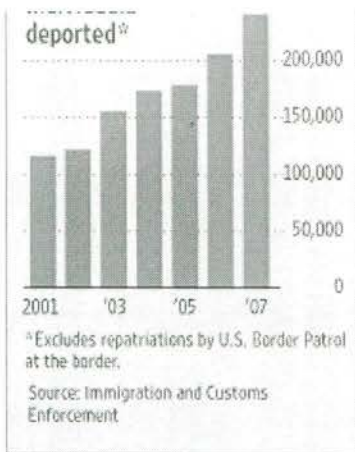
Mexicans and other Latin Americans, who often sneak into the U.S. on foot, are the face of today's rancorous debate over illegal immigration. But increasingly, other groups of undocumented immigrants -- known as "OTMs," or "other than Mexicans" within the Department of Homeland Security -- are being swept up, too.

Most came to the U.S. on planes, with valid visas and passports from Ireland, India, Poland or elsewhere. They stayed in the country after those visas expired, and eluded detection by immigration authorities as they went about their lives, often laying down roots in their new communities. The Pew Hispanic Center, a nonpartisan research group, estimates that up to 45% of the 12 million undocumented immigrants in the U.S. are visa overstayers. Europeans account for 400,000 of them.

In recent years, U.S. Immigration and Customs Enforcement (ICE) has implemented a new strategy to identify people who are here illegally: Get local police to nab them on an unrelated offense, such as a traffic infraction.

Historically, immigration enforcement has been the purview of federal agents posted primarily at ports of entry and border areas. After the Sept. 11, 2001, terrorist attacks, the federal government began expanding the role of local police in immigration enforcement. Initially, the goal was to help find potential terrorists. As the program has expanded, more





immigrants are being turned in.

State and local law-enforcement officers can in many instances determine with a quick computer search or phone call whether a person stopped for a traffic violation or arrested for a crime has violated immigration law. If a match is confirmed, ICE instructs the police officer to detain the person until an agent can take custody.

In the fiscal year ended Sept. 30, 2007, ICE's Law Enforcement Support Center -- which operates around the clock handling immigration queries -- received a record 728,243 inquiries from local law enforcement, up from only 4,000 in fiscal 1996.

Rising Steadily

The number of foreigners deported from the U.S. has risen steadily, from 116,202 in the fiscal year ended Sept. 30, 2001, to 240,779 in fiscal 2007, according to ICE. These are foreign nationals caught inside the country and don't reflect the number of immigrants apprehended at the Mexican or Canadian borders.

Supporters of the latest crackdown say it is long overdue. They say many illegal immigrants, including visa overstayers, have been given a free pass by the government, thanks to lax enforcement. "If in the normal course of duty, police come across somebody they have reason to believe is in the country illegally, they ought to cooperate with immigration authorities," says Ira Mehlman, spokesman for the Federation for American Immigration Reform, a national group that calls for curbing all illegal immigration. "They might not be a child molester, but they are here illegally."

ICE says it lacks the manpower to go after the hundreds of thousands of people who are here illegally, so it prioritizes going after people with criminal records and employers who hire undocumented workers. Even when it has the address of someone who has evaded deportation -- as was the case for many years with Mr. Derezhinski -- it says it doesn't necessarily make an arrest. The intensified coordination between federal agents and local police thus has helped fill a gap.

Critics say the federal government is diverting local police from basic priorities, like community safety, to arrest immigrants who usually don't pose a security threat. The strategy can also lead to ethnic profiling, they say, because police officers might be more likely to run checks on people who have accents or who they think look foreign.

"It's a huge program that has rapidly expanded, without meaningful management or oversight," says Michael Wishnie, a professor of law at Yale University who specializes in immigration. Mr. Wishnie has filed a federal lawsuit in Connecticut on behalf of several people arrested by the Danbury, Conn., police and placed in immigration proceedings. The suit alleges officers pulled drivers over for traffic violations as a pretext for checking their immigration status. Federal authorities and the town have moved to dismiss the case; those motions are pending.

Chicago is home to some 70,000 Polish illegal immigrants, second only to the city's undocumented Mexican population. Many Poles came in the 1980s to flee military rule; others settled here in the '90s to seek economic opportunity.

These days, Polish enclaves are abuzz about immigration, community leaders say. Illegal immigration "isn't just a Latino issue," says Frank Spula, president of the Polish-American Alliance, a local

advocacy group. "Polish people who overstayed their visas are here with family and property, and they can't just pack up and leave."

Mr. Derezinski entered the U.S. on a tourist visa in 1990 at the age of 23. He eventually began working as a trucker, a job that took him to 48 states, he says. In October 1991, he and his Polish wife, Joanna, gave birth to their first son, Peter Jr. By then, both had overstayed their tourist visas, but remained in the U.S. "to give our son a better a life," says Mrs. Derezinski. Regarding her visa situation, a spokesman for ICE said in an email that the agency doesn't discuss potential cases.



In 1994, Mr. Derezinski was arrested on immigration violations after personnel at a truck weigh station near the Mexican border reported him to border patrol. U.S. immigration authorities took him into custody when he failed to produce proof that he was in the country legally. They released him and said he would be notified of a court date for a deportation hearing in Chicago.

Mr. Derezinski says he never received the notice and didn't appear; his file with immigration officials includes an unopened registered letter that was returned to authorities.

Regardless, a hearing was held in his absence and a judge ordered him deported. Mr. Derezinski received the notification by mail; his attempts to appeal the order were rejected.

Despite the outcome, Mr. Derezinski and his family continued living in the U.S. He had studied engineering in Poland and began working as a heating and air-conditioning repairman. In 1998, he completed an entrepreneurial course at the College of Business Administration of the University of Illinois. He thrived as a subcontractor doing maintenance, installation and repair work for residential and commercial properties, especially during the construction boom of recent years.

Members of Society

Many illegal immigrants have become productive members of society, who pay taxes, own homes and contribute to the economy. The Department of Homeland Security says there are no mechanisms in place for it to be notified when someone here illegally registers a new business or applies for a mortgage.

"I earned the respect of my clients," says Mr. Derezinski, brandishing letters from home builders attesting to the quality of his work and his personal integrity. "I grew the business 10 times over," he adds. The Derezinskis bought a home and commercial property in Chicago, as well as a vacation cottage in Wisconsin. Mr. Derezinski paid income tax and property taxes. He invested in the stock market.

By 2001, however, the couple had two sons and Mr. Derezinski began worrying about his immigration status. He frequently refers to a speech on immigration reform delivered by President Bush in 2004, which he says brought him new hope. But reform efforts, which could have adjusted the status of millions of illegal immigrants, stumbled in Congress. In 2005, a psychiatrist began prescribing Mr. Derezinski medication for anxiety.

A year later, after more than a decade eluding authorities, Mr. Derezinski's fears were realized. On July 13, 2006, he drove down his neighborhood's commercial artery, which is lined with Polish video stores, Indian beauty salons and other immigrant businesses. When he was caught talking on his cellphone, Mr. Derezinski waited in his car while the policeman wrote the citation.

When the officer returned, he handcuffed him and took him to a local police station. An ICE spokesperson confirms Mr. Derezinski was cited for a traffic violation and screened by an officer who was informed that Mr. Derezinski's name matched the deportation record held by the agency. ICE's law-enforcement support center asked that he be detained until an agent arrived to take custody.

Holding Facility

An ICE agent transported Mr. Derezinski from a local police station to an agency holding facility. There, he says he was asked to sign forms by wardens who intimated that he would be deported the very same day by flapping their arms to connote that he'd be flying away. "They told me I wouldn't see my family," he recalls. A spokeswoman for ICE says it is the agency's policy "to treat all detainees in our custody with dignity and respect."

Within days, Mr. Derezinski was transferred to a detention center in Kenosha, Wis., about a 90 minute-drive from Chicago. ICE rents beds at the facility, which mainly incarcerates U.S. citizens charged with crimes.

On July 25, 2006, an attorney filed a motion to reopen Mr. Derezinski's old case in immigration court, thus delaying his deportation. Mr. Derezinski's wife was eight-and-a-half months pregnant, and his lawyer asked ICE to release his client for the birth of his third child, given that he had no criminal history. ICE declined, citing the fact that Mr. Derezinski had been a fugitive for 12 years and had a deportation order outstanding. Mr. Derezinski wasn't eligible for bond.

About 580,000 illegal immigrants currently living in the U.S. are individuals who failed to heed their deportation orders, according to ICE. Some move frequently; others live on the run or go underground to elude immigration officials. "Mr. Derezinski continued to live the American Dream," says his attorney, Ashley Dworsky. "If he was hiding, he was hiding in plain sight of everyone."

John Paul -- the Derezinskis' third child, named after the late Polish pope -- was born on Aug. 18, 2006. Kindergartener Damian, their middle child, thought his father was in the hospital when he visited Mr. Derezinski at the detention center, where his father wore an orange jumpsuit and communicated with his family from behind a glass divider. The older son wrote a letter to Sen. John McCain and other politicians seeking help.

After six months in detention, Mr. Derezinski was released in January 2007 -- on condition that he report on a monthly basis to ICE. An agency official said that ICE will "sometimes release people who have protracted legal processes, as long as they are not a threat to the community."

In October 2007, Mr. Derezinski's case was argued before the Seventh Circuit Court of Appeals. The essence of the appeal: Mr. Derezinski's case should be reopened because in 1994 he hadn't received the certified letter to appear in court for his original deportation hearing. "All I wanted was a day in court," says Mr. Derezinski.

In February, Judge Richard Posner denied Mr. Derezinski's appeal on the grounds that the government had fulfilled its obligation to notify him of the hearing. Mr. Derezinski started to wind up his affairs, which he says is especially difficult amid a depressed real-estate market. He has spent about \$35,000 fighting to remain in the U.S., he says.

On March 25, Mr. Derezinski, his eldest son and his attorney reported at 8:15 a.m. to the ICE office in Chicago for his required monthly visit -- his first since the February ruling. He was told that he must leave the country by April 8, which was later postponed to Thursday, April 10.

Mr. Derezinski listened carefully. He then turned to his son and said, "This should teach you about the consequences of choices you make in life."

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THE DECLINE IN AMERICA'S REPUTATION: WHY?

June 11, 2008

The first of three reports on America's International Image (covering Decline, Impact on U.S. National Interests, and Recommendations) by the

**SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS, HUMAN RIGHTS,
AND OVERSIGHT**
of the
HOUSE COMMITTEE ON FOREIGN AFFAIRS

Based on a series of 10 hearings

The data presented at these hearings make it clear that people in other nations don't "hate us because of our values"—but rather that they are disappointed with us because we aren't always true to those values.

—SUBCOMMITTEE CHAIRMAN BILL DELAHUNT

Printed for the use of the Committee on Foreign Affairs of the U.S. House of Representatives.
Available on the Web at www.foreignaffairs.house.gov/110/42566.pdf

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 2008

Finding 6: It's the lack of contact: *Contact with America and Americans reduces anti-Americanism, but not opposition to specific policies. Visitors to America—particularly students—and even their families and friends, have more positive views about America and Americans than non-visitors by approximately 10 percentage points.*

People gather their information and perceptions about the United States from a wide variety of sources such as domestic and international news media, government portrayal, movies, music videos, and speeches by religious figures. Another important source of information is actual contact with Americans, either in the United States or abroad. Millions of Americans are abroad every year and our Armed Forces alone keep thousands of soldiers, families, and support personnel abroad. In addition, approximately 50 million people come to America each year to visit, work temporarily, or live. All of these categories of people, who meet Americans abroad or here, then pass along their impressions to their friends and family.

Harvard Professor Joseph Nye has suggested that this type of contact drives down negative feelings about the United States.⁹⁴ Former Under Secretary of State for Public Diplomacy and Public Affairs Karen Hughes told Chairman Delahunt that foreign student programs in the United States are the best form of public diplomacy. Polling data appear to back up these claims. Pollsters consistently report an approximate 10 percentage point advantage in favorability toward America among those who had either visited the United States or had a friend or relative who had:

- Zogby International found that “Arabs who know Americans, Arabs who visited America ... they tend to like our people, our culture, our products and our values more, maybe 10 percent more in every case ...”⁹⁵ Similarly, Zogby found that people who say “yes” when asked, “Have you been to the United States, would you like to come to the United States, do you have a relative living in the United States ... are at times 25–30 points more favorable than those who say no.”⁹⁶
- Dr. David Pollock agreed: “[P]eople who have some direct personal experience with Americans, or with the United States, are generally more favorable by a modest but still significant margin.”⁹⁷
- Cornell Professor Devra Moehler found that visitors of their relatives were five times more likely to be one category higher in favorability.⁹⁸

- Professor Moehler’s analysis of African polling data concluded that: *[A]ttitudes about the U.S. depend less on how much people hear about the U.S. and more on who they hear it from ... [W]e can improve or counter negative attitudes ... by increasing points of personal contact ... [This] would help to ensure that the United States maintains its relatively positive image among the African mass public.”⁹⁹*

A particularly powerful form of contact that was mentioned by a number of witnesses is education at American colleges and universities. Moehler states that for U.S. favorability ratings, there would be:

“positive benefits we would get from boosting educational opportunity for Africans in the United States, especially because those Africans tend to be ones to become elites in their own countries.”¹⁰⁰

She notes that for an individual visitor, whether traveler, student, or resident: *“There is a multiplier effect because all of their friends and family, which tends to increase by ... 30 or 40 fold, are also benefiting in terms of their attitudes about the United States ... ”¹⁰¹*

Increased favorability due to contact, however, does not appear to change people’s positions on U.S. policies, such as the invasion of Iraq. Dr. James Zogby reported that among Arabs with favorable attitudes toward America as a result of direct contact, “None of this made them like our policies any better.”¹⁰² Similarly, Professor Moehler reported that Africans were 52 percentage points more favorable than unfavorable toward America, but only 18 points more favorable than unfavorable toward U.S. international policies.¹⁰³

Finding 7: It’s the visas: *Interaction with the U.S. immigration and the visa process is a significant source of frustration with America. Particularly among Muslim applicants, the experience with customs and border officials creates a perception that they are not welcome. This perception spreads across their communities through their “horror stories” about travel to the United States.*

As noted in the previous finding, visits and educational stays in the United States tend to result in a circle of family and friends hearing, and then

holding, more positive views about America. However, the process of trying to gain entry to take part in such activities often has precisely the opposite effect. Particularly since 9/11, travelers report that regulations and U.S. personnel make them feel unwelcome and looked down on, from the start of the application at a U.S. consulate to the end of questioning by the final customs official at the port of entry. Included among these travelers have been a number of high-profile guests, whose treatment is then widely publicized in their countries:

- In 2006 Professor Adam Habib, executive director of the Democracy and Governance program at the premier South African social science institute, the Human Sciences Research Council (HSRC), was detained for seven hours of questioning by the U.S. Government upon his arrival in New York as part of an HSRC delegation meeting with such entities as the Centers for Disease Control, the World Bank, and the Carnegie and Gates Foundations. His visa was then revoked and he was deported. The HSRC protested his treatment and a great deal of South African media attention focused on the case, but the United States never explained its decision. Habib told the media: *“The first time something like this happened to me was during apartheid, in the struggle days. I felt it was highly inappropriate and I feel affronted.”*¹⁰⁴
- As recounted in testimony by Dr. Jerry Melillo, director of the Ecosystems Center at the Marine Biological Laboratory of Woods Hole and also in 2006 the president of the International Council for Science (ICSU), Indian Professor Goverdham Mehta, an organic chemist who is a former director of the prestigious Indian Institute of Science, was denied a visa after extensive questioning at a U.S. consulate in Chennai. He had been invited to lecture at the University of Florida. He told the media: *“It was the most degrading experience of my life.”* The ICSU, a global organization that promotes scientific exchange, issued a statement about the denial on behalf of its thousands of scientists from over 100 countries, which included these words: “Nondiscrimination and equity are the essential elements of the principle of universality of science.”¹⁰⁵
- Members of the Russian Duma, meeting with members of the House Foreign Affairs Committee in 2007, reported serious difficulties in their visa and entry process. One of the parliamentarians told

Committee members, *"I like the people here, but I will never come back. I had to go through a very degrading experience to get here."*¹⁰⁶

The visa process for most visitors includes a healthy fee, a personal interview in a U.S. embassy or consulate, a State Department background check, and then a lengthy, unexplained waiting period as intelligence agencies also run checks. Applicants for business, student, and simple vacation visas may have to return hundreds of miles to the interview site repeatedly. In case after case, business partners or employees of American firms, even those who have previously traveled to the United States, find that they cannot come to meetings in time or at all. The reasons for delays are unexplained and so, to the applicants, are inexplicable.

Zogby polls of Latin America and Muslim countries reveal a common theme: Anger at treatment by the immigration and visa process. These publics believe that U.S. officials are discriminating against them: Latin Americans because of suspicions of illegal immigration and Muslims because of suspicion of terrorist affiliation.

According to Dr. James Zogby, the visa and entry process is perceived as so difficult that: *"These are people who will tell you that they have worked here, lived here, love America, but now are afraid to come into our airports ..."*¹⁰⁷ PIPA's Steven Kull reported that: *"In the focus groups, people very spontaneously brought up these restrictions on immigrations and visas as evidence of ... hostility toward Islam."*¹⁰⁸ ... *Almost everybody in the focus groups knew somebody who had had some problem when they came to visit the U.S. or coming to work here or to come and study here."*¹⁰⁹

The Discover America Partnership, whose executive director, Geoff Freeman, testified before the Subcommittee, commissioned a non-random poll of 2,000 international travelers, primarily from airports in the United Kingdom. Their findings included:

- More than twice as many travelers rated the U.S. entry process as the "world's worst" than gave that rating to any other destination;
- 54 percent of the travelers said that U.S. immigration officials are rude; and

- More of the travelers (70 percent) were more concerned about treatment by U.S. immigration officials than about terrorism or crime in the United States (54 percent).¹¹⁰

Mr. Merin recounted an incident in which he personally heard a U.S. immigration official tell a British visitor, “They do not pay me enough to be nice.” His question to the Subcommittee was: “How many times will that story be repeated in England, and what impact will it have?”¹¹¹



FULL READINGS



MILLER CENTER
of PUBLIC AFFAIRS
UNIVERSITY of VIRGINIA

Gerald L. Baliles, Director

The Immigration Debate David A. Martin*

America proudly claims identity as a nation of immigrants. Measured against other countries, in this era and in earlier eras, the United States has been strikingly successful in welcoming new populations, integrating them and especially their children into the social, economic, and political life of the nation, and making use of their talents and energies as a key ingredient fostering national prosperity. That broad-brush picture is important and largely positive. But at any given historical moment, immigration has posed stresses and prompted backlash, sometimes severe, that has taken many different forms.

In 2008, controversy usually focuses on the presence of a record population of illegal migrants – some 12 million non-US citizens residing here without proper legal status, according to the most widely accepted estimates. Though popular imagination tends to conceive of the undocumented as low-wage workers who crossed the border clandestinely, in fact an estimated 25-40% of this population initially entered on a proper visa and simply overstayed. The undocumented may be concentrated in low-wage work, but their ranks include the highly skilled and the college-educated.

A sketch of the debate

As could be expected with such large numbers in the labor force, many enterprises and industries have come to depend on the availability of these unauthorized workers. Hence many business interests oppose a crackdown on illegal migration, or any significant increase in enforcement, at least without changes in legal migration rules that would permit equivalent access to a global workforce. To them and their political allies, the current legal immigration categories, with their strict numerical ceilings and their cumbersome application procedures, are unrealistic and short-sighted. Those who take this position favor new admission rules that would both legalize their current workforce and admit new employees more readily, either as guest workers allowed in for limited periods, or as green card holders (lawful permanent residents). This enforcement-wary camp is often joined by civil liberties organizations and other immigration advocates, in what has been termed a “strange bedfellows coalition.”¹ These groups tend to emphasize the contributions and rights of people who have become functioning members of their local economies and communities, whatever their legal status, and some bolster their case by pointing to the poverty or political instability of the home-state communities from

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¹Tamar Jacoby, *Immigration Nation*, 85 *Foreign Affairs* 50, 51 (2006).

which the migrants come. In this view, immigration law violation is as a relatively minor offense – and one tacitly encouraged by de facto public policy and by deliberate business inducements. But the rights-based opposition to strict enforcement is often leery of certain measures proposed by their business allies. Most are concerned about temporary guest worker programs, which could separate families (if the workers are not permitted to bring their spouses and children) and might leave workers vulnerable to exploitation (fearing that an employment complaint would cause the loss of both job and legal status).

On the other side of the debate one also finds diverse strands. Some who focus on stricter enforcement are citizens troubled by the implications of widespread lawbreaking and the evident ineffectiveness of current immigration controls. Their theme is restoring the rule of law. They are joined by others who see better enforcement as a way of improving wages and working conditions for US workers. To them, illegal migration may be good for certain business owners, but not for other potential workers or for the wider community. In addition, areas that have experienced rapid growth in the local immigrant population, with attendant burdens on the school systems and other support networks, often become the scene of a vocal backlash – some parts of it prompted by reaction to the presence of large numbers who are different in appearance, language, race, or culture, whatever their legal status. Nonetheless, the policies usually advocated in response tend to focus on illegal migrants. A strong and persistent theme for many in this broad enforcement-centered camp is denunciation of any measures that could be seen as an amnesty for immigration law violators.

Debate over what to do about illegal migration – both the present population and the prospect of future flows – reached a crescendo in 2005-2007, as the House and the Senate passed differing versions of immigration reform bills, but failed to reach agreement. The House insisted on “enforcement-only” legislation in 2005, while the Senate passed what it called “comprehensive immigration reform.” (The latter includes significant enforcement measures, but also opens new legal migration opportunities to meet employer needs and offers a path to citizenship for the present unlawful population.) The issue seemed likely to be a prominent topic in the 2008 Presidential campaign, and indeed it provoked some heated exchanges during the primaries, particularly on the Republican side. The emergence of Senator John McCain as the presumptive GOP nominee, however, will probably reduce the stridency of the general election debate on this topic, for he was a prominent champion of the comprehensive immigration reform favored by most (but by no means all) Democrats. Nonetheless, the immigration issue still holds intense interest for many voters. Polls reveal, in the words of Janet Murguia, president of the National Council of La Raza, “a nation hungry for order and control at the border.”² Immigration issues will doubtless feature in the questioning of the

²Janet Murguia, *A Change of Heart on Guest Workers*, Washington Post, Feb. 11, 2007, at B7. A poll taken shortly before the 2007 reform bill died in the Senate, for example, summarized its central findings: “The enforcement side of the debate is clearly where the public passion lies on the issue. Seventy-two percent (72%) of voters say it is Very Important for ‘the government to improve its enforcement of the borders and reduce illegal immigration.’ That view is held by 89% of Republicans, 65% of Democrats, and 63% of unaffiliated voters.” *Just 26% Favor Senate Immigration Plan*, Rasmussen Reports (May 23, 2007), available at <http://www.rasmussenreports.com/public_content/politics/current_events/immigration/just_26_favor_senate_immigration_plan>.

presidential candidates, and may assume a far more visible role in numerous congressional races.

Furthermore, if the federal government is to take serious steps to resolve the current impasse, it is widely thought that the new President will have to move swiftly and creatively in the honeymoon period of his or her early tenure. Many hope that the new Congress convening in 2009 will agree to new legislation that will master the problem of illegal migration. But those who voice these hopes hold widely disparate views on just what kind of legislation should be adopted, and particularly on whether it should include a path to citizenship (or amnesty – in the terminology of opponents) for the 12 million persons now unlawfully present.

This paper first places today's disputes over illegal migration in historical and legal context, and then examines in more detail specific elements of the current immigration reform debate.

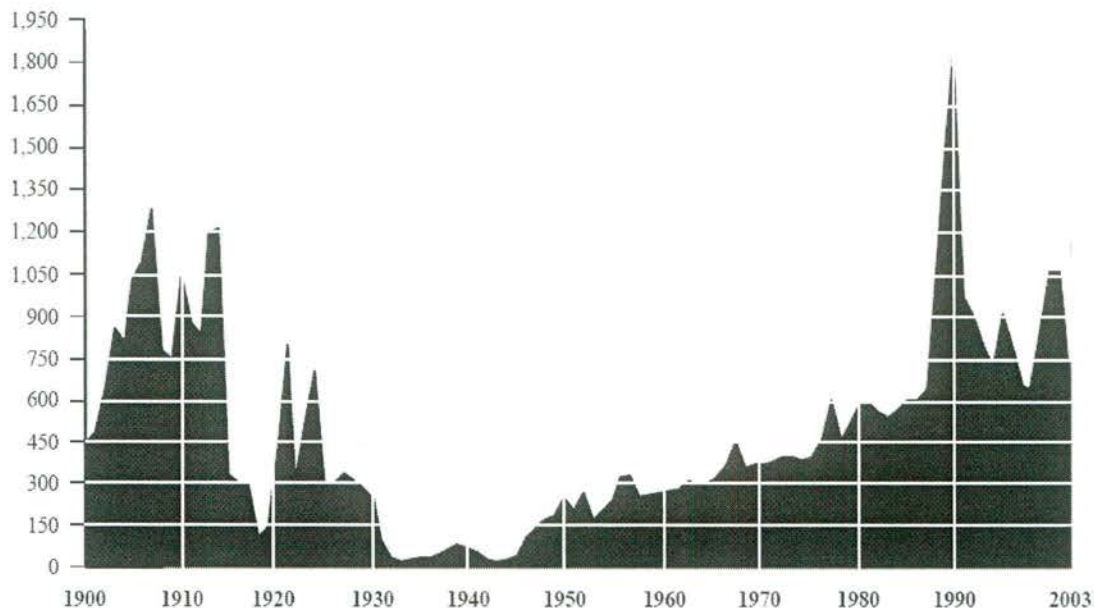
History

The federal government did not significantly regulate migration during the nation's first century of existence. During that time, emigrants from western and northern Europe came in substantial numbers and spread throughout the continent. The appearance, late in the 19th century, of concentrated populations of Chinese in the West, as well as migrants from southern and eastern Europe in the East, contributed to the adoption of sustained federal-level immigration controls. Laws in the 1880s barred all Chinese laborers, and also imposed federal standards for the qualitative screening at the border of new arrivals. For example, persons with criminal records or contagious diseases, as well as persons deemed likely to become a public charge, were declared inadmissible. Nonetheless, immigration continued to burgeon, and the first decade of the twentieth century brought the highest levels of influx the nation has known, measured as a percentage of existing US population. See Figure 1. (The foreign-born population of the United States was 15% in 1910, as compared to 12% today.)

The outbreak of World War I greatly reduced the migration flow, but when immigration accelerated again at war's end, Congress finally adopted a measure that restrictionists had been seeking unsuccessfully for decades. The 1917 Act imposed a literacy test on all immigrants (in their native language). Proponents thought this law would limit severely the number of persons coming from what pseudo-science of the era (with a sympathetic hearing in Congress) deemed inferior nationalities or races. Such a view disparaged not only Asians, for whom immigration was virtually banned under a separate provision in the 1917 law, but also Jews, Italians, Poles, and other persons from the wrong parts of Europe. When the literacy test had a far more limited effect in curbing overall migration than its proponents had hoped, Congress adopted in 1921 a national origins quota system, placing strict numerical limits on permanent migration. This law continued the "Asiatic barred zone" and also greatly disfavored southern and eastern Europe. National origins quotas remained in our laws until 1965. Somewhat curiously, the national origins laws did not impose numerical restrictions on immigration from the Western Hemisphere. But the literacy test, the exclusion of persons deemed

likely to become a public charge, and erratically tightened administrative measures worked to hold down migration from Latin America. In any event, the Great Depression and World War II significantly reduced the numbers of immigrants to the United States. In fact, emigration outpaced immigration during those years.

Figure 1. Immigrants Admitted: Fiscal Years 1900-2003 (in thousands)



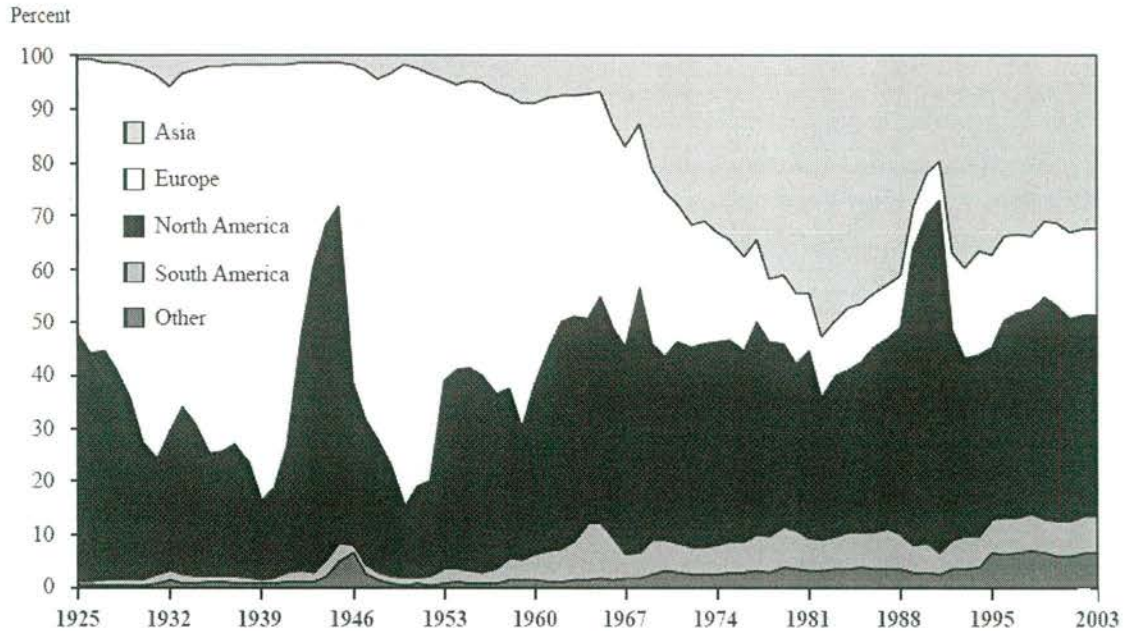
Source: 2003 Yearbook of Immigration Statistics, p. 5. (The spike around 1990 reflects persons legalized under IRCA.)

In 1942, to address a deepening manpower shortage, the federal government began admitting Mexican citizens on a temporary basis under what was initially billed as a short-term wartime measure. Before this “bracero program” ended in 1964, an estimated one to two million Mexicans (in a total of 4.6 million separate bracero admissions) had come to work in the fields and sometimes the factories of the United States.³ A great many of them returned year after year to the same regions and frequently to the same employers, even though many braceros were not given the full range of protections and payments the government program had promised, and some encountered exploitative working conditions. Pressure from organized labor finally secured an end to the bracero program during the Kennedy-Johnson administration, but there was no serious enforcement push to back up this change. Some observers regard the bracero program as a key factor generating what became the enduring patterns of unauthorized migration that provoked major public policy controversies in succeeding decades. By the

³Philip Martin, *Promise Unfulfilled: Unions, Immigration, and the Farm Workers* 48 (2003).

early 1970s, illegal migration had become a significant issue for Congress and the executive branch.⁴

**Figure 2. Legal Immigrants by Region of Birth:
Fiscal Years 1925-2003**



Source: 2003 Yearbook of Immigration Statistics, p. 6.

In the meantime, the civil-rights-era Congress finally brought an end to the national origins quota system in 1965. It adopted instead a new framework that contained an explicit bar on racial discrimination in immigration and based permanent admissions primarily on family ties to US citizens or to persons already admitted as lawful permanent residents. The law also reserved a substantial portion of immigrant admissions to be based on a permanent employment offer from a business that could demonstrate (though a complicated “labor certification” process) a shortage of US workers available for its openings. In 1978 this admission scheme was extended to cover as well the western hemisphere, including placing its normal limit of 20,000 admissions per country (not counting immediate relatives of US citizens). This per-country ceiling (later raised to about 25,000) has had a special impact on Mexico. Under the system adopted in 1965, migration from Europe declined, while migration from Central America and especially from Asia has risen significantly.

⁴For more on the bracero program, see Aristide Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America* 308-11, 327 (2006); Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* 138-66 (2004).

Current provisions for legal migration

Admissions for permanent residence. In 1990, Congress revised the categories for permanent admissions somewhat, and also increased the number of available immigration spaces, particularly for employment-based admissions. With modest modifications, this remains the framework for gaining lawful permanent residence (green-card status) in the United States today. It is important to understand certain basics of this system for legal permanent immigration as a backdrop to the debate over today's illegal population.

During the first decade of the twenty-first century, this admission system has brought an average of about one million new legal permanent residents each year.⁵ Approximately two-thirds of these are admitted based on sponsorship by *family* members who are US citizens or lawful permanent residents. Another 150-200,000 come on the basis of U.S. *employment* (only about half of these admissions are taken up by the employee; the category includes as well his or her immediate family). Legal employment-based immigration is almost entirely reserved for skilled workers (only 5,000 admissions a year are for the unskilled whose employers obtain labor certification), and much of it requires a college degree or higher. The rest of the roughly one million annual total gain status (1) as refugees or persons granted political asylum,⁶ (2) through a lottery-based diversity program meant to bring approximately 50,000 from countries not highly represented in the current immigrant stream, or (3) through miscellaneous other provisions.

There are reasonably firm numerical limits on most categories of immigrants. Only the immediate relatives (spouses, minor unmarried children, and parents) of US citizens are not subject to quotas.⁷ (To sponsor, a US citizen must be at least 21 years old; hence America's broad rules extending citizenship to any child born in the United States, irrespective of the status of the parents, cannot lead to immigration benefits for the

⁵These data, which generalize in ways that obscure year-to-year fluctuation, are drawn from the 2006 Yearbook of Immigration Statistics, published by the Department of Homeland Security, <<http://www.dhs.gov/ximgt/statistics/publications/yearbook.shtm>>. Those seeking a more precise picture can consult the Yearbook's abundant tables setting forth highly detailed analysis of admissions over the years.

⁶Asylum grants have averaged 20-30,000 per year in the current decade. Admissions of refugees from overseas as part of the organized resettlement program averaged about 100,000 per year through the 1990s, but suffered a sharp drop in the wake of the September 11 attacks. These admissions fell below 30,000 for fiscal years 2002 and 2003, then exceeded 50,000 for the next two years, before falling to approximately 41,000 for FY 2006 and 48,000 for FY 2007. Much recent controversy has focused on the limited U.S. resettlement of refugees from Iraq. An estimated four million Iraqis have been displaced from their homes during the conflict that began in March 2003, about half of these internally (to other locations within Iraq) and the remainder to other countries in the region, principally to Syria and Jordan. As of April 2008, the United States had resettled only 5,000 Iraqis to the United States since the commencement of the war. Several governmental initiatives have been put into place to accelerate processing, and the State Department is working to get the total of resettled Iraqis above 12,000 by October 2008. See US Department of State, Briefing on the Latest Developments in the Iraqi Refugee Admissions Program, Apr. 9, 2008, available at <<http://www.state.gov/p/nea/rls/rm/103448.htm>>.

⁷In addition, asylum grants are not subject to quotas, whereas refugee admissions are subject to flexible quotas established by the President each year, following consultation with Congress.

parents until decades later.) As might be expected, most categories, particularly those that are family-sponsored, are badly backlogged, because the quota ceiling is lower than annual demand. For example, a US citizen applying today to bring in an adult son or daughter faces a six-year wait; one applying for a brother or sister, a decade or more. Skilled workers or persons with a bachelor's degree who have labor certification must wait one or two years. Because of the per-country ceilings, such workers from India or Mexico confront a six-year backlog, from China, five years.

Polls suggest that some members of the public who are most critical of illegal immigrants regard the latter as impatient queue-jumpers who were unwilling to wait in line or do the appropriate paperwork. But as should be apparent, unlike in earlier eras, permanent immigration today is not open simply to all comers who wait in line and pass an undemanding qualitative screening based on personal traits such as disease or criminal history. Most of today's illegal migrants, at least at the time of their journey, have no real prospect of ever qualifying for one of the regular admission spots. They have no close family relationship with someone already lawfully resident here, and they have no prospect of employment with a US firm willing to pursue the expensive procedures that can lead to labor certification.

Temporary admissions. Current law also has some 23 categories, with numerous complex and detailed subcategories, of admission statuses for persons coming for temporary purposes. These are called nonimmigrant categories, as distinguished from the immigrant categories applicable to those who arrive to establish lawful permanent residence. The vast majority of these admissions are for persons coming as tourists or to conduct limited business transactions. Several categories are available for skilled workers, including executives and managers of international businesses, and they can permit admission for up to six years or even longer. One of the most controversial has been the H-1B program, essentially for persons in professional occupations, which does not require the employer to demonstrate that US workers are unavailable. The high-tech industry, among others, has made significant use of these admissions, and complains that the current numerical ceilings on H-1B admissions are far too low. Some worker organizations, however, argue that US workers are available in these fields and that H-1B admissions only drive down salaries. Other nonimmigrant categories permit admission of seasonal or short-term workers in agriculture or other unskilled positions, though they generally are subject to a labor-market test and other conditions. These latter categories have received only limited use, given the current de facto availability of illegal migrant labor.

Efforts to control illegal migration

When illegal migration became a significant issue in the 1970s, division of opinion led to congressional stalemate. In response, Congress passed legislation in 1978 chartering a bipartisan blue ribbon panel, the Select Commission on Immigration and Refugee Policy, chaired by Father Theodore Hesburgh, President of the University of Notre Dame. Its sponsors hoped the Commission's work would build consensus on how to address a range of immigration issues, but particularly to solve the illegal migration problem. The Commission reported in 1981, suggesting a three-part approach to reform:

improved border security, a system requiring employers to check the work authorization of all new hires, and a legalization program to grant legal status to virtually everyone then present illegally. The idea of legalization was to give the new enforcement system something of a clean slate to work with, by drawing all those currently present out of the shadows and bestowing legal status. With regard to enforcement, there were high expectations that the new workplace screening system, with sanctions on employers, would master the illegal migration problem for the future. Jobs, the Commission concluded, were what attracted unlawful immigrants to America, not access to the welfare system – a conclusion borne out by much research before and after the Commission report. Theretofore, employers had been effectively insulated from penalties, even for the knowing hire of unauthorized workers. The new employer sanctions system, with its civil fines and enhanced criminal penalties for extreme cases, was expected to reduce the job magnet greatly. Once these procedures restricted access to work by unauthorized migrants, their incentives to come would dry up. Under this scenario, legalization was expected to be a one-time-only proposition. The new enforcement measures would prevent the buildup of future illegal populations.

Congress finally passed legislation that largely followed the Commission's suggestions, but passage required an additional five years. The most significant resistance to what became the Immigration Reform and Control Act of 1986 (IRCA) was mounted by those who denounced the legalization provisions of the law as an unmerited amnesty for lawbreakers. Popular objection to amnesty for the undocumented, in short, is not a new phenomenon. The legalization programs established by IRCA ultimately resulted in green cards (permanent resident status) for 2.7 million people, 74% of them from Mexico.

IRCA's employer sanctions provisions went into effect in 1987, but – as is now widely known – they proved ineffective. Employers were required to check the work authorization of all new hires, and all but the shadiest employers do now follow those procedures. But the system as adopted in 1986 permitted an employee to present many different kinds of documents to show work authorization, and the enforcement scheme was easily defeated by bogus papers, such as false social security cards and drivers' licenses. Only the employers – not government officials – would examine the employee's documentation, and employers were not expected to be document experts. In fact, the law requires them only to check whether "the document reasonably appears on its face to be genuine," and if employers look more closely or improperly demand additional papers from an employee, they run the risk of penalties under antidiscrimination provisions also enacted as part of IRCA. (Those provisions were adopted to address the concerns of many that an employer sanctions system would expand discrimination against persons thought to look or sound foreign.)

IRCA did bring a transient reduction in illegal migration flows, but within a few years, new aspiring immigrants, with the assistance of entrepreneurs producing bogus documentation, had caught on to how to defeat the enforcement measures. Complaints about illegal immigration returned to the political arena. Governor Pete Wilson of California rode such complaints to reelection in 1994, though he had begun the campaign as a deeply unpopular incumbent. California had experienced significant economic

reversals in the early part of the decade, in part because the end of the Cold War brought severe belt-tightening in the defense industry. Wilson changed the subject from the state's budget woes by embracing a referendum measure that others had placed on the ballot, Proposition 187, also called "Save Our State." It was intended to alter state policies so as to deter illegal immigrants from coming to or remaining in California. As passed (with the support of 59% of the voters), this measure would have cut off access by the undocumented to virtually all state services, including education and non-emergency medical care, would require state officials to verify the status of persons applying for aid or participation in state programs, and would mandate notification to the Immigration and Naturalization Service (INS) of those persons suspected of being unlawfully in the United States.

Court orders prevented the implementation of nearly all elements of Proposition 187, but meantime Wilson's electoral success had helped make illegal immigration a hot topic for the upcoming elections of 1996. Congress and the President both cooperated and competed in adopting new enforcement measures. Some approaches were productive, particularly the steady provision of enhanced resources for enforcement and a redesign of asylum procedures so as to discourage the misuse of asylum applications in order to obtain a work authorization card. But other measures, particularly the 1996 Illegal Immigrant Reform and Immigrant Responsibility Act (IIRIRA), manifested a get-tough attitude while contributing relatively little to effectively curbing illegal migration. Furthermore, in the debates over the 1996 legislation, Congress rejected attempts to cut back significantly on legal migration numbers and categories, and also narrowly defeated an attempt to authorize states to close primary and secondary education to the children of unlawful migrants.⁸

The 1996 changes in law and administration have had only limited impact on the core patterns of illegal migration, and some argue that they have even been counterproductive. For example, a new Border Patrol strategy of "forward deployment," using the steadily increasing resources Congress provided, did make clandestine border crossing more difficult. This new strategy closed off traditional routes, resulted in substantial increases in smugglers' fees, and diverted much migration to harsh desert terrain (where several hundred migrants each year have perished during the trip). But while border crossing became harder, the rewards for successful passage probably increased, particularly because interior enforcement (including enforcement actions seeking fines on employers) was significantly reduced during the decade following IIRIRA. Moreover, as indicated above, an estimated 25-40% of the unauthorized population consists of visa overstayers rather than clandestine entrants.⁹ Tighter border enforcement does nothing to deter or punish that form of violation.

⁸A ruling by the Supreme Court, *Plyler v. Doe*, 457 U.S. 202 (1982), was relied on in the litigation over Proposition 187 to strike down California's effort to bar such schooling. But some language in the Supreme Court's decision had seemingly left open the possibility, much disputed, that state measures of this type could be upheld if Congress specifically authorized them.

⁹Jeffrey S. Passel, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey 16* (Pew Hispanic Center, March 2006), available at <<http://pewhispanic.org/files/reports/61.pdf>>.

In addition, about the time IIRIRA was enacted, the nation entered a period of major economic boom with strikingly low levels of unemployment. Many businesses became hungry for workers. Those illegal migrants who succeeded in getting past the frontier, even if on the second or third try, could thus find ready access to the US labor market, subject only to passing the ineffective employer review of documents as called for by IRCA. Hence the illegal population continued to grow – and the rate accelerated to an estimated net annual increase in the unauthorized population of roughly 500,000 per year since the late 1990s. Some scholars argue that the new border enforcement strategies of the 1990s actually magnified the propensity of these workers to settle in the United States, instead of coming on occasional temporary work trips and then returning home – precisely because tighter border controls had made it so much more difficult to go home and then return.

The current situation

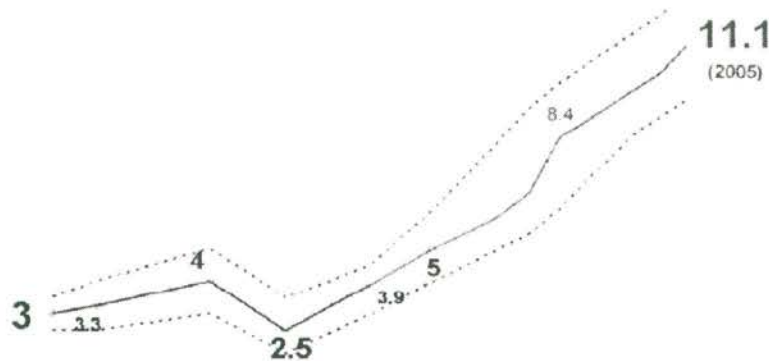
The US government does not maintain statistics on the undocumented population as such. A highly regarded recent study based on census data, done by Jeffrey Passel of the Pew Hispanic Center, concluded that there were 11.1 million unauthorized migrants living in the United States as of 2005.¹⁰ It also described trends, including net increases of roughly 500,000 per year in the undocumented population, that would push the number over 12 million in 2007.¹¹ The data for recent decades show a dip in the unauthorized population around the time of IRCA (as one would expect), followed by a steady increase, accelerating in the late 1990s. See Figure 3. There were 37 million foreign-born persons living in the United States (legally or illegally) in 2005, approximately 12% of the total population of 300 million. This total reflects major increases since the 1970s, when the foreign-born constituted only about 5% of total US population. But as a percentage of total population, the figure still falls slightly short of migration's peak around the turn of the twentieth century, when the foreign-born constituted nearly 15% of the population.¹² Today, according to the Pew study, a little over a third of the 37 million foreign-born are naturalized US citizens, about a third are lawful permanent residents, and 30% are unauthorized residents. Roughly two-thirds of the 11.1 million undocumented had come to the United States within the previous decade. About 5.4 million are adult males, 3.4 million are adult females, and the rest, 2.3 million, are children. Undocumented children, however, often have US citizen siblings. Of the 4.9 million children living in families with at least one unauthorized parent, 3.1 million, or 64%, are US citizens by virtue of birth in the United States.

¹⁰Ibid.

¹¹According to the Pew study, a gross total of 850,000 persons have entered the unauthorized ranks annually in recent years, but the net gain is reduced because large numbers of unauthorized migrants depart, die, or find their way to legal status – for example, through marriage to a US citizen.

¹²See Migration Policy Institute, Frequently Requested Statistics on Immigrants in the United States (Oct. 2007), available at <<http://www.migrationinformation.org/USfocus/display.cfm?id=649>>.

Figure 3. Trends in Unauthorized Migrants Living in the United States: 1980-2005 (in millions)



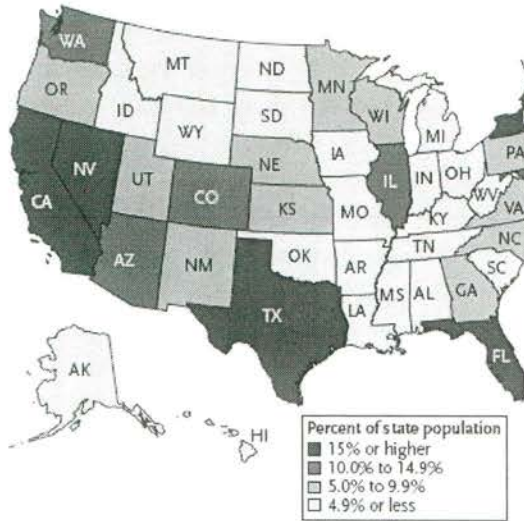
Source: Jeffrey S. Passel, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey*, Figure 2 (Pew Hispanic Center, March 2006). Copyright © 2006, Pew Hispanic Center, a Pew Research Center project, www.pewhispanic.org. Reprinted by permission.

Looking to workforce figures, one finds that nearly one in 20 of all workers in the United States is unauthorized. Approximately 7.2 million of the 11.1 million illegal migrants were in the labor force in March 2005, accounting for 4.9% of the total US workforce. The US occupations with the highest proportions of undocumented employees, counted as a percentage of all workers in that field, are farming (24%), cleaning (17%), construction (14%), and food preparation (12%). It is a common misperception that undocumented workers gravitate to the underground economy and are paid less than the minimum wage. Instead, most work in small or medium-sized formal-sector firms that are part of the regular economy.¹³ The vast majority of unauthorized workers receive at least minimum wage, and taxes are withheld from their paychecks.

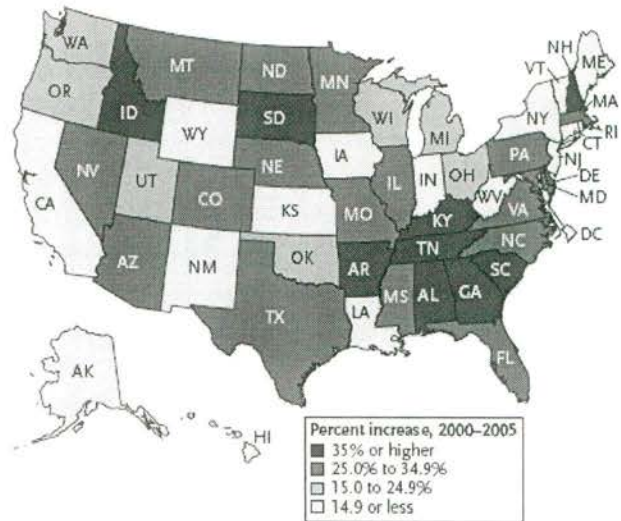
¹³Wayne A. Cornelius, *Introduction*, in *Mexican Migration to the United States: Origins, Consequences and Policy Options 4-8* (Wayne Cornelius and Jorge Bustamante eds. 1989).

**Figure 4. Trends in State Populations:
2000-2005**

The Foreign-Born Population by State, 2005



Percent Growth in Foreign-Born Population, 2000-2005



Source: Philip Martin & Elizabeth Midgley, *Immigration: Shaping and Reshaping America*, Figure 4 (Population Reference Bureau, revised and updated ed. 2006).

Geographic data are also noteworthy. The Pew study estimated that, as of 2005, 6.2 million of the unauthorized population came from Mexico, or 56% of the total. Another 22% came from elsewhere in Latin America, 13% from Asia, 6% from Europe and Canada, while Africa and other regions accounted for 3%. Of greater relevance to the current debate may be the changing destination patterns within the United States. Traditionally the strong majority of illegal migration went to the six states that also received the highest percentages of legal migration: California, Florida, Illinois, New Jersey, New York, and Texas. Since 1990, however, illegal migrants have dispersed much more widely throughout the United States. At least 21 states now have unauthorized populations that exceed 100,000, and immigrants have moved to small cities or towns in rural states in unprecedented numbers, rather than clustering so heavily in large urban areas. The 2000 census revealed that in the decade of the 1990s, North Carolina led the states in percentage increase in foreign-born population (legal and illegal), a growth rate of 273%. It was followed by Georgia at 233%, Nevada at 202%, Arkansas at 196%, Utah at 171%, Tennessee at 169%, Nebraska at 165%, and Colorado at 160%. The growth in the foreign-born population nationwide was 57% for that decade.¹⁴ The dispersal trend continued in the first decade of the 21st century, as shown in Figure 4. The rather rapid appearance of large noncitizen populations in new locations, sometimes in heavy concentrations, imposed burdens on school systems, transportation

¹⁴T. Alexander Aleinikoff, David A. Martin, Hiroshi Motomura, & Maryellen Fullerton, *Immigration and Citizenship: Process and Policy 190-92* (6th ed. 2008). See also Alejandro Portes & Rubén Rumbaut, *Immigrant America: A Portrait* (3d ed. 2006).

networks, and social services, often stressed community relations, and has doubtless contributed to the demands for tighter controls on immigration, both legal and illegal.

Recent reform measures, proposed or implemented

Early Bush administration proposals. President George W. Bush signaled early in his presidency that he favored broad reform of immigration law, the better to match “willing employers and willing employees.” In meetings with Mexican President Vicente Fox in 2001, Bush seemed particularly favorable to special arrangements for increased legal migration for Mexican nationals, probably including legalization of those already present in the United States without authorization. But few details were revealed publicly, and details in fact seemed to be the subject of strong internal debate within the executive branch. The terrorist attacks of September 11, 2001, pushed all such reform plans aside.

In January 2004, President Bush revived the reform effort in a White House address.¹⁵ He announced that he would favor a reformed system centered on temporary work visas, both for future employees and for the existing unauthorized population, meant to bring the latter out of the shadows and into legal, registered status. The undocumented population resident before a cut-off date would apply and undergo limited screening to show a valid work history and no criminal activity. Though the details were hazy, the plan was eventually described as calling for three-year work visas, subject to one renewal. The worker would have the right to bring his or her immediate family for the full six years and to travel back and forth across the border during the period. For the future, a permanent guest worker program would “allow willing workers to enter our country and fill jobs that Americans have are not filling.” Employers would be able to secure temporary status for foreign employees, if they could show, via a “quick and simple system,” that they could not find sufficient US workers to meet their employment needs. Nothing was specified about the wage level that had to be offered in such a search. The President did stress, however, that he opposed amnesty, and he argued that the benefit to be given to current illegal residents was not an amnesty, because the plan provided only temporary status, with no special avenue toward a green card.

In that 2004 address, the President said very little about enforcement, but he did suggest that enforcement would be greatly simplified under his proposal because the illegal population would come forward to register, and so would no longer be “unknown to the law.” Enforcement could then focus on criminals and other dangerous persons who chose to remain unregistered.

Criticism came from many fronts, perhaps exacerbated by the administration’s refusal to present its own draft legislation that might have answered many of the detailed but crucial implementation questions on which critics focused. Some opponents saw the program as a gift to business interests, who could use the ready availability of foreign

¹⁵President Bush Proposes New Temporary Worker Program: Remarks by the President on Immigration Policy, Jan. 7, 2004, available at <http://www.whitehouse.gov/news/releases/2004/01/20040107-3.html>. This plan was not explicitly focused on Mexican nationals in the United States, but it was clear that Mexico would probably account for a strong majority of those who would obtain its benefits.

temporary workers as a way to hold down wages. Immigration advocates were disappointed that the legalization measure would provide only temporary status, and questioned whether many of the current undocumented immigrants would choose to accept such an offer. Others thought the inattention to increased enforcement was naive, especially since the plan portended potentially serious enforcement challenges once the temporary work period ended. And opponents of immigration amnesty were not mollified. They regarded even a temporary status as a form of reward for lawbreaking. The difficulties of crafting any kind of politically viable reform plan became glaringly apparent, and little action on the proposal occurred during the election year of 2004.

The 110th Congress, 2005-2006. In 2005, immigration reform returned to active consideration, and the House passed a bill proudly touted as “enforcement only” in December.¹⁶ It called for major increases in the Border Patrol, the construction of additional fencing along the southwest border, and the development of a comprehensive workplace screening system that would allow speedy access by all employers to a US government database in order to verify a new employee’s work authorization. These particular steps had wide support, but the bill also contained other measures many saw as overly harsh. For example, unlawful entry or overstaying a temporary admission was made a federal felony. More controversially, virtually any assistance to illegal immigrants, by anyone who knew of the person’s illegal status or recklessly disregarded a questionable status, was also made a crime. Religious and charitable organizations rebelled against this measure, which they maintained would gravely impair their traditional missions to those in need. House leaders expressed willingness to soften some of the harsher provisions, but held firm in insisting that new legislation should address only enforcement, postponing any changes to legal migration opportunities until better enforcement was firmly established.

The Senate took a sharply different course, eventually passing a bill for “comprehensive immigration reform.”¹⁷ It included many enforcement provisions, including the ambitious computerized workplace verification system, but it manifested a different view of how best to control migration. Tamar Jacoby, a leading advocate of this approach, describes this vision as a “paradox at the heart of the comprehensive consensus. The best way to regain control is not to crack down but to liberalize – to expand quotas, with a guest-worker program or some other method, until they line up with labor needs.”¹⁸

The 2006 Senate bill modestly increased admission levels in the permanent immigration categories, but concentrated its liberalization on temporary admissions, providing new three-year temporary worker visas, renewable for one additional three-year period. Employers could bring in such workers after recruiting unsuccessfully in the US labor market at the prevailing wage. The bill initially provided for 325,000 guest

¹⁶Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005, H.R. 4437, 109th Cong. (as passed by House, Dec. 16, 2005).

¹⁷Comprehensive Immigration Reform Act of 2006, S. 2611, 109th Cong. (as passed by Senate, May 25, 2006). For a comparison of the House and Senate bills, see *Senate Passes Immigration Bill, Conference Needed to Resolve Senate and House Differences*, 83 Interpreter Releases 1037, 1037 (2006).

¹⁸Tamar Jacoby, *Immigration Nation*, 85 Foreign Affairs 50, 60 (2006).

worker admissions annually, but a floor amendment cut the ceiling to 200,000, reflecting many members' skepticism of this approach. Of course, this reduction meant that these admissions would fall even further short of "labor needs" – given that annual illegal migration nets about 500,000 per year. Persons holding such temporary visas would eventually be eligible to obtain lawful permanent status in some circumstances. Finally, the Senate bill provided earned legalization, more often labeled a "path to citizenship," for the current illegal population. To blunt allegations that it was an amnesty, the bill included fines, procedural hurdles, requirements to pay back taxes and to study English and US civics, and long waiting periods.

Because the leadership of the House refused to meet with the Senate in a conference committee that might produce compromise legislation, the reform effort died in 2006. Congress did pass a law calling for 700 miles of additional fencing along the southwest border, though further legislation later that term undercut the funding commitment to that construction project.¹⁹

Legislative proposals and administrative changes, 2007-2008. The comprehensive reform effort was revived in 2007, amid optimism prompted by the Democratic takeover of House and Senate. But the immigration issue does not readily follow party lines, and both parties have significant factions that would oppose amnesty or at least seek to emphasize tough enforcement. Senators John McCain (R-Ariz.) and Edward Kennedy (D-Mass.) worked behind the scenes with the White House to develop a modified comprehensive bill that might win support from some in the camp that prioritized enforcement.²⁰ To mollify concerns that temporary worker programs rarely remain temporary, the drafters toughened the guest worker provisions. New workers could still obtain what were now called Y visas, permitting up to six years of work, but only in two-year increments, with a required year outside the United States intervening. The right of such workers to bring families was substantially curtailed.

A dramatically different system for future legal migration was proposed. Family categories were cut back, essentially eliminating immigration possibilities for the siblings or adult offspring of US citizens (but permitting backlog clearance for those already in line). Employment-related immigration would be based not on individual employer petitions following labor certification, but on a point system keyed to personal traits thought likely to make the worker a better long-term contributor to the US economy. Applicants would receive points, for example, based on education level, relative youth (workers 25-39 were favored, because they would spend more years contributing to the economy), employment field (e.g., extra points for those working in science, technology, engineering, or math), knowledge of English, and prior US work experience.²¹ The bill marked out an even more demanding and costly path to legal permanent status (as compared with the 2006 bill) for the current undocumented population. It stretched out the time periods involved by granting for several years only temporary benefits (known as Z visas), to be followed by permanent resident status only when all persons waiting in

¹⁹Secure Fence Act of 2006, Pub. L. 109-367, § 3, 120 Stat. 2638, 2638–39 (2006); Spencer S. Hsu, *In Border Fence's Path, Congressional Roadblocks*, WASH. POST, Oct. 6, 2006, at A1.

²⁰S. 1639, 110th Congress (as reported by the Judiciary Committee, June 18, 2007).

²¹For a more complete summary, see Aleinikoff, et al., note 14 above, at 459-61.

line as of March 2005 for a legal immigrant admission had already gotten their green cards. The bill also required Z visa holders to return to their home countries to complete the processing (the so-called “touchback” provision).

Meantime, the bill’s enforcement measures were strengthened slightly in comparison to the 2006 legislation. But the main change in this realm in 2007 was a new show of commitment to enforcement by the Bush administration – a topic almost completely neglected in the 2004 White House speech. Most visibly, President Bush ordered the deployment of 6,000 National Guard troops to the southwest border, primarily to fill support roles and thereby free up Border Patrol officers for more extensive direct enforcement.²² This deployment was to last for only a few years; the Guard would eventually be replaced by new Border Patrol officers, hired and trained under a significantly enhanced budget. Detention space was greatly augmented as well (including through the use of Kevlar tent facilities), allowing the Department of Homeland Security (DHS) to keep more border violators in custody until their hearings, rather than having to release a high percentage into the United States. (Persons detained often give up on contesting removal, acquiescing in deportation or “voluntary” return, whereas persons who are released have a high no-show rate for hearings and probably take up unauthorized employment.) And work began in earnest on building the legislated border fence. These enforcement changes had an impact, as border apprehensions fell by 20 % in fiscal year 2007, as compared with the previous year’s totals,²³ though whether the reduction would prove enduring was questioned.

Furthermore, the administration began visibly putting a greater priority on interior enforcement, for example through enhanced resources for workplace investigations and for “fugitive operations teams” tasked to apprehend people who had failed to honor a final removal order. DHS also received significant budget increases devoted to improving and expanding the capacity of the computerized verification system that employers can use, via the internet, to check on whether a new hire has valid work status. This system, which had been in use for a pilot project for a decade, was rechristened E-Verify. It gives access to 435 million Social Security system records (primarily useful for checking US citizens) and to 60 million DHS records on noncitizens. More and more employers signed up to use this system, a total of 52,000 by February, 2007.²⁴ E-Verify will be the technological centerpiece in any mandatory employer verification system.

Finally, the administration has tried to make more systematic use of Social Security “no-match” letters to bolster immigration enforcement. For a decade, the Social Security Administration has been sending these notifications to employers when a certain number of the employer’s reported wages and tax payments are linked to employees whose numbers or names differ from the comparable information in SSA’s database. (The program began strictly to improve Social Security accounting and crediting of

²²President George W. Bush, Address to the Nation on Immigration Reform (May 15, 2006), <http://www.whitehouse.gov/news/releases/2006/05/20060515-8.html>.

²³See Securing America’s Borders – CBP 2007 Fiscal Year in Review (Nov. 6, 2007), available at http://www.cbp.gov/xp/cgov/about/accomplish/07_year_review.xml.

²⁴See E-Verify Program Surpasses 52,000 Employers (USCIS Press Release, Feb. 12, 2008), available at <http://www.immigration.com/newsletter1/everificerese.pdf>. The report states that another 1000 employers are signing up each week (many as a result of state-law mandates to use the system).

contributions, not for immigration purposes.) Such discrepancies could result from typographical or other errors, but many doubtless reflect the use of false information by an unauthorized alien. DHS has signaled that employers who do not take prompt action to have the employee resolve such mismatches may later be fined for having constructive knowledge of the unauthorized status of its workers. Enforcement of this type has drawn sharp criticism because of the burden it might place on employers. Critics also point to high error rates in the systems used to identify mismatches, and to the burdens placed on employees as they try to correct either real or phantom disparities. In October 2007, a court stayed implementation of a new regulation implementing DHS's clarified "constructive knowledge" rules linked to the no-match notifications. DHS has published supplementary information in an attempt to overcome the judge's objections, while also appealing the ruling.²⁵

Neither enhanced enforcement nor the other modifications from the 2006 legislative package succeeded in paving the way for enactment of the 2007 McCain-Kennedy bill. Some Senators evidently defected because the temporary worker program had been made more severe, with only limited opportunity for a worker to graduate to permanent resident status. Others questioned the rather striking shift to a point system to govern new permanent employment-based immigration – a late-appearing proposal that had received no systematic attention through committee hearings or wide public scrutiny. But the strongest complaints were probably those from opponents of immigration amnesty. To them, the newly toughened path to citizenship in the 2007 bill, even with its higher fees, longer waits, and touchback requirement, still amounted to an unacceptable condonation of illegal acts. When opponents prevailed on a series of procedural votes in the summer of 2007, the bill was declared dead. The reform effort was abandoned and seems extremely unlikely to be revived before the next Congress, though some members are still pushing for congressional consideration of various pieces of reform, done through separate bills.

Shifting the focus to state and local governments. The congressional stalemate gave a major impetus to an effort that was already under way in many parts of the country: a push to have states or local governments adopt their own enforcement measures directed at unauthorized immigrants.²⁶ Several localities have followed a general pattern set by an ordinance adopted in Hazleton, Pennsylvania, in 2006. That ordinance required employers and landlords to take steps to assure that their employees and tenants were citizens or had lawful immigration status, on pain of losing licenses or incurring other sanctions. It was challenged in litigation, and the district court held most of the Hazleton ordinance invalid, as preempted by federal immigration law.²⁷ That ruling is on appeal. Similar measures in other towns and cities have met with mixed judicial acceptance. Some ordinances have been at least preliminarily upheld against preemption or due process challenges.²⁸

²⁵See *American Federation of Labor v. Chertoff*, ___ F.Supp.2d ___, 2007 WL 2972952 (2007); 73 Fed Reg 15944 (Mar. 26, 2008).

²⁶A helpful summary and typology of these state and local measures may be found in Cristina M. Rodriguez, *The Significance of the Local in Immigration Regulations*, 106 Mich. L. Rev. 567, 591-600 (2008).

²⁷*Lozano v. City of Hazleton*, 496 F.Supp.2d 477 (M.D.Pa. 2007).

²⁸See, e.g., *Gray v. City of Valley Park, Mo.*, ___ F.Supp.2d ___, 2008 WL 294294 (E.D.Mo. 2008).

Meanwhile, several state legislatures, including Arizona, Utah, and Mississippi, have adopted laws meant to encourage or require better compliance by employers with the federal bars on hiring unauthorized aliens. They typically require that all employers in the state, or sometimes just government entities and those businesses that have contracts with the government, sign up for the E-Verify system to check the credentials of all new hires against that centralized government database. Those employers who fail to do so, or who are otherwise found to have knowingly hired unauthorized workers, can have their state business licenses suspended or revoked. Arizona's law was upheld in preliminary stages of litigation asserting that it unconstitutionally infringed on a realm preserved to the federal government, but more litigation can be expected.²⁹

Other initiatives focus on wider use of state and local police to help enforce the immigration laws. Over the past decade, many jurisdictions have resisted such a role, on the belief that it would discourage otherwise law-abiding local residents (who are themselves undocumented) from cooperating with police, thus hindering the primary mission of enforcing the criminal law.³⁰ But with public opinion now more engaged on the issue of illegal migration, the trend is toward greater police involvement. Some jurisdictions have tried to find a compromise position, barring free-standing immigration enforcement but permitting identity checks or other questioning about immigration status when a person has been validly arrested for a violation within the ordinary competence of the police. DHS would then be notified of those who are reasonably believed to be present unlawfully. A federal law enacted in 1996 also makes provision for more formalized cooperation of this sort. It authorizes agreements (called 287(g) agreements) between DHS and state or local law enforcement, for the latter's officers to take up specifically agreed federal functions relating to the investigation, apprehension, or detention of aliens. Such agreements must provide for training of the state and local officers involved, and for ongoing federal supervision. As of March 2008, there were 41 active agreements, with agencies in 17 states, which had led to the training of 660 law enforcement officers to take up the specific immigration enforcement duties spelled out in the agreement.³¹

There is anecdotal evidence that some of these state and local enforcement actions may discourage illegal migration to a particular area or induce a part of the current undocumented population to leave – but mainly by pushing the population to other locations in the United States.³² Further, employers in some of the states with new employment verification requirements have begun to complain of worker shortages. And critics express strong concerns that state and local governments lack the expertise to apply the highly complex federal immigration rules to decide accurately whether a

²⁹See *Arizona Contractors Assn., Inc. v. Candelaria*, 534 F.Supp.2d 1036 (D. Ariz. 2008).

³⁰Some localities activated by this impulse have gone further and adopted what have been termed “sanctuary city” policies, barring certain forms of information-sharing with federal immigration authorities. See Rodriguez, note 26 above, at 600-05. But nearly all have exceptions for dealing with serious criminals or when federal law requires the supply of information.

³¹See U.S. Immigration and Customs Enforcement, Section 287(g), Immigration and Nationality Act; Delegation of Immigration Authority, <http://www.ice.gov/partners/287g/section287_g.htm>.

³²See Rodriguez, note 26 above, at 638; Pamela Constable and Lisa Rein, *To Illegal Immigrants, Md. Feeling Less Friendly*, Wash. Post, March 25, 2008 at B1; Editorial, *Herndon, Va.'s Laborers*, N.Y. Times, August 18, 2007 at 12.

foreigner is lawfully present. They thus assert that these new state and local policies create an unacceptable risk of the improper denial of employment opportunities or publicly funded services to someone actually entitled to receive them, of improper police detention of citizens and lawful immigrants, and of racial profiling.³³ Beyond this, even many supporters of these state and local initiatives recognize the undesirability of building a checkerboard of piecemeal local immigration regulation. They see them as a stopgap until a more reliable federal enforcement system is enacted.³⁴

The trend toward expansion of state and local enforcement may change the political dynamic at the federal level, although the contending factions have not yet fully worked this factor into their actions. Until recently, those who have resisted enhanced federal enforcement (at least unless their own, highly disparate ancillary policies are adopted, such as broad guest worker provisions or wide-scale legalization) could calculate that continued congressional stalemate would leave the status quo in effect. Employers could still expect access to an undocumented labor force, and the undocumented who got past the border would have little risk of further enforcement. Early litigation may also have led some to assume that the courts would curtail any local initiatives – but more recent rulings undercut any such assurance. If these measures are not curtailed by the courts, a proliferation of state and local enforcement holds out a scenario far worse than the status quo from the standpoint of such employers and their allies in the immigration advocacy community. Patchwork regulation, particularly that which may lead to loss of business licenses, is a nightmare for business, and local ordinances can help fan a more general anti-immigrant reaction in the locality. The enforcement-wary in the federal debates may come to realize that they have a greater stake in making federal enforcement measures work, sooner rather than later, as a way of staving off harsh and uneven local regulation.

The elements in the current debate

As the next Congress and the new President confront the ongoing challenge of controlling illegal migration, their attention will focus on three main policy areas: (1) enforcement, (2) revisions to legal immigration provisions, particularly proposals to add large guest worker programs, and (3) legalizing or deporting the 12 million unauthorized immigrants now living in the United States. This paper concludes with a closer look at the main proposals in each realm, discussing briefly the positions of proponents and opponents, and offering a brief critical examination of the advantages and disadvantages of each.

³³See Michael J. Wishnie, *State and Local Police Enforcement of Immigration Laws*, 6 U. Pa. J. Const. L. 1084 (2004).

³⁴In signing the Arizona measure, House Bill 2779, the Legal Arizona Workers Act, into law, Governor Janet Napolitano stated: “With my signature on this bill, Arizona has taken the most aggressive action in the country against employers who knowingly or intentionally hire undocumented workers. . . . Immigration is a federal responsibility, but I signed House Bill 2779 because it is now abundantly clear that Congress finds itself incapable of coping with the comprehensive immigration reforms our country needs. . . . Now that Arizona has acted, other states are likely to follow. For our country to have a uniform and uniformly enforced immigration law, the United States Congress must act swiftly and definitively to solve this problem at the national level.” Quoted in 84 Interpreter Releases 1545 (2007).

Enforcement. Better enforcement measures are supported, at least nominally, by virtually all participants in the current debates, though they differ sharply on exactly which, and on whether or to what extent such measures should be accompanied by policy changes under the other two headings. To date, border enforcement has been the big winner in the policy popularity contest. The Border Patrol has grown from roughly 4,000 in the early 1990s to a promised level of 18,000 in 2009. Congress has also been willing to appropriate over a billion dollars so far for expanded border fencing, and has authorized waivers of environmental and other constraints in order to hasten construction.

But border enforcement, though important, has claimed far too much attention. The Border Patrol cannot stop all attempted entries, and even if a fence is completed from east Texas to San Diego (the present plan is far more modest), smugglers will not somehow ignore the fact that the United States has tens of thousands of miles of seacoast. Furthermore, border enforcement does virtually nothing to deal with the 25-40% of unauthorized workers who entered on a legal visa.

Why then its popularity? Border policing steps on relatively few influential toes. It usually stops potential migrants before an employer has come to depend on them, before they join a union or find connections in other social networks that might object to their removal. Effective interior controls, in contrast, are carried out in more visible locations and usually provoke more influential resistance, particularly from business interests.³⁵ Until recently, the funding for interior enforcement had quietly declined over the last decade, and workplace enforcement, in particular, had been greatly scaled back. Workplace apprehensions of unauthorized workers exceeded 17,000 in 1997, but receded below 500 annually for 2001 to 2003. And enforcement against employers declined equivalently, so that only \$38,000 in civil fines were collected from employers in 2003. These numbers are now showing sharp increases.³⁶

As long as successful evasion of border enforcement produces access to the American job market, there will be considerable incentives, for both migrants and smugglers, to continue the flow. Numerous studies and commissions have concluded that curbing access to employment is the real key to regaining control over illegal migration. Hence recent years have seen growing support for redesigning the employment verification process so as to overcome the problems of the system IRCA created in 1986, by making the employer check of a new hire's documents a truly meaningful barrier to the unauthorized.³⁷ This includes growing support among business ranks, in part so that careful employers who wish to follow the law can be better protected against unfair competition from those who do not.

Web-based verification of name and social security or other identification data – the task now performed for a small percentage of employers through DHS's E-Verify system – promises to be such a mechanism. But increasing the system's capacity, to expand from the 5,000 employers enrolled in 2006 (when the system was called the Basic

³⁵See Peter Andreas, *Border Games: Policing the U.S.- Mexico Divide* (2000).

³⁶See Aleinikoff, et al., note 14 above, at 1323-26.

³⁷See Doris Meissner, Deborah W. Myers, Demetrios Papademetriou, & Michael Fix, *Immigration and America's Future: a New Chapter* (Report of the Independent Task Force on Immigration and America's Future, Migration Policy Institute, Sept. 2006), at 45-53.

Pilot) so as to handle the full universe of eight million U.S. employers, will require several years and heavy public investment.³⁸ Businesses are reluctant to take on the additional burdens of engaging such a system (which may be particularly difficult for small businesses) unless they are sure that it will work. Immigrant advocacy groups have resisted the mandate of such verification because of the real difficulties encountered under the current smaller scale system by some legitimate employees whom the system does not immediately identify as work-authorized. Though employers are told to keep these workers on the job while they pursue “secondary verification,” that process can be time-consuming and frustrating. Skeptics are concerned that nervous employers will not retain the employee while he or she labors to clear up the problem.³⁹ Some immigration advocacy organizations have urged that the program not be expanded until the error rate is greatly improved.⁴⁰ Other commentators find the prospect of mandatory employment checks for all new hires an unacceptable big-government intrusion.⁴¹

Further objection arises from concern that E-Verify could be rendered ineffective through identity theft. The verification system checks to see whether the employee name and Social Security number (or other identifying number for work-authorized aliens) match records in the database. But such a check, by itself, cannot assure that the person presenting the document is actually the person named on the card. Thus the verification system, to be fully effective, must also develop safeguards against impostors. DHS is currently pilot-testing initial improvements, including limited use of computerized photo databases, so that the employer will see not just the photo on the card the employee presents but also a stored photo that will appear on the computer screen. Moreover, the REAL ID Act of 2005 mandated that states eventually follow uniform standards for issuing secure and reliable drivers’ licenses with biometric information.⁴² If that system works as planned, it should improve the reliability of identity documents. But some states have resisted cooperation with what they see as overly intrusive federal ID mandates under the REAL ID Act, and in any event the full system will not be in operation for nearly a decade.⁴³ Finally, a fully effective system for verification will require an ongoing commitment to sustaining DHS field investigation and prosecution capacity, to catch employers who ignore or misuse the system – a capacity that was allowed to shrink quietly in the 20 years after IRCA’s first burst of activity.

Despite all these genuine challenges and despite the inevitable snafus and hardships to be expected as a new system is implemented, serious interior enforcement,

³⁸Ibid. at 48. The MPI Task Force report contains a helpful discussion of the history of the Basic Pilot verification mechanism and of the challenges an expanded worker verification system faces. It also outlines a realistic multiyear timeline for expanding the system to nationwide use, and sets forth a “case for optimism” that the system will succeed if properly implemented.

³⁹The MPI Task Force report, note 37 above, at 49, describes the difficulties some authorized workers have encountered under the Basic Pilot program, when they were required to use the secondary verification procedures.

⁴⁰See, e.g., National Immigration Law Center, *Basic Pilot / E-verify: Not a Magic Bullet* (Jan. 4, 2008), available at <<http://www.immigrationpolicy.org/images/File/onpoint/nomagicbulletE-verify01-08.pdf>>.

⁴¹See, e.g., Jim Harper, *Electronic Employment Eligibility Verification: Franz Kafka’s Solution to Illegal Immigration* (CATO Institute, March 5, 2008).

⁴²Pub. L. 109-13, div. B, tit. II, §§ 201, 202, 119 Stat. 302, 311–16 (2005).

⁴³See Spencer S. Hsu, *States Maneuver to Avoid Penalties of New Federal ID Program*, Wash. Post, March 30, 2008, at A5.

centered on redesigned worksite verification by employers at the time of hire, is crucial to the success of any conceivable immigration reform package. If worksite-centered enforcement works, it can eventually reduce reliance on fence building and Border Patrol deployments, and probably also reduce the death rate from migration diversion through dangerous deserts. Smugglers will find few clients if their successful passage into the interior gains them little access to the job market. Worksite enforcement also provides a tool for dealing with those unauthorized migrants who did not sneak past the border, but instead overstay a lawful temporary admission – a tool made even more important if the immigration reform package ultimately includes large new numbers of temporary guest workers. And visibly effective enforcement is crucial to cooling the political temperature on immigration issues, making possible more stable and thoughtful policy. Worksite-centered enforcement needs time to be developed properly, but in the long run, it deserves the lion's share of resources and ongoing attention.

Changes to legal migration. Many who support comprehensive immigration reform argue that enhanced enforcement can work only if our overall immigration system is brought more closely into line with the natural workings of the labor market. Liberalizing our admission categories, these advocates contend, would channel most of the current demand (by employers and prospective employees) into lawful avenues, and cut the enforcement task down to size. As Angela Kelley, Deputy Director of the National Immigration Forum, argues, “our immigration regulatory regime, most of which dates from the 1960s, is no match for the realities of the 21st century labor marketplace.” Reducing illegal immigration requires “counterintuitive [steps] . . . to make legal immigration a more viable option for employers, families, and individual immigrants.”⁴⁴ This is the only realistic course, supporters maintain, given that we share a 2000-mile border with Mexico and that patterns of employment dependence are deeply ingrained.⁴⁵ And the demand is not just for highly skilled workers. Some of the occupations projected to undergo the largest job growth over the coming decade, such as personal and home health-care aides, janitorial and cleaning services, and food preparation and servicing, require only limited on-the-job training.⁴⁶ An aging American work force and rising education levels, proponents contend, will mean that fewer native workers will be available to fill these positions.⁴⁷ Thus a reformed system should make ample room for satisfying the economy's hunger for the unskilled.

Expanding legal immigration opportunities could of course take the form of either permanent or temporary admissions. Since 2004, however, most of the attention to this policy initiative has focused on expanding temporary migration opportunities – that is, on a broad guest worker program. Some who favor of such an approach point out the undeniable economic benefits to the receiving society. It would be able to use the workers' talents during a few of their most productive years, but did not have to pay for

⁴⁴Angela Kelley, *Comprehensive Immigration Reform Is It Within Our Grasp?*, ILW.com Immigration Daily (2004), available at <<http://www.ilw.com/articles/2004,1208-kelley.shtm>>.

⁴⁵Jorge Durand and Douglas S. Massey, *Borderline Sanity*, *The American Prospect*, September 24, 2001, at 28.

⁴⁶MPI Task Force Report, note 37 above, at 3-8.

⁴⁷Daniel T. Griswold, *Willing Workers: Fixing the Problem of Illegal Mexican Migration to the United States*, at 9 (Cato Institute 2002).

their schooling and will not be responsible for their welfare or pensions in later years.⁴⁸ Others contend that the natural pattern of worker migration is circular in any case: the workers migrate to earn far more than they could in the home community, but their primary focus remains on the home community, and they intend to return after a few productive years. They migrate to solve economic problems at home, and they regularly send part of their income back to family.⁴⁹ (Remittances from expatriate migrant workers living in wealthy countries have been a highly significant source of funds for developing countries, a fact that has produced strong source-country support for both legalization of current undocumented population and expansion of future migration possibilities.) Mexican officials emphasized the circular migration thesis in conversations with the United States early in the Bush and Fox administrations. They maintained that the great expansion of border policing in the 1990s had made the undocumented migration problem worse by interfering with circularity.

Critics take issue with virtually every part of this case for temporary worker programs, particularly versions that would admit high numbers of unskilled or low-skilled workers. First, they voice serious doubt that any enacted legal guest worker program could match demand. Neither of the Senate bills in 2006 and 2007 set temporary worker admission levels that came close to the existing pace of undocumented migration, and even then the quotas recommended by the Judiciary Committee were slashed to 200,000 through floor amendments (against gross annual illegal migration of 850,000, with net migration of 500,000). Nor would demand necessarily be static; in fact, the presence of a wider pool of legal temporary workers might produce a network effect that attracts further unlawful migration.⁵⁰

Furthermore, some worry that adding a high number of annual admissions that are firmly and explicitly temporary might change the valued chemistry that has helped promote integration of newcomers into America. If far more foreigners come as mere guests, not prospective citizens, even though they will occupy significant roles in the economy and be present for several years at a time, incentives to integrate and to learn English may diminish. On the other side of the coin, society's openness to social incorporation may decline, as citizens come to expect that aliens in their midst will not be allowed to stay.⁵¹ Moreover, because of their more precarious status, temporary workers are vulnerable to exploitation by employers. One of the main checks against employer overreaching is the employee's freedom to quit and go elsewhere. If status is tied to a particular job, this check is lost. Although recent guest worker plans include provisions that give some flexibility to change jobs, they usually permit the worker to move only to another employer who has gone through the process of qualifying to use temporary worker visas, not to access the full labor market.

⁴⁸See Howard Chang, *Migration as International Trade: The Economic Gains from the Liberalized Movement of Labor*, 3 UCLA J.Int'l L. & For. Affs. 371 (1998). President Bush's 2004 plan did call, however, for new arrangements with Mexico whereby earnings and taxes paid in the United States might ultimately be credited to the worker's account within Mexico's social security system.

⁴⁹Durand and Massey, note 45 above.

⁵⁰See David A. Martin, *Eight Myths About Immigration Enforcement*, 10 N.Y.U. J. Legis. & Pub. Policy 525, 532-33 (2006-07).

⁵¹See Cristina M. Rodriguez, *Guest Workers and Integration: Toward a Theory of What Immigrants and Americans Owe One Another*, 2007 U.Chi. Legal Forum 219; Hiroshi Motomura, *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* (2006).

Some economists argue that the US system actually has a significant pool of persons who would take low-skilled work, but not at wages kept artificially low by the ongoing availability of noncitizens willing to work for much less. If more effective enforcement were implemented, the US market would adjust to the decreasing availability of foreign workers, they argue, by increasing wages to draw more people to a field, mechanizing, or transferring certain work abroad. There might be changes and disruptions in employment patterns, wages, and prices, but the economy would adapt.⁵² And if the transition were gradual, such as through a legalization program that allows employers to keep current unauthorized workers while enhanced worksite enforcement diminishes access to future unauthorized workers, the adjustment need not be wrenching. In this view, guest worker programs grant a gift to business interests at the expense of US workers at the lowest end of the socio-economic scale. They also hold hidden costs for both the sending and receiving society. The largely unhappy experience of other nations' guest worker programs, particularly Europe in the decades after World War II, should provide a cautionary tale. Philip Martin and Michael Teitelbaum point out that "virtually no low-wage 'temporary worker' program in a high-wage liberal democracy has ever turned out to be genuinely temporary."⁵³ Though some workers certainly return home after a few years, many others change their minds, particularly if their families have been allowed to come with them. Because many of these problems may not be apparent for many years, such arguments may not dampen the attraction of guest worker programs for today's politicians, who sometimes see a massive guest worker program as a critical piece to reduce business resistance to other elements of the immigration reform package, particularly enhanced worksite-based enforcement.

Concern about whether temporary worker admissions really remain temporary prompted some adjustments, noted above, in the guest worker proposal as between the 2006 and 2007 Senate bills. Workers would be limited to shorter stays and would normally have to leave their families behind. These changes, however, illuminate one last set of criticisms of guest worker programs – moral arguments captured in the words of Swiss novelist Max Frisch, commenting in 1974 on the failures of the European system: "We asked for workers, but human beings came."⁵⁴ In this view, it is simply wrong to treat workers as mere parts in a machine. We should instead recognize their humanity by admitting them on terms that treat them as equals (with permanent resident status and access to citizenship after a modest probationary period). As a corollary, they should be allowed to live with their families near their workplaces, to sink roots if they wish, to change employers as a safeguard against exploitation or mistreatment, and eventually to attain citizenship.⁵⁵ Each worker or family can then decide individually whether their own migration will be circular or permanent.

⁵²See, e.g., Philip Martin, *Farm Labor Shortages: How Real? What Response?* (Center for Immigration Studies Background, Nov. 2007); Vernon M. Briggs, Jr., *Mass Immigration and the National Interest: Policy Directions for the New Century* 274-80 (3d ed. 2003).

⁵³Philip L. Martin & Michael Teitelbaum, *The Mirage of Mexican Guest Workers*, 80 *Foreign Affairs* 117, 119 (2001).

⁵⁴Max Frisch, *Überfremdung I*, in *Schweiz Als Heimat?* 219 (1990) ("Wir riefen Arbeitskräfte, es kamen Menschen.").

⁵⁵See Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* 52-61 (1983).

Some of these criticisms would be met or softened if new legislation endeavored to meet existing demand for foreign workers by expanding *permanent* admission categories rather than simply adding temporary worker slots. But few participants in the recent debate have argued for major additions to permanent immigration – perhaps based on a judgment that the current political climate would not tolerate such a step. Earlier versions of comprehensive immigration reform did hold open some prospect of eventual legal permanent residence for those persons who worked for a certain number of years on a temporary admission. But that path to permanent residence became increasingly restricted as the political debate wore on. Even if such opportunities were again widened, conditioning permanence on successful completion of temporary work carries disadvantages. By raising the stakes, this approach may compound the worker’s dependence on the employer. And it prolongs a period of uncertainty that takes a toll on integration and community solidarity.

Legalization of the 12 million undocumented migrants now resident. The final element of the reform debate addresses what to do with the current illegal population. Should they be given legal status – a “path to citizenship” – as a way of clearing out past problems and enabling the new enforcement mechanisms to focus on future migration? Several different legalization plans have been offered over time. President Bush’s 2004 idea to give them temporary status for up to six years but then to expect them to go home has had little staying power. For opponents of any amnesty, this is still a gift to lawbreakers. For the core proponents of legalization, temporary status does not adequately reflect the real contributions and desires of the undocumented population. They came here, in this view, under a broken system that in reality was dependent on their labor and tacitly encouraged their migration. They came and contributed, both their labor and their taxes, and in the process became *de facto* members of this society. Whatever is done to cure the broken system and discourage future migrants, these proponents argue, the current population’s contributions deserve recognition through something more than a temporary status. Moreover, the point of legalization is at least in part to clear the decks of old enforcement cases. Temporary status may not be a sufficient inducement for current undocumented residents to come forward and register. Since 2004, therefore, most serious reform proposals, including those supported by the President, have focused on providing them a permanent legal status, though under varied conditions and time frames.

There are strong constituencies that oppose any measure that smacks of amnesty, even on a limited basis meant to target the relatively blameless. (For example, Congress has several times found it impossible to enact the limited and focused provisions of the DREAM Act, which would provide green cards for persons who entered illegally as children, successfully completed high school in the United States, and then enter college or the armed forces.⁵⁶) To such determined opponents, any form of legalization rewards lawbreaking and may only encourage future illegal migration, as later generations calculate that the United States will tire again and enact future amnesties. Because these resolute opponents form a strong bloc, legalization proponents have focused on finding

⁵⁶See, e.g., Development, Relief and Education Act for Minors, S. 2205, 110th Congress (2007). It received 52 votes on a procedural motion in the Senate in October 2007, but not enough to overcome a filibuster.

ways to attract support from the middle of the road, people troubled by legalization but who might support it under the right conditions.

One method has been to attach progressively stiffer conditions, including the payment of fines, to the award of legal status, in the hopes of shedding the politically poisonous label of “amnesty.” The changes between the 2006 and 2007 Senate bills, described above, reflected efforts of this type. The program could not be an amnesty, the argument went, if people had to pay a significant fine, wait to obtain their status until all persons already in line for a legal visa had been satisfied, and perhaps even go back to the home country to complete the paperwork. But the camouflage did not work. The comprehensive bill was still stalemated by opposition focused primarily on the legalization provisions.

Another argument used to support a path to citizenship is the contention that deportation of 12 million people is wholly unrealistic. The Center for American Progress calculated that deportation would cost a total of \$206 billion over five years, a sum in excess of the entire budget of the Department of Homeland Security.⁵⁷ Opponents of legalization counter that these estimates are unrealistic, because there would be no need to use such massive deportations. Mark Krikorian, one of the leading opponents, argues for an approach built on attrition through enforcement. He points to government statistics from the late 1990s showing that “there is already significant churn in the illegal population.” Approximately 400,000 people ended their illegal status annually, about 40% through gaining legal status, another 40% through voluntary return home, and 15% through deportation. (The remaining 5% died.) Increased enforcement will increase the level of deportations, with some additional budget costs, but more importantly, effective enforcement will accelerate voluntary departures as work opportunities dry up. Within a few years, Krikorian argues, outflow would overtake inflow of illegal migrants, and the illegal population would decline as more and more “give up and leave.”⁵⁸

Virtually no one proposes legalization as a free-standing measure. It is always supported as part of a package intended to end future illegal migration or divert such migration into legal channels. In this way the debate carries faint echoes of IRCA in 1986 – which married an expansive legalization program to a then-novel enforcement device (employer sanctions) thought likely to prevent future illegal immigration problems. This echo reflects one of the proponents’ biggest problems. IRCA’s legalization provisions worked quite effectively, giving legal status to 2.7 million people. But its enforcement proved ineffective. Many moderate opponents of legalization invoke the IRCA experience to claim that enacting amnesty now would be naive. If amnesty is tolerable at all, they assert, it must come with solid assurances that we will not find ourselves in the same enforcement predicament a decade or two later.

Legalization proponents have tried to address these concerns by crafting triggers or benchmarks that would have to be met by the enforcement system – specified progress

⁵⁷Center for American Progress, *Deporting the Undocumented: A Cost Assessment*, available at <http://www.americanprogress.org/kf/dtu_onesheet.pdf>.

⁵⁸Mark Krikorian, *Downsizing Illegal Migration: A Strategy of Attrition through Enforcement* (Center for Immigration Studies Background, May 2005).

on the E-Verify employment verification system, certain levels of actual congressional appropriations for enforcement, designated targets for Border Patrol hiring, or the completion of a certain number of miles of border fencing, for example – before legalization could begin. This is sometimes called “enforcement-first,” as distinguished from “enforcement-only” legislation. The difficulty lies in designing appropriate and convincing benchmarks. For the skeptics, it is not enough to have all employers enrolled in E-Verify, for example. What is needed is proof that E-Verify will virtually shut off the availability of jobs for new unauthorized workers. In the very nature of things, that question cannot be answered until we have several years of experience with the comprehensive system, which itself is a few years away from the capacity to handle all employers. Some skeptics therefore maintain that the first round of legislation should be “enforcement only.” If the enforcement initiatives succeed, and there is a visible reduction in the illegal migrant population, there will be time enough to implement legalization at that point. Proponents counter that considerable hardship will be visited on migrants and businesses in the meantime, as enforcement measures fall unevenly and unpredictably on persons who have contributed to the economic vitality of US communities.⁵⁹ Future enforcement and a commitment to legalization, they assert, should be combined in the same comprehensive legislation.

Conclusion

The congressional choices so far have usually been presented as either enforcement-only legislation or a comprehensive reform bill that includes both massive new guest worker programs and a path to citizenship for the current undocumented population. The former seems unlikely to pass without serious components that address both business and humanitarian concerns about the implications of increased enforcement. The latter draws entrenched opposition from those who see the package as rewarding lawbreaking and conceding too much to the desires of business for a pliant guest-worker labor force. The resulting stalemate has spawned a proliferation of state and local initiatives to enforce the immigration laws – a decidedly inferior third way, owing to its patchwork nature, its beggar-thy-neighbor impacts, and the risk that such approaches can lead to extremes of implementation that may stoke nativist sentiment.

To avoid that balkanized response, and to break out of our national cycles of laxness followed by polarization and crackdown, the nation needs a patient national solution that does not overpromise. New legislation must put into place the foundations of what can become, over the course of several years, a truly workable and durable enforcement system, built primarily on resolute workplace screening with verification. And we need a serious rethinking of how the various pieces of comprehensive reform have been bundled together. Guest worker programs deserve far more skepticism than they have so far received. Permanent programs of that type should be seen by amnesty opponents as far more damaging to their core concerns than a one-time legalization coupled by resolute long-term enforcement. Immigrant advocates have also been far too quiet on the negative effects of ongoing guest worker programs, effects that one might

⁵⁹See, e.g. Bill Ong Hing, *The Case for Amnesty*, 3 *Stanford J. Civ. Rts. & Civ. Lib.* 233, 264-84 (2007); Editorial, *The Misery Strategy*, *N.Y. Times*, August 9, 2007 at 18; Editorial, *The Immigration Wilderness*, *N.Y. Times*, November 23, 2007 at 36.

have thought they would see as undercutting their central missions. If these changes in perspective were to happen, then a compromise might be built around combining enforcement with legalization of the current undocumented population, omitting from the bundle any massive new guest worker program. Legalization would then serve as the primary cushion for migrant-dependent employers during the transition to a new and more effective enforcement system – which should also improve wages and job opportunities for at least some low-income US workers. If further accommodation to business needs is deemed necessary, it should come primarily in the form of new permanent admissions – adopted after hard thought about those limited areas where such expansion is truly required. Though for business interests this different bundle would fall far short of the tantalizing access to cheap labor that was dangled before employers in the original Bush administration offerings, it would be a much more promising form of third way. But to date this different bundle has found no influential champions.



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CONTROLLING UNAUTHORIZED IMMIGRATION FROM MEXICO: The Failure of "Prevention through Deterrence" and the Need for Comprehensive Reform*

By Wayne A. Cornelius, Scott Borger, Adam Sawyer, David Keyes, Clare Appleby,
Kristen Parks, Gabriel Lozada, and Jonathan Hicken**



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INTRODUCTION

For the past 15 years, the United States has had a strategy of immigration control that overwhelmingly emphasizes border enforcement, coupled with extremely weak worksite enforcement and no effort to reduce the unauthorized flow by increasing legal-entry opportunities, especially for low-skilled workers. Under the "prevention through deterrence" doctrine adopted by the U.S. Border Patrol in the early 1990s, illegal entries were to be prevented by a concentrated "show of force" on specific segments of the border, which, it was believed, would also discourage crossing attempts from being made in areas less heavily fortified but more remote and dangerous to migrants. Tens of billions of dollars have been invested in the border enforcement build-up since 1993, with little concern about its efficacy.

Since 2005, the Mexican Migration Field Research and Training Program (MMFRP) at UC-San Diego has been documenting the effectiveness and unintended consequences of the U.S. border enforcement strategy. We have interviewed over 3,000 migrants and potential migrants, in their hometowns in the states of Jalisco, Zacatecas, Oaxaca, and Yucatán, as well as in the U.S. cities that are their primary destinations. Our most recent study was conducted in Oaxaca and San Diego County, from December 2007 to February 2008. The MMFRP data, gathered from the people whose behavior has been targeted by the U.S. strategy, is the most direct and up-to-date evidence of whether it is actually keeping undocumented migrants out of the United States (it is not). This research also shows how tougher border enforcement is enlarging the settled population of undocumented immigrants in the United States – one of the strategy's most important unintended consequences.

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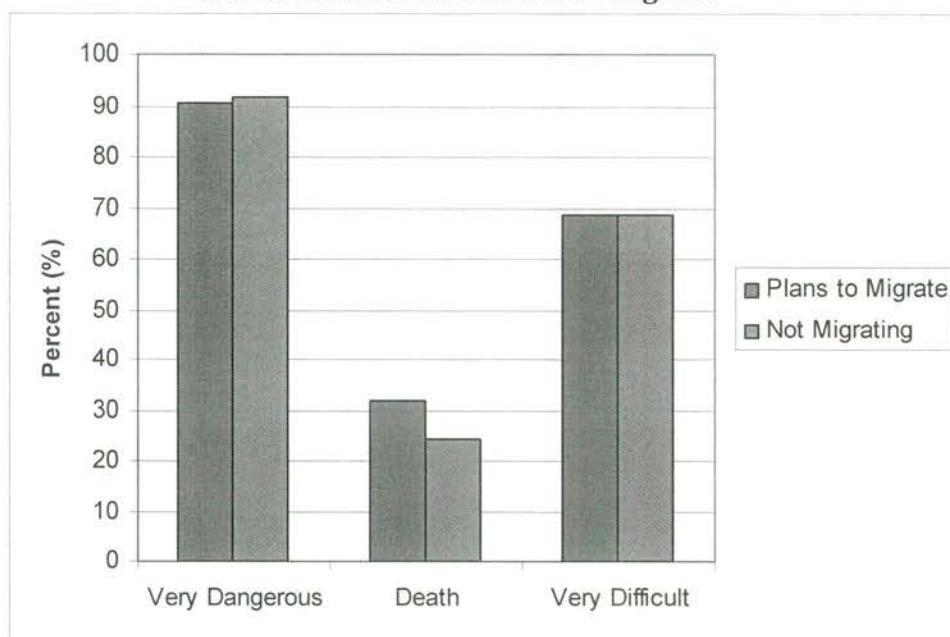
DOES BORDER ENFORCEMENT DETER ILLEGAL ENTRY?

“The Border Patrol told me the first time, ‘If we apprehend you a second time, we are going to put you in jail for two weeks. If we apprehend you a third time, it is going to be a month; the fourth time, three months. You could be in jail for up to a year.’ But no matter what they say to you, you’re still going to try again. I told them, ‘Well, I just have to cross.’ They asked me if I was sure. ‘Maybe you should just go home,’ they said. ‘But I have to cross,’ I told them. No matter what, the majority of us Mexicans are going to keep trying.”

-- Briseida, a 24-year-old Oaxacan undocumented migrant

The Border Patrol apprehended Briseida six times during the month before her most recent (successful) entry into the United States. To be effective, U.S. border enforcement must change the beliefs and perceptions of millions of would-be migrants like her throughout Mexico. Unauthorized migration will decrease only when the majority of potential migrants conclude that the costs and physical risks of clandestine entry are greater than the potential benefits awaiting them on the other side of the border. In our interviews with experienced and prospective first-time migrants, we delved deeply into their knowledge and perceptions of the obstacles that they face upon arrival at the border.

Figure 1: Knowledge and Perceptions of Border Hazards as Predictors of the Intent to Migrate

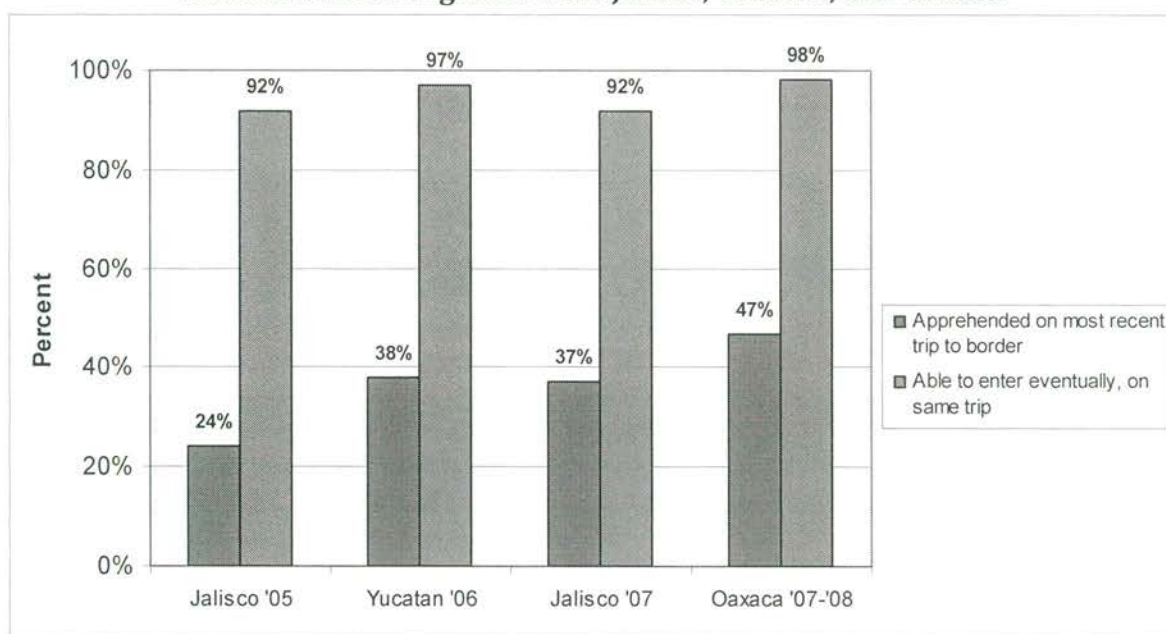


Our data from Oaxaca (Figure 1) show that knowing that clandestine entry is “very dangerous,” that evading the Border Patrol is “very difficult,” and knowing someone who died attempting to cross the border are not useful predictors of whether one will migrate. Border enforcement-related knowledge and perceptions do not differentiate between those who intended to go to the United States in next twelve months and those who planned to stay home. The only statistically significant difference between the two groups is that those planning to migrate are slightly *more* likely to know someone who died trying to cross the border. This may be because those who do not intend to go to the United States do not interact regularly with experienced migrants, whose knowledge of such fatalities is likely to be higher.

A multivariate regression analysis of these data reveals that perceptions of border-crossing difficulty and dangers have no statistically significant effect on the intent to migrate in 2008, when we control for the effects of age, sex, marriage, educational level, previous migration experience, and the number of family members currently living in the United States. We have performed the same analysis of responses to the same survey questions in three previous studies (done in different migrant-sending communities in the states of Jalisco and Yucatán), getting the same results.¹ In sum, seeing the fortified border as a formidable and dangerous obstacle course does not deter would-be migrants.

Nor does the obstacle course prevent illegal entry. In four MMFRP studies, we found that fewer than half of migrants who come to the border are apprehended, even once, by the Border Patrol. As shown in Figure 2, the apprehension rate found in these studies varied from 24% to 47%. And of those who are caught, all but a tiny minority eventually get through – between 92 and 98 percent, depending on the community of origin. If migrants do not succeed on the first try, they almost certainly will succeed on the second or third try.

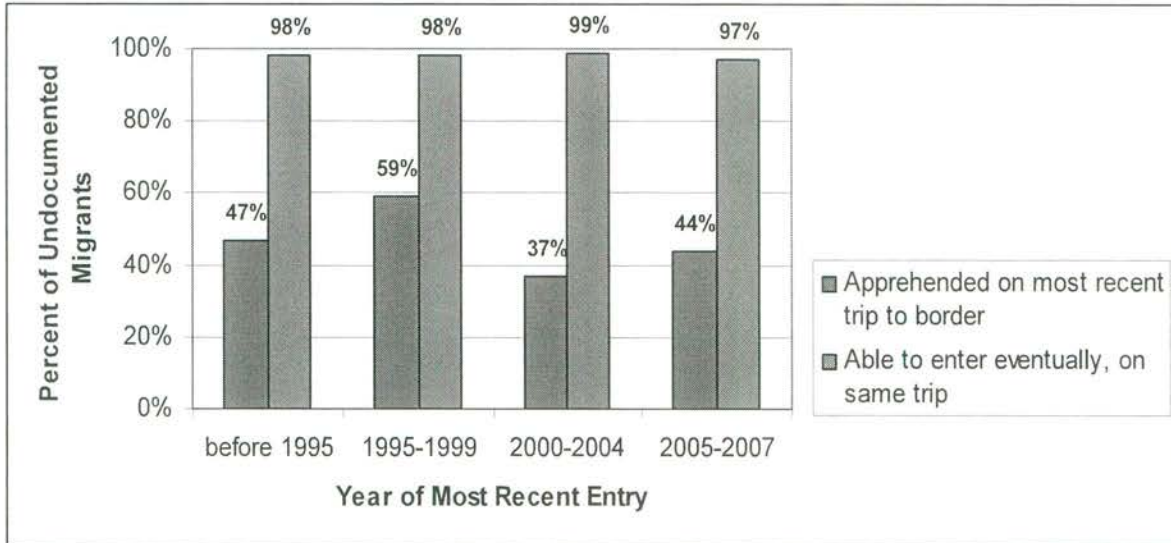
Figure 2: Apprehension and Eventual Success Rates Among Undocumented Migrants from Jalisco, Yucatán, and Oaxaca



Among our Oaxacan interviewees, the eventual success rate has remained remarkably high throughout the period of tighter border enforcement (see Figure 3). The success rate is virtually the same for migrants whose most recent crossing occurred before 1995, when the border was largely unfortified, and those crossing in the most recent period. In other words, the border enforcement build-up seems to have made no appreciable difference in terms of migrants' ability to enter the United States clandestinely. Such high success rates do not occur by chance; rather, they are achieved through an evolving array of border crossing strategies pursued by migrants and the professional people-smugglers ("coyotes") who assist them.

¹ See Wayne A. Cornelius and Jessa M. Lewis, eds., *Impacts of Border Enforcement on Mexican Migration: The View from Sending Communities* (Boulder, CO: Lynne Rienner Publishers, 2007); Wayne A. Cornelius, David Fitzgerald, and Pedro Lewin-Fischer, eds., *Mayan Journeys: The New Migration from Yucatán to the United States* (Boulder, CO: Lynne Rienner Publishers, 2007); Wayne A. Cornelius, David Fitzgerald, and Scott Borger, eds., *Four Generations of Norteños: New Research from the Cradle of Mexican Migration* (Boulder, CO: Lynne Rienner Publishers, 2008).

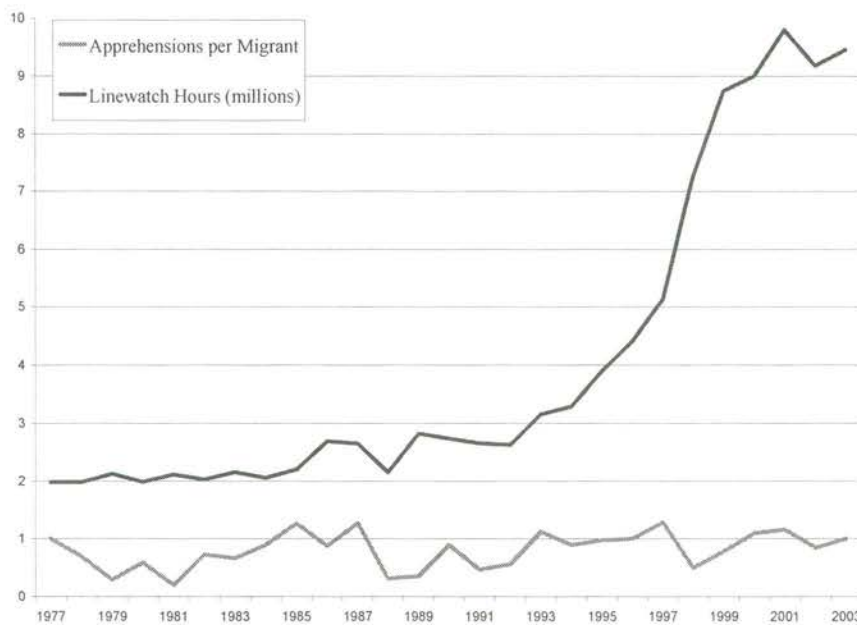
Figure 3: Apprehension and Eventual Success Rates among Undocumented Oaxacans



MEASURING THE EFFICACY OF BORDER ENFORCEMENT: POLICY VS. ECONOMICS

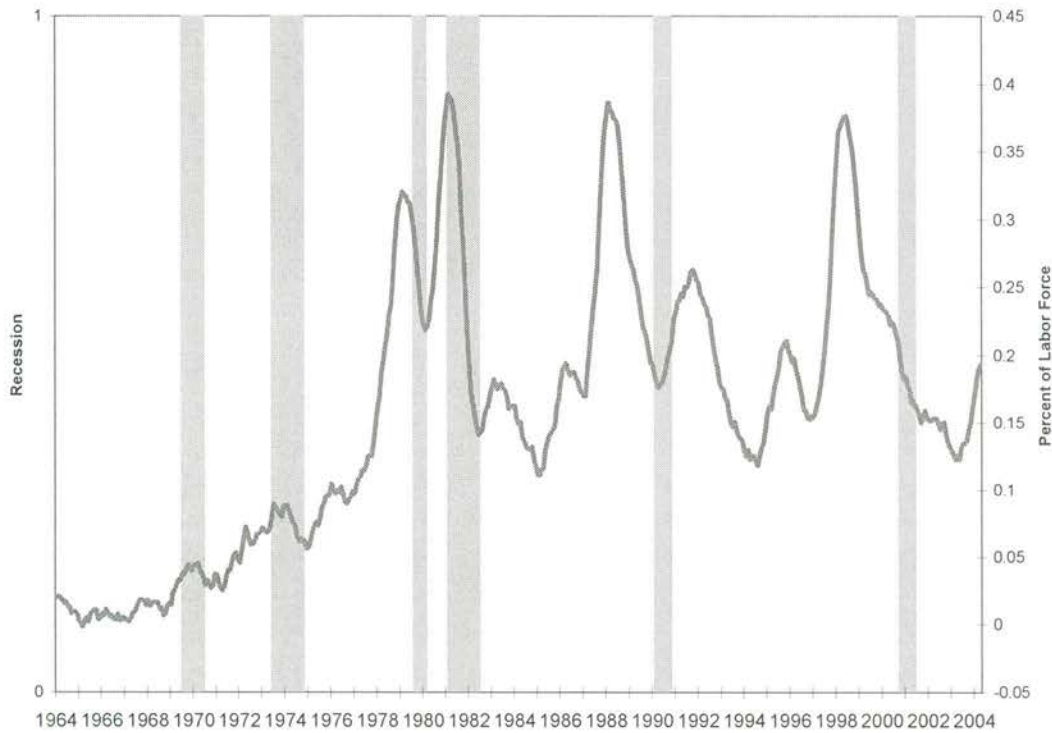
To assess the impact of border enforcement policy on the flow of undocumented migrants, we need to relate changes in migrant behavior to U.S. policy shifts over time as well as to changes in economic conditions in the United States and Mexico. To do this we created a time series from aggregate statistics on apprehensions made by the Border Patrol and micro-level survey data from our field research program. For this analysis we used data on 684 unauthorized migrants who were interviewed between January 2006 and January 2008. The data represent the number of times that an undocumented migrant was apprehended before he or she succeeded in entering. Previously published studies have assumed that any increase in border enforcement would increase the apprehensions-to-migrant ratio. However, Figure 4 demonstrates that the apprehension rate has *not* increased in tandem with the level of Border Patrol effort, measured by the number of hours that agents spend patrolling the border.

Figure 4: Border Enforcement Intensity and the Probability of Apprehension



Using these data, we estimate the flow of undocumented migrants into the U.S. and place it into the context of what is happening in the U.S. labor market. Figure 5 reports the percentage of recently arrived undocumented migrants (defined as migrants who crossed the border in the previous three months) in the U.S. labor force, using a 12-month moving average to smooth seasonal fluctuations. The blue bars represent periods of economic contraction. We find that undocumented migration clearly responds to changing U.S. economic conditions, with steep increases in the flow toward the end of expansion phases of the business cycle and significant decreases during economic downturns. Moreover, the pattern of undocumented migrants responding to economic conditions rather than policy decisions has continued during the border enforcement build-up that began in 1993.

Figure 5: Recent Undocumented Migrants as a Percent of the U.S. Labor Force

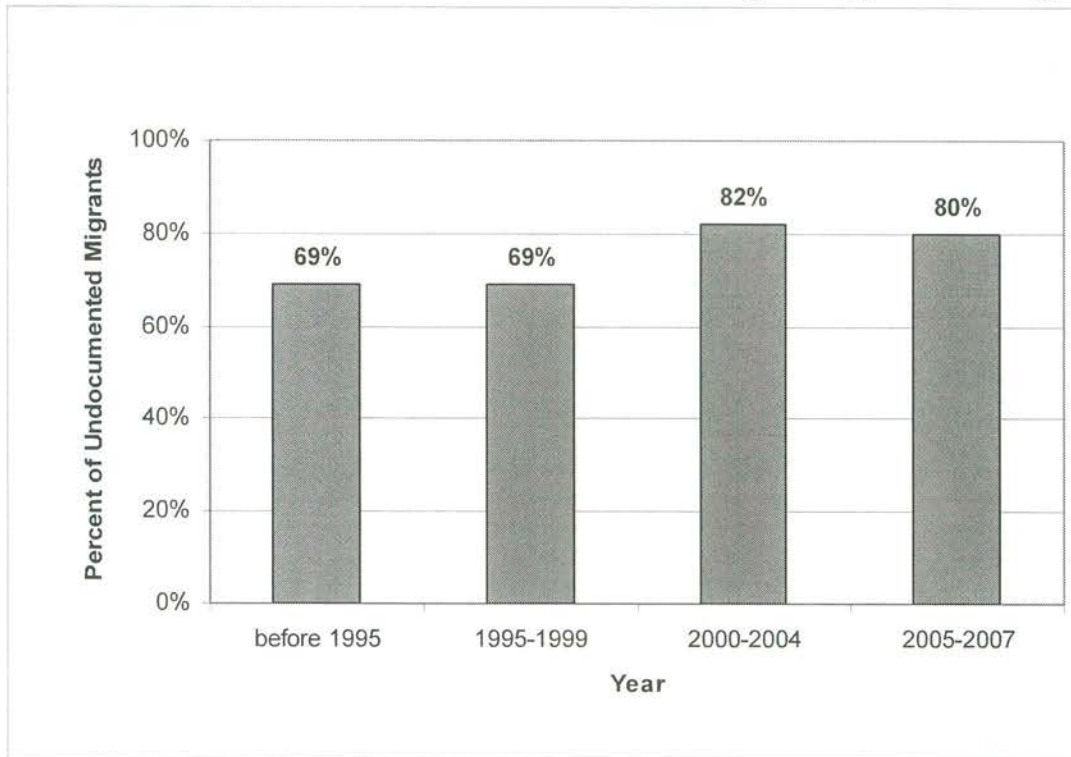


ADAPTING TO A FORTIFIED BORDER

The most common way in which undocumented migrants have adapted to tighter border enforcement has been to rely upon the skills and experience of *coyotes* to guide them across the border and transport them to their final destination. Hiring a *coyote* was an option chosen by many Mexican migrants even before the current border fortification effort began. But *coyotes* are no longer optional; tougher border control has made them indispensable to a successful and relatively safe crossing.

As shown in Figure 6, there was a sharp increase in *coyote* use among our Oaxacan interviewees, between the late 1990s (when border controls were still being implemented in most areas) and the current decade (when concentrated border enforcement operations were fully implemented in California and Arizona). Today, four out of five undocumented migrants are relying on *coyotes* to evade the Border Patrol and reduce the risks of crossing through remote desert and mountainous areas that pose life-threatening hazards.

Figure 6: Use of a Coyote on Most Recent Border Crossing, among Oaxacan Migrants

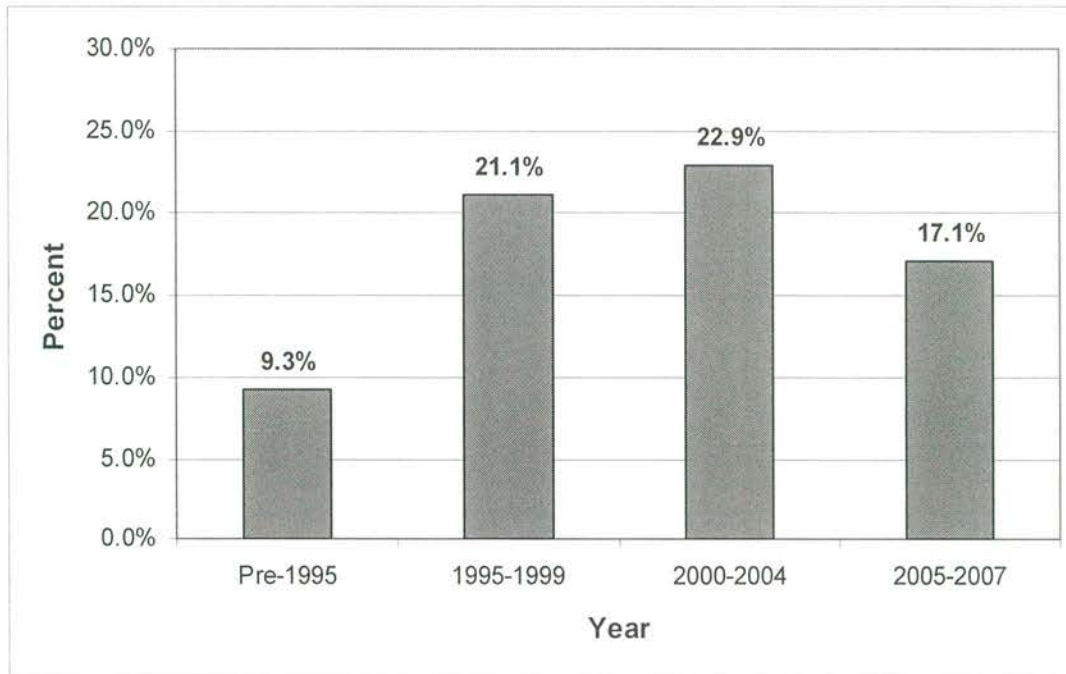


For most undocumented migrants, hiring a *coyote* virtually guarantees success. Among the Oaxacan migrants whom we interviewed, 100% of those who had used a *coyote* were able to enter the United States successfully on their most recent trip to the border. As the demand for *coyotes* has risen, the fees that they can command have increased in tandem. *Coyote* fees have doubled or tripled, border-wide, in the post-1993 period. Since 1995, among our Oaxacan interviewees, payments to *coyotes* have been rising, on average, by 5 percent per year, controlling for inflation. The average fee paid to a *coyote* in 1995 was \$978; by 2005-07 it had risen to \$2,124. This striking run-up in *coyote* fees is a direct consequence of heightened border enforcement. Most migrants borrow the money from relatives in the United States and/or use personal savings.

Logistical decisions about when and where to cross the border are delegated to *coyotes*. In our study of Oaxacan migrants, we found that the overwhelming majority (72%) had crossed in the San Diego/Tijuana area, which until recently the Border Patrol had claimed to be under “operational control.” Among our Oaxacan interviewees, nearly one out of five had passed through a legal port of entry, either concealed in a compartment of a vehicle or as a passenger, using false or borrowed documents.

This is a preferred mode of entry, especially for women and children, because it reduces physical risk to zero; however, *coyotes* are charging upwards of \$3,500 for this type of crossing. Nevertheless, as shown in Figure 7, this mode of entry has increased significantly in popularity since 1995. As enforcement is tightened in areas between the legal ports of entry, more of the clandestine traffic is passing through the ports – the latest example of what Border Patrol agents call the “squeezing the balloon” phenomenon. Similarly, there is evidence that a portion of the traffic is shifting from the land border to the maritime border: Since August 2007 more than two dozen people-smugglers’ boats have been intercepted or found washed ashore on the beaches of San Diego County.

Figure 7: Border Crossings Made through a Legal Port of Entry, among Unauthorized Oaxacan Migrants



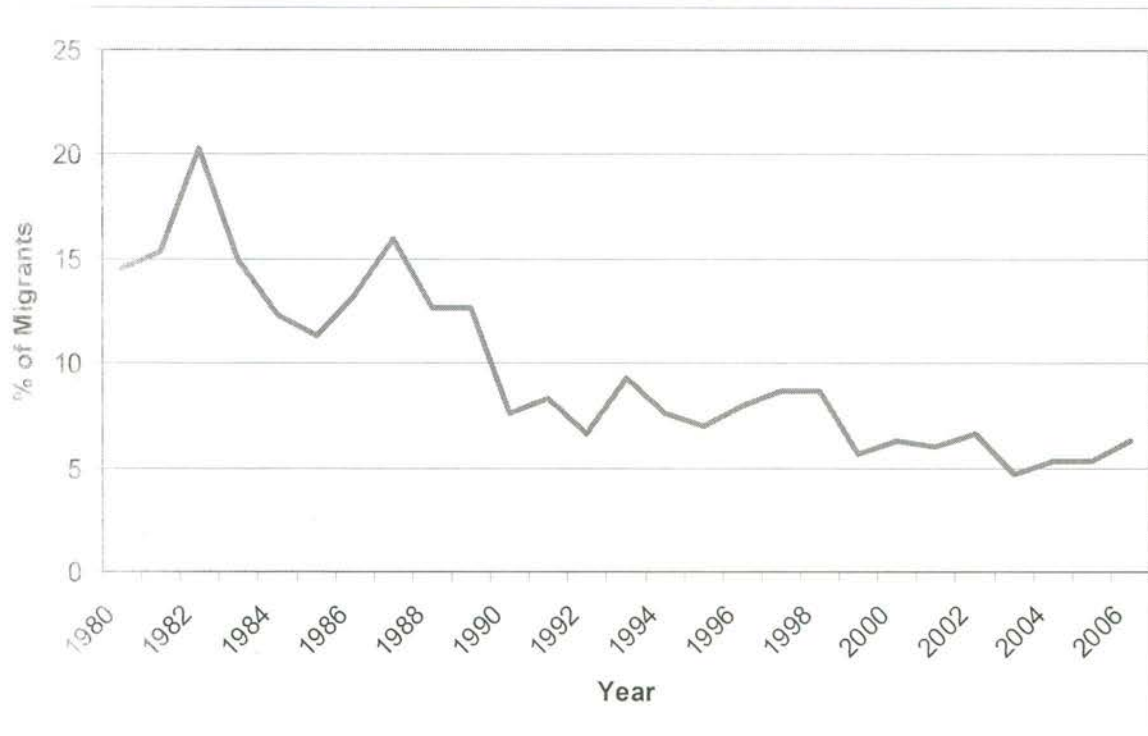
UNINTENDED CONSEQUENCES OF BORDER ENFORCEMENT

In addition to fueling a booming people-smuggling industry, border enforcement has had several other significant unintended consequences.² Fatalities resulting from clandestine border crossings have risen to at least 500 per year (more than 4,700 migrants have died since 1995, and these represent only the bodies that have been discovered). Most notably, in terms of its long-term consequences for both Mexico and the U.S., tougher border enforcement has helped to turn what used to be a two-way migration flow between Mexico and the United States into a largely one-way, south-to-north flow.

In the traditional pattern of Mexican migration to the U.S., most migrants were unaccompanied males who engaged in circular migration. Every 6-12 months they would rotate between working in the United States and returning to their hometown for extended stays. Today, while some circular migration continues, more Mexican migrants are staying longer in the United States, bringing their families with them, and putting down roots in the United States. Figure 8 shows the sharp decrease in return migration from the U.S. to our research site in Oaxaca. Another key of declining circularity in migration is the incidence of houses in migrant-sending communities that have been abandoned by families, all of whose members now live in the United States. In our Oaxaca research community, 31 percent of the total housing stock was uninhabited last December.

² Border Patrol officials and Homeland Security Secretary Michael Chertoff have often cited rising coyote fees as an *intended* consequence of the border enforcement build-up and a key indicator of its effectiveness. But this would be an indicator of efficacy only if people-smugglers were being priced out of the market. All available evidence, including our own, suggests that this is not happening. Migrants and their U.S.-based relatives are digging deeper into their pockets to finance *coyote*-assisted crossings. Professionally assisted crossings are more likely to succeed, which is one reason why border apprehensions have been trending downward since 2006, together with slumping demand for labor in the U.S. construction industry and reduced circularity in Mexico-to-U.S. migration.

Figure 8: Probability of Returning from the U.S. to Mexico, among Undocumented Oaxacan Migrants (3-year moving average)

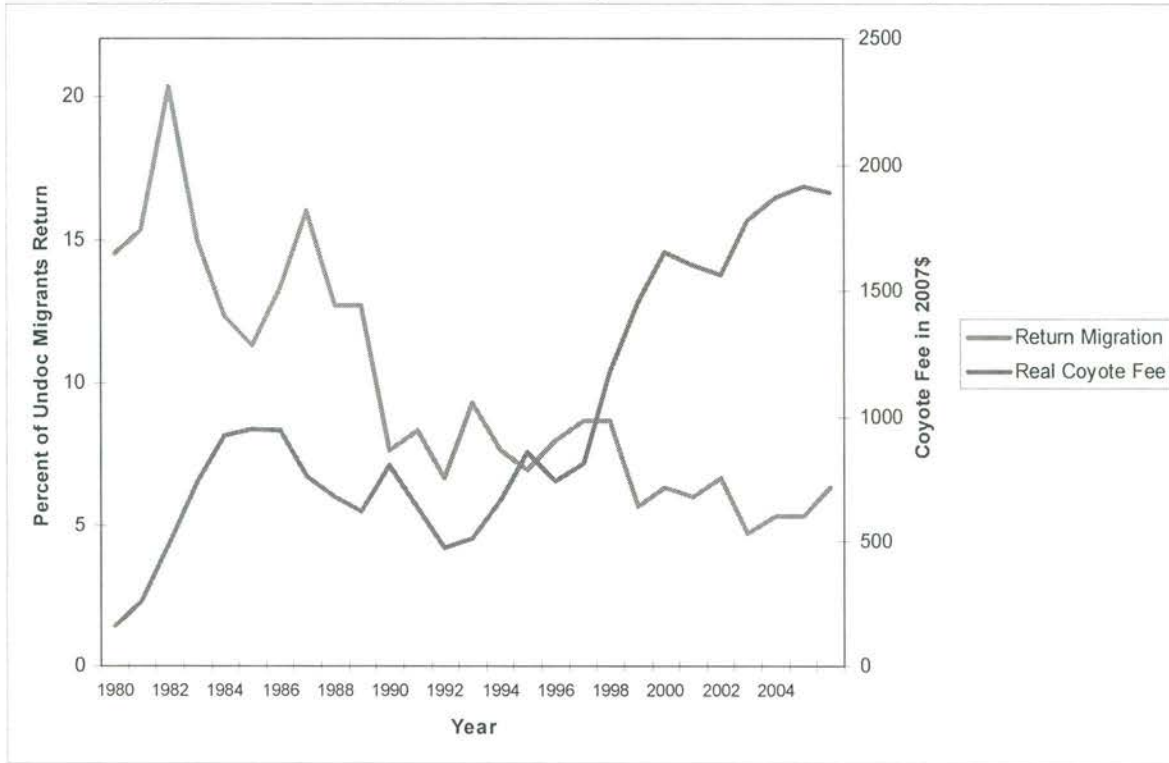


What explains the change in migration patterns from cyclical sojourners to permanent settlers? In our field research we found three factors to be most influential: the rising cost of *coyote*-assisted border crossings; the deepening of migrants' social networks within the United States, as a result of family reunification on the U.S. side of the border; and greater availability of permanent, year-round job opportunities for Mexican migrants in the U.S. economy. All of these factors except the last one are directly related to border enforcement.

We found that among our undocumented Oaxacan interviewees, as *coyote* fees rise, unauthorized migrants are staying in the U.S. for longer periods, and their probability of returning to Mexico declines (see Figure 9). There is an almost perfect inverse relationship between *coyote* fees and the probability of return migration. Understandably, after paying off a substantial debt for their most recent crossing, it is daunting to consider going back to the hometown for a visit and then having to pay a *coyote* thousands of dollars to return to one's job in the United States.

Our research shows that the more time a migrant spends in the United States, the greater the likelihood of him or her staying put. If the ongoing border enforcement build-up makes return trips to Mexico prohibitively expensive, undocumented migrants will continue to deepen their roots north of the border. Given our findings on the eventual success rate among undocumented migrants, it is entirely possible that stronger border enforcement has bottled up more of them within the U.S. than it has kept out.

Figure 9: Probability of Return Migration in Relation to Coyote Fees



Millions of undocumented immigrant children and their parents are now in the United States as an unintended consequence of tougher border enforcement, which has promoted family reunification on the U.S. side of the border. Our research illustrates the price being paid by both immigrant students and U.S. society at large for their continued undocumented status. We find that undocumented students from Oaxaca experience significant educational progress in San Diego County, especially as compared to their counterparts who remain in Mexico (see Figure 10). However, these students are being held back by their lack of legal status.

As shown in Figure 11, we found that 77% of documented Oaxacan migrants who immigrate to San Diego County during their compulsory schooling years complete high school, but only 31% of their undocumented counterparts attain a high school diploma. We also found that only 34% of undocumented migrants arriving in the U.S. at school age completed *any* schooling in the United States (the corresponding figure for documented students is 90%). In other words, the vast majority of undocumented students do not *drop into* school.

A generous legalization program and the DREAM Act are needed to bring these students and their parents out of the shadows and ensure that their human capital is fully developed. Our fieldwork in U.S. migrant-receiving cities suggests that efforts to penalize undocumented students for their immigration status, such as denying them tuition-free college education and financial aid, will not induce them to voluntarily “self-deport.” It will only impair their academic performance, raise their drop-out rate, and reduce their future contributions to tax revenues.

Beyond legalization, our research findings point to the need for comprehensive immigration reform. Absent tough workplace enforcement, a well-functioning guestworker program, and a more

realistic supply of permanent resident visas, border enforcement clearly is not keeping undocumented migrants out of the U.S. labor market. It is, however, producing a host of unintended consequences.

Figure 10: Educational Attainment among Oaxacans in Mexico and the United States, by Age

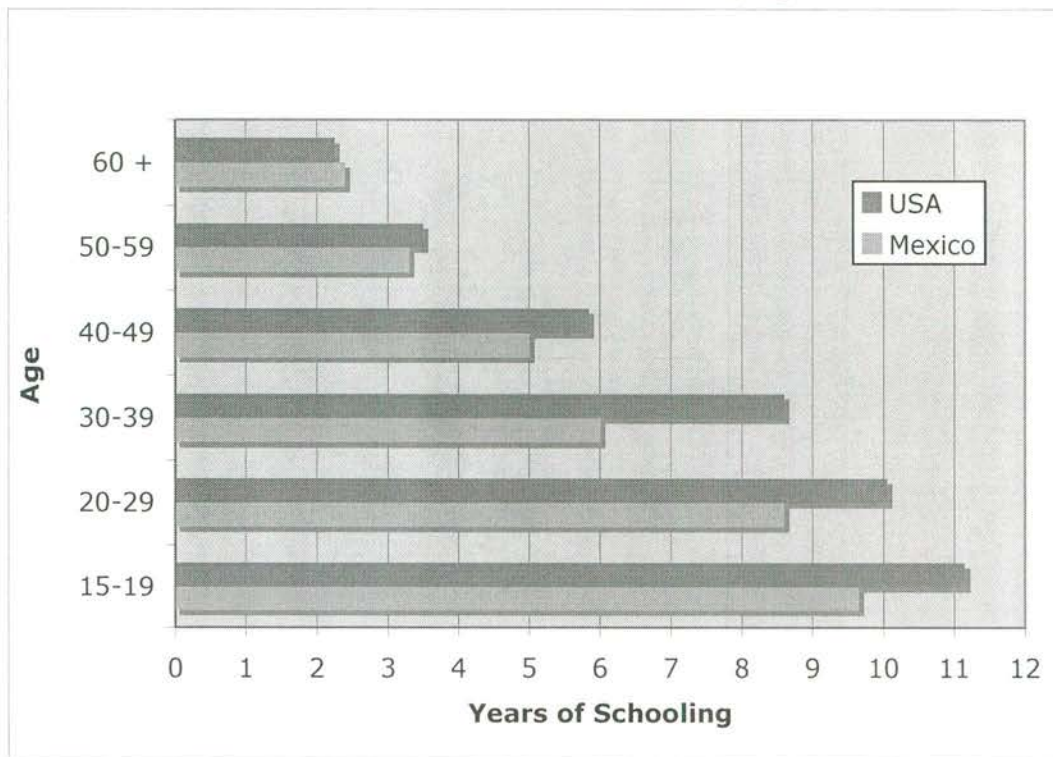
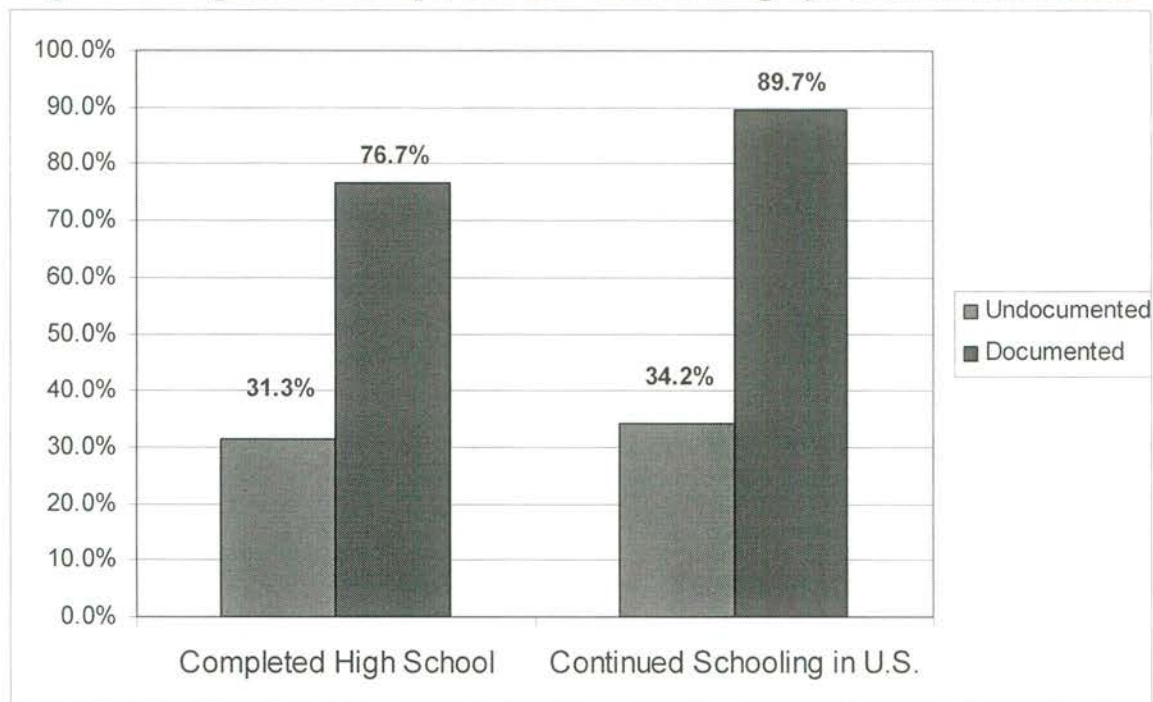


Figure 11: High School Completion and U.S. Schooling, by Documentation Status



GAO

Testimony before the Subcommittee on
International Organizations, Human Rights
and Oversight, Committee on Foreign
Affairs, House of Representatives

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HIGHER EDUCATION

Challenges in Attracting International Students to the United States and Implications for Global Competitiveness

Statement of George A. Scott, Director
Education, Workforce, and Income Security Issues





Highlights of GAO-07-1047T, a testimony before the Subcommittee on International Organizations, Human Rights, and Oversight, Committee on Foreign Affairs, House of Representatives

Why GAO Did This Study

More international students obtain a higher education in the United States than in any other country, and they make valuable contributions while they are here. For those students returning home after their studies, such exchanges support federal public diplomacy efforts and can improve understanding among nations.

International students have earned about one-third or more of all U.S. degrees at both the master's and doctoral levels in several of the science, technology, engineering, and mathematics fields. Yet recent trends, including a drop in international student enrollment in U.S. colleges and universities, and policy changes after September 11, 2001, have raised concerns about whether the United States will continue to attract talented international students to its universities.

This testimony is based on ongoing and published GAO work. It includes themes from a September 2006 Comptroller General's forum on current trends in international student enrollment in the United States and abroad. Invitees to the forum included experts from the Congress, federal agencies, universities, research institutions, higher education organizations, and industry.

What GAO Recommends

This testimony does not contain recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-07-1047T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact George Scott at 202-512-5932 or ScottG@gao.gov.

HIGHER EDUCATION

Challenges in Attracting International Students to the United States and Implications for Global Competitiveness

What GAO Found

GAO identified the following key issues that may affect the United States' ability to continue attracting the world's most talented international students to our universities and colleges:

- The global higher education landscape is changing and providing more alternatives for students, as other countries expand their educational capacity and technology-based distance learning opportunities increase. For example, enrollment in college-level distance education has nearly quadrupled since 1995. In addition, U.S. universities are establishing branch campuses in other countries and partnerships with international institutions, allowing international students to receive a U.S. education without leaving home. Greater competition has prompted some countries to offer courses in English and to expand their recruiting activities and incentives. Some countries also have developed strategic plans or offices focused on attracting international students.
- The cost of obtaining a U.S. degree is among the highest in the world and rising, which may discourage international students. Average tuition in 2003 at public U.S. colleges and universities was second only to Australia. Moreover, tuition and associated costs continue to rise. While the effects of high and rising costs and related factors are difficult to estimate, some policymakers are concerned they may be discouraging international students from coming to the United States.
- Visa policies and procedures, tightened after September 11 to protect our national security, contributed to real and perceived barriers for international students. Post-September 11 changes included a requirement that almost all visa applicants be interviewed, affecting the number of visas issued and extending wait times for visas under certain circumstances. GAO has made several recommendations to strengthen the visa process in a way that reduces barriers for international students while balancing national security, and recent changes have improved the process. Processing times for certain security reviews have declined, and recent data show more student visas issued in the last few years. The Department of State also has taken steps to ease the burden on students, including expediting interviews and extending the length of time that some visa clearances are valid. We are continuing to study aspects of these issues.

The United States must maintain an appropriate balance between protecting national security interests and ensuring our long-term competitiveness. Monitoring current trends and federal policies is essential to ensuring that the United States continues to obtain talented international students in the face of greater global competition.

Chairman Delahunt, Chairman Hinojosa and Members of the
Subcommittees:

I am pleased to be here today to discuss the challenges in attracting international students to the United States and implications for global competitiveness. Over 2 million students worldwide study outside of their country of origin and make economic and foreign policy contributions to their host countries. The United States has relied on undergraduate and graduate students from other countries to support both economic and foreign policy interests. International students have been important sources of innovation and productivity in our increasingly knowledge-based economy, brought needed research and workforce skills, and strengthened our labor force. For those students returning home after their studies, such exchanges support federal public diplomacy efforts and can improve understanding among nations.

The United States' competitiveness in a global society must strike a proper balance among protecting our national security interests, ensuring our long-term competitiveness, and building bridges with other nations and their people. It is also essential that we continue to develop our own domestic capacity.

My testimony today touches on several of the key issues that may affect the United States' ability to continue attracting the world's most talented international students to our universities and colleges. My remarks today are drawn primarily from previous GAO reports, and the framework for discussing the issues is based on the perspectives and insights from the Comptroller General's forum held in September 2006 to discuss American global competitiveness in higher education that included leaders from government, universities, research institutions, higher education organizations, and industry.¹ The forum participants' suggestions and views reported here are not intended to reflect the views of GAO. All of the work on which this testimony is based was performed in accordance with generally accepted government auditing standards.

¹GAO, *Highlights of a GAO Forum: Global Competitiveness: Implications for the Nation's Higher Education System*, GAO-07-135SP (Washington, D.C.: Jan. 23, 2007).

In summary:

- The global landscape of higher education is changing and providing more alternatives for students, particularly as other countries expand their educational capacity and technology-based distance learning opportunities increase.
- The cost of obtaining a degree in the United States is rising, which may discourage international students from enrolling in our colleges and universities.
- Visa policies and procedures, tightened after September 11, 2001, to protect our national security interests, may have contributed to real and perceived barriers for international students seeking to enter the country, but recent changes have helped ease barriers.

Background

The United States has historically sought to attract international students to its colleges and universities. In recent years international students have earned about one-third or more of all of the U.S. degrees at both the master's and doctoral levels in several of the science, technology, engineering, and mathematics (STEM) fields. In academic year 2002-2003 alone, international students earned between 45 percent and 57 percent of all the STEM degrees in the United States.²

Several federal agencies coordinate efforts to attract and bring international students to the United States and implement related requirements. The Department of State (State) manages the student visa application process, administers some student exchange programs, offers grants to facilitate international exchanges, and provides information promoting educational opportunities in the United States. State's Bureau of Educational and Cultural Affairs supports a global network of more than 450 advising centers around the world that provide comprehensive information about educational opportunities in the United States and guidance on how to access those opportunities. In addition, the Undersecretary for Public Diplomacy and Public Affairs has undertaken ongoing efforts at outreach. For example, the office has organized several delegations of American university presidents to travel overseas with the Undersecretary in order to emphasize the United States' interest in welcoming international students. The Department of Homeland Security enforces immigration laws and oversees applications for changes in

²GAO, *Higher Education: Federal Science, Technology, Engineering, and Mathematics Programs and Related Trends*, GAO-06-114 (Washington, D.C.: Oct. 12, 2005).

immigration status. It also administers the Student and Exchange Visitor Information System (SEVIS), an Internet-based system that maintains data on international students and exchange visitors before and during their stay in the United States. Finally, the Department of Education (Education) sponsors initiatives to encourage academic exchanges between the United States and other countries, and the Department of Commerce offers various activities to help U.S. educational institutions market their programs abroad.

Students or exchange visitors interested in studying in the United States must first be admitted to a U.S. school or university before starting the visa process.³ Most full-time students enter the United States under temporary visas, which usually permit them to stay for the duration of their studies but may require renewals if they return home before their studies are complete. In order to apply for a visa at a U.S. embassy or consulate, students are required to submit a SEVIS⁴-generated document issued by a U.S. college or university or State-designated sponsor organization when they apply for a visa.⁵ State advises student applicants to apply early for a student or exchange visitor visa to make sure that there is sufficient time to obtain an appointment for a visa interview and for visa processing. Among the long-standing requirements for students applying for a visa is that they demonstrate an “intent to return” to their country of origin after they complete their studies. Graduates who wish to stay and work in the United States beyond the time allowed by their student visas generally need to receive approval for a change in status, for example, through a temporary work visa or through permanent residency.

³A visa allows a foreign citizen to travel to a U.S. port-of entry and request permission from the U.S. immigration officer to enter the United States. It does not guarantee entry into the United States.

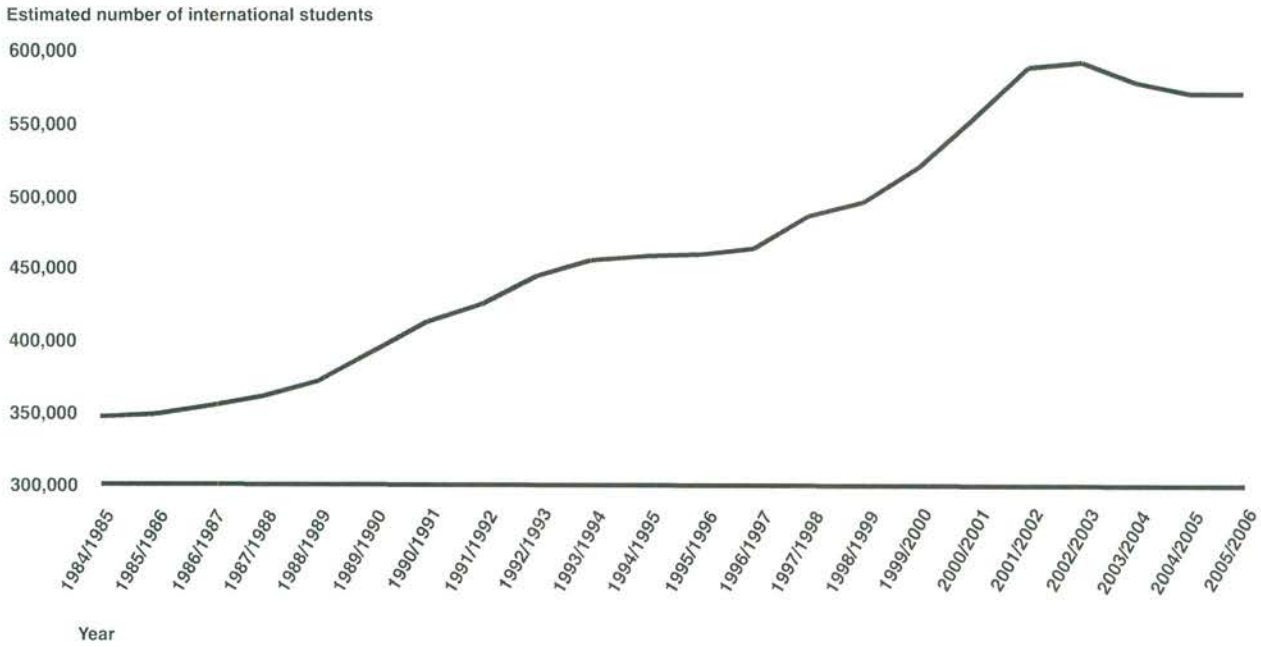
⁴Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), as amended, requires the creation and implementation of a program to collect information relating to nonimmigrant foreign students and exchange visitor program participants during the course of their stay in the United States. Pub. L. No. 104-208, Div. C, Tit. VI, § 641, 110 Stat. 3009-704 (1996), codified as amended at 8 U.S.C. § 1372. The program became known as SEVP (Student and Exchange Visitor Program), and its core technology became known as SEVIS. It is administered by the Bureau of Immigration and Customs Enforcement (ICE) within the Department of Homeland Security (DHS), and is an Internet-based system that maintains data on foreign students and exchange visitors before and during their stay in the United States.

⁵The U.S. academic institution or program sponsor provides the appropriate SEVIS-generated form when the applicant has been academically admitted to the institution or accepted as a participant in an exchange program. To ensure that they will be able to arrive in time for the start of their educational program in the United States, applicants need to request and receive the appropriate visa-qualifying document from the U.S. institution or program sponsor well in advance of their planned arrival in the United States.

Although the United States continues to enroll more international students than any other country, the number of international students enrolled in U.S. higher education institutions leveled off and even dropped slightly after 2001, as shown in figure 1. Figure 2 shows that the U.S. share of international students worldwide decreased between 2000 and 2004. According to the Institute of International Education, the decline in the number of international students attending U.S. higher education institutions between 2002 and 2003 was the first drop in over 30 years.⁶ While some preliminary data suggest that international student enrollment numbers may be rebounding, enrollments have yet to return to previous levels. Nevertheless, the United States continues to be a prime study destination for international students for numerous reasons: its high-quality higher education institutions, top-ranked graduate programs, strong research funding, English-language curriculum, and a diverse foreign-born faculty.

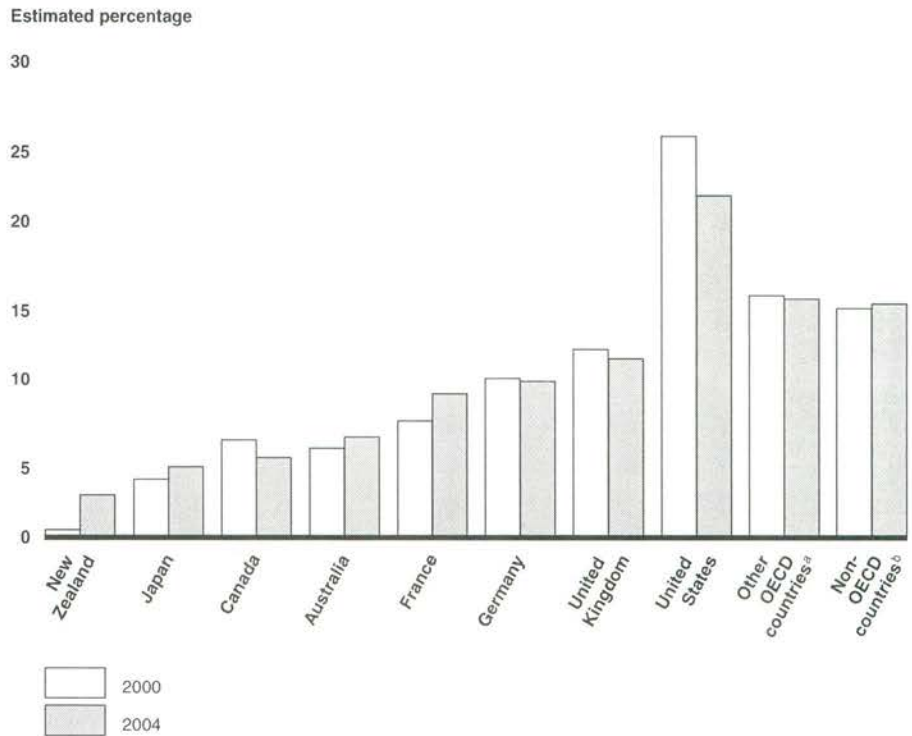
⁶Institute of International Education, *Open Doors: Report on International Educational Exchange*, 2004, New York.

Figure 1: Estimated Number of International Students Enrolled in U.S. Higher Education, 1984/1985 to 2005/2006



Source: Institute of International Education (IIE) data.

Figure 2: Estimated Percentage of All International Higher Education Students Enrolled in a Selection of Countries by Destination, 2000 and 2004



Source: Organisation for Economic Co-operation and Development (OECD) data.

Note: Information in this graph includes only those countries for which both 2000 and 2004 data were available, except for Canada, for which the year of reference is 2002. GAO did not assess the reliability of the data for the percentage of students enrolled in schools outside the United States. Also, the definition of international students is not uniform across countries.

^aOther OECD countries include Austria, Belgium, Denmark, Finland, Greece, Hungary, Iceland, Ireland, Italy, Korea, Luxembourg, Mexico, the Netherlands, Norway, Poland, Portugal, the Slovak Republic, Spain, Sweden, Switzerland, and Turkey.

^bNon-OECD countries include Brazil, Chile, India, Malaysia, the Russian Federation, South Africa, and others.

The Global Higher Education Landscape Is Providing More Options for Students

As worldwide demand for higher education continues to rise, changes in the global higher education landscape have provided students with more options. For example, technological advancements have spurred online courses and even completely online programs that cater largely to nontraditional students having work and family commitments. Between 1995 and 2001, enrollment in distance education at the college level nearly

quadrupled to over 3 million students, according to Education's most recent data.

In addition, international partnerships allow institutions to share faculty members and facilitate study abroad opportunities. International branch campuses now provide international students the opportunity to receive an American education without leaving their home country.

Greater competition has prompted some countries to embrace instruction in English and encouraged other systems to expand their recruiting activities and incentives. Germany alone offers nearly 400 courses in English that are geared toward international students. In terms of recruiting, several of the participants during our global competitiveness and higher education forum suggested that some countries appear more committed to attracting international students than the United States or are now competing with the United States for the best and the brightest students. Japan offers the same subsidized tuition rates to international students as domestic students, while Singapore offers all students tuition grants covering up to 80 percent of tuition fees as long as they commit to working in Singapore for 3 years after graduation. France and Japan have also strengthened and expanded their scholarship programs for international students. Some countries' recruiting efforts include providing scholarships to international students who may not be able to afford the costs of obtaining a higher education degree in the United States.

In addition, some countries have also developed strategic plans or offices that address efforts to attract international students. The German Academic Exchange Service and EduFrance offer examples where government agencies have been tasked with international student recruitment. Participants at GAO's forum on global competitiveness expressed concerns that the United States lacked such a national strategy for recruiting international students and emphasized a need to both explore new sources of international students as well as cultivate U.S. domestic capacity.

Rising Cost of U.S. Higher Education May Discourage Some International Students from Coming

As the cost of attending college in the United States rises, international students may be discouraged from coming here to study. Higher education in the United States ranks among the most expensive in the world. As shown from OECD data in table 1, in 2003-2004 annual average tuition at

public U.S. colleges and universities (\$4,587) was second only to Australia (\$5,289) and more than 2.5 times higher than Europe's system with the highest tuition fees, that of the United Kingdom.⁷ In terms of private higher education providers, U.S. institutions ranked the highest at more than \$17,000 per year followed by Australia (\$13,420), Italy (\$3,992), and Portugal (\$3,803).

Table 1: Estimated Annual Average Tuition Fees Charged by Select OECD Countries' Tertiary-Type A Educational Institutions (School Year 2003-2004)

OECD countries	Public institutions	Private institutions
Australia	\$5,289	\$13,420
United States	4,587	17,777
Canada	3,267	--
New Zealand	2,538	3,075
Italy	983	3,992
Portugal	868	3,803
Austria	853	800
Spain	801	--
Belgium (Other)	658	751
Belgium (Flanders)	540	536
Hungary	351	991
Czech Republic	0	3,449
Denmark	0	--
Finland	0	0
Iceland	0	3,000
Slovak Republic	0	--
Sweden	0	0
Netherlands	--	1,565
United Kingdom	--	\$1,794

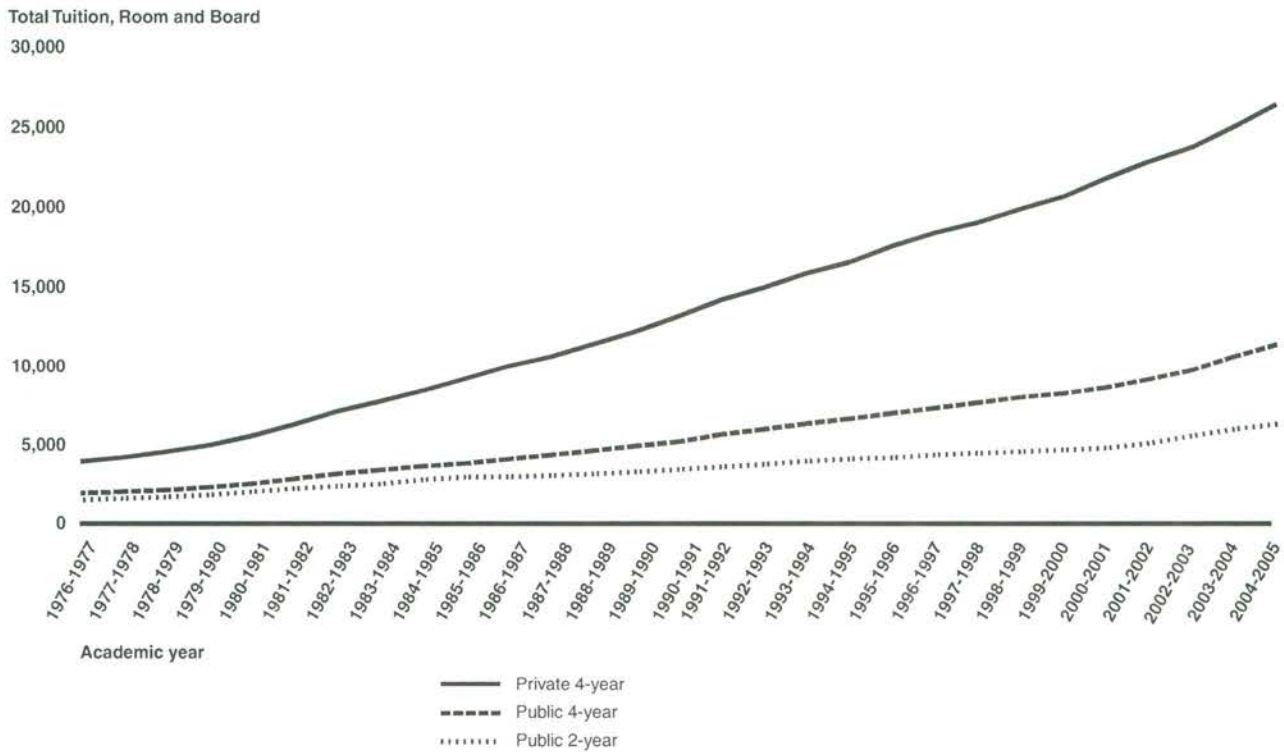
Source: OECD Education at a Glance 2006. Paris.

⁷Higher education institutions in the United Kingdom are privately controlled. However, because they are funded largely by the state, they are commonly regarded as public institutions in international comparative analyses.

Note: In equivalent U.S. dollars converted using purchasing power parity (PPP), by type of institutions, based on full-time students. Zero values indicate no tuition and dashed values indicate that data were either missing or the category was not applicable. These figures represent the weighted average of the main Tertiary-type A programs and do not cover all educational institutions. However, the figures reported can be considered as good proxies and show the difference among countries in tuition fees charged by main educational institutions for the majority of students. Tertiary-type A programs are largely theory-based and designed to provide sufficient qualifications for entry to advanced research programs and professions with high skill requirements. They have a minimum cumulative theoretical duration of three years' full-time equivalent, although they typically last four or more years.

Moreover, student costs at U.S. colleges and universities continue to rise. Figure 3 depicts average undergraduate tuition and room and board costs between 1976 and 2004 for full-time students in degree-granting programs at both 4-year public and private higher education institutions as well as public 2-year institutions. Average costs for private colleges and universities have risen the most since 1990, from \$13,237 to \$26,489. However, in percentage terms the most growth took place at 4-year public institutions; the change between 1990 and 2004 was approximately 118 percent compared to a 100 percent increase at 4-year privates and an 83 percent increase at 2-year institutions.

Figure 3: Average Undergraduate Tuition and Fees and Room and Board Rates Charged for Full-Time Students in Degree-Granting Institutions, by Type and Control of Institution: 1976-1977 through 2004-2005



Source: U.S. Department of Education. Digest of Education Statistics: 2005.

Note: Data for 1986-1987 and later years reflect a basis of 20 meals per week rather than meals 7 days per week. Because of this revision in data collection and tabulation procedures, data are not entirely comparable with figures for previous years. Room and board data are estimated. Data were imputed using alternative procedures. Preliminary data based on fall 2003 enrollment weights. Data are for the entire academic year and are average total charges for full-time attendance. Tuition and fees were weighted by the number of full-time-equivalent undergraduates, but were not adjusted to reflect student residency. Room and board were based on full-time students. The data have not been adjusted for changes in the purchasing power of the dollar over time. Data for 1976-1977 to 1996-1997 are for institutions of higher education. Institutions of higher education were accredited by an agency or association that was recognized by the U.S. Department of Education, or recognized directly by the Secretary of Education. Because of their low response rate, data for private 2-year colleges must be interpreted with caution.

International students generally do not rely on U.S. federal funding to study in the United States. According to the Institute of International Education's Open Doors 2004/2005 report, which provides data on international student mobility patterns from U.S. universities, an estimated 71 percent of all international students reported their primary source of funding coming from personal and family sources or other sources outside of the United States. The effects of high and rising tuition and other factors on international enrollment patterns are difficult to estimate, but some

policyholders are concerned that costs may be discouraging some international students from coming to U.S. higher education institutions.

Changes in U.S. Visa Policies Contributed to Real and Perceived Barriers for International Students to Enter the Country, but Recent Improvements Have Helped Ease Some of the Burden

After September 11, State and Homeland Security, as well as other agencies, took various steps to strengthen the visa process as an antiterrorism tool. This has made the visa process more robust, but may have contributed to real and perceived barriers for international students as well as fueled perceptions that international students were not welcome. Almost all visa applicants must now be interviewed by a consular adjudicating officer at a U.S. embassy or post; this requirement has both affected the number of visas issued and extended wait times for visas under certain circumstances.⁸ We have reviewed aspects of the visa process and have made many recommendations to strengthen the process in a way that reduces barriers for international students while balancing national security interests. In October 2002 we cited the need for a clear policy on how to balance national security concerns with the desire to facilitate legitimate travel when issuing visas and made several recommendations to help improve the visa process.⁹ In 2003, we reported that the Departments of State, Homeland Security, and Justice could more effectively manage the visa process if they had clear and comprehensive policies and procedures as well as increased agency coordination and information sharing.¹⁰ In 2005 we reported on State's management of J-1 exchange programs.¹¹ Separately in 2005, we reported on the department's efforts to improve the time required to process visas for international science students and scholars as well as others.¹² In 2004 we found that the time to adjudicate a visa depended largely on whether an applicant had to undergo a Visas Mantis security check. Visas Mantis security checks target

⁸See GAO, *Border Security: Reassessment of Consular Resource Requirements Could Help Address Visa Delays*, GAO-06-542T (Washington, DC: Apr. 4, 2006).

⁹GAO, *Border Security: Visa Process Should Be Strengthened as an Antiterrorism Tool*, GAO-03-123NI (Washington, D.C.: Oct. 21, 2002).

¹⁰GAO, *Border Security: New Policies and Increased Interagency Coordination Needed to Improve Visa Process*, GAO-03-1013T (Washington, DC: July 15, 2003).

¹¹GAO, *State Department: Stronger Action Needed to Improve Oversight and Assess Risks of the Summer Work Travel and Trainee Categories of the Exchange Visitor Program*, GAO-06-106 (Washington, D.C.: Oct. 14, 2005).

¹²GAO, *Border Security: Streamlined Visas Mantis Program Has Lowered Burden on Foreign Science Students and Scholars but Further Refinements Needed*, GAO-05-198 (Washington, D.C.: Feb. 18, 2005).

foreigners who might be involved in violation or evasion of U.S. laws by exporting goods, software, technology, or sensitive information, aiming to prevent proliferation of weapons of mass destruction and conventional weapons. Between January 2004 and June 2006, almost 28 percent of all visa applications sent for Mantis security checks were for students or exchange participants. State has acknowledged that long wait times may discourage legitimate travel to the United States, potentially costing the country billions of dollars in economic benefits, including from foreign students,¹³ and adversely influencing foreign citizens' impressions and opinions of our nation.

Much progress has been made over the years with respect to the visa process. Since 2002, State and other agencies have implemented many of our recommendations aimed at strengthening the visa process as an antiterrorism tool while improving processes to facilitate legitimate travel. In particular, State has issued standard operating procedures, in consultation with Homeland Security, to inform consular officers on issues such as special security checks and student visa requirements. In 2005, we reported a significant decline in both Visas Mantis processing times and cases pending more than 60 days.¹⁴ Recent visa data show an increase in the number of student visas issued in the last few years.¹⁵ According to State Department data, the combined student visa issuance levels for fiscal year 2006 increased by about 20 percent from fiscal year 2002. See figure 4 for the issuance trends for individual student visa categories.

Broader efforts to facilitate travel to the United States for international students have also been implemented. State has expedited interviews for students. In addition, the length of time that some visa clearances are valid has been extended. In February 2007, State issued guidance to posts that applicants should receive an appointment for a student visa interview

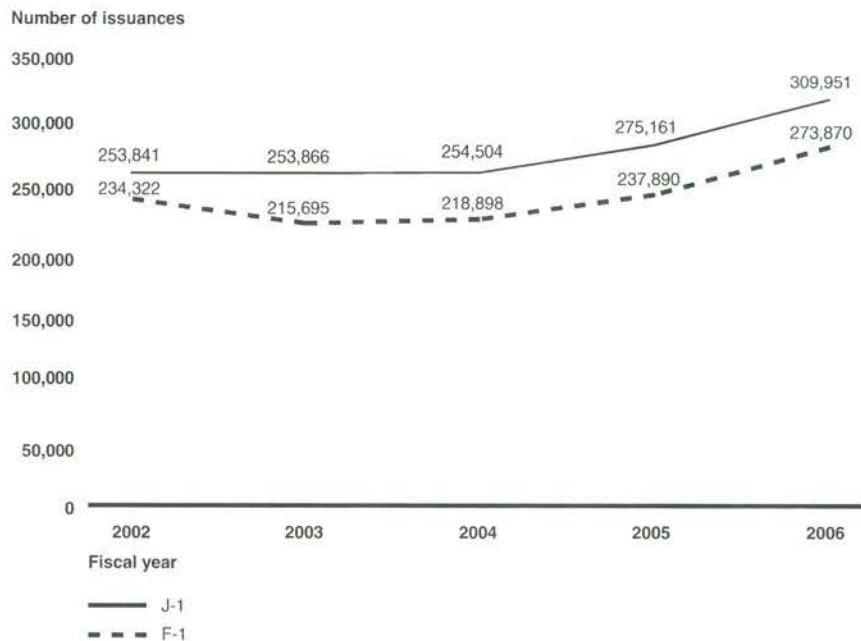
¹³In March 2007, the Deputy Secretary of State for Visa Services testified that, according to Department of Commerce figures, international students contribute \$13.5 billion each year to institutions they attend and the surrounding communities in which they live.

¹⁴GAO, *Border Security: Streamlined Visas Mantis Program Has Lowered Burden on Foreign Science Students and Scholars, but Further Refinements Needed*, GAO-05-198 (Washington, D.C.: Feb. 18, 2005).

¹⁵For purposes of this testimony, unless otherwise noted, when we refer to student and exchange visitor visas we are referring to F-1 and J-1 visa categories only. The F-1 is for individuals seeking to study at accredited American higher education institutions and the J-1 is for participants in visitor exchange programs.

within 15 days or less.¹⁶ We are continuing to study aspect of these issues, including visa delays and Visas Mantis security checks, which we will be reporting on in the coming months.

Figure 4: Student Visa Issuance Trends, Fiscal Years 2002 to 2006



Source: GAO analysis of Department of State data.

Concluding Observations

The United States must maintain an appropriate balance between protecting national security interests and ensuring our long-term competitiveness. The United States has relied on undergraduate and graduate students from other countries to support both economic and foreign policy interests. Changes designed to protect national security in the wake of September 11 may have contributed to real and perceived barriers for international students, and the subsequent decline in international enrollments raises concerns about the long-term competitiveness of U.S. colleges and universities. Rising U.S. tuition costs

¹⁶In July 2004, State issued a cable to posts that directed them to give priority scheduling to persons applying for F, J, and M visas. As explained in the cable, students and exchange visitors are often subject to deadlines, so State directed posts to have well-publicized and transparent procedures in place for obtaining priority appointments for them.

and growing higher education options worldwide further demonstrate that the United States cannot take its position as the top destination for international students for granted. While federal efforts to reduce barriers for international students have helped, monitoring current trends and federal policies is essential to ensuring that the United States continues to obtain talented international students in the face of greater global competition.

Mr. Chairman, this concludes my prepared statement. I would be happy to respond to any questions you or other members of the subcommittees may have at this time.

GAO Contacts

For further information regarding this testimony, please contact me at (202) 512-7215. Individuals making key contributions to this testimony include Sherri Doughty, Carlo Salerno, Marissa Jones, John Brummet, Eugene Beye, Carmen Donohue, Eve Weisberg, Melissa Pickworth, and Susannah Compton.

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CBO TESTIMONY

Statement of
Peter R. Orszag
Director

The Role of Immigrants in the U.S. Labor Market

before the
Subcommittee on Immigration, Citizenship, Refugees,
Border Security, and International Law
Committee on the Judiciary
U.S. House of Representatives

May 3, 2007

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CONGRESSIONAL BUDGET OFFICE
SECOND AND D STREETS, S.W.
WASHINGTON, D.C. 20515

Madam Chair and Members of the Committee, I am pleased to appear before you today to discuss the role of immigrants in the U.S. labor market. My testimony draws from a paper that the Congressional Budget Office (CBO) issued in 2005.¹ At your staff's request, CBO has updated key findings from that study to incorporate recent data from the Census Bureau.

The United States is known as a nation of immigrants—a characterization that is more appropriate today than at any time since the 1930s. People immigrate to the United States for many reasons: to join family members, to seek better economic opportunities, to escape persecution, or simply to get a fresh start. The presence of so many people from other countries necessarily has important consequences for U.S. society. This testimony concentrates on one aspect of their presence that is of particular importance for the nation's economy: their role in the U.S. labor market.

The testimony addresses three topics, which are covered in more depth in the 2005 CBO report:

- The growth, characteristics, and earnings of the foreign-born workforce;
- The impact of foreign-born workers on the labor market; and
- Implications for the future as the baby boomers exit the labor force.

Foreign-Born Workers

Immigrants are a substantial and growing segment of the U.S. labor force. In 2006, 23 million workers—one in seven workers in the United States—were foreign born, and half had arrived since 1990. During the past decade, foreign-born workers accounted for half of the growth of the U.S. labor force.

In 2006, about 40 percent of foreign-born workers were from Mexico and Central America, and 25 percent were from Asia. To a considerable extent, educational attainment determines the role of immigrants in the labor market. Even as the number of native-born workers without a high school diploma is shrinking, the number of foreign-born workers without a diploma continues to increase. In 2006, among workers age 25 and older who lacked a diploma, nearly half were foreign born, and most were from Mexico and Central America. At the same time, many other immigrant groups were highly educated. The educational attainment of foreign-born workers from other regions was slightly higher than that of workers

1. Congressional Budget Office, *The Role of Immigrants in the U.S. Labor Market* (November 2005). CBO has issued a number of other reports on immigration, available at www.cbo.gov/publications/collections/immigration.cfm.

born in the United States; in particular, a higher percentage of those immigrants had taken graduate courses. Those differences in average educational attainment among immigrants by country of origin appear to reflect the basis on which foreign-born workers were admitted to the United States, rather than differences in educational levels in their home countries. For example, the average educational attainment among workers who came from India is roughly 16 years, even though the average educational attainment of the adult population in that country is well below the high school level; many workers from India were admitted to the United States because they had skills that were in demand.


Many workers from Mexico and Central America were employed in jobs that required little formal education. Workers from that region earned much less, on average, than did the typical native worker. In 2006, three-quarters of workers born in Mexico and Central America were employed in occupations that have minimal educational requirements, such as construction laborer and dishwasher; only one-quarter of native workers held such jobs. On average, the weekly earnings of men from Mexico and Central America who worked full time were 55 percent those of native-born men; women from Mexico and Central America earned about 60 percent of the average weekly earnings of native-born women.

Other foreign-born workers—that is, those who immigrated to the United States from places other than Mexico and Central America—were employed in a much broader range of occupations. A notable exception is their concentration in fields such as computer and mathematical sciences, which generally require at least a college education. For workers from the rest of the world, the average weekly earnings of men and women were similar to those of native-born men and women.

Impact on the Labor Market

The arrival of large numbers of immigrants with little education probably slows the growth of the wages of native-born high school dropouts, at least initially, but the ultimate impact on wages is likely to be modest. Recent estimates of the effect of two decades of growth in the foreign-born workforce on the average earnings of native high school dropouts have ranged from negligible to a reduction of almost 10 percent. The range of those estimates reflects, in part, the uncertainty surrounding what employers and native workers would have done if those foreign-born workers had not been present, either initially or after employers and workers had adjusted to the changes in opportunities that the influx of immigrants produced.

A flexible labor market will adjust over time to the presence of more foreign-born workers. An increased supply of labor should raise the return to investment in the United States, and increased investment, in turn, will tend to raise workers' productivity and earnings. Over time, that effect attenuates the downward pressure on wages for native-born workers. Over even longer time periods, some



of those workers may be motivated to obtain additional education to receive the associated increase in pay.

Implications for the Future

Immigrants have been—and in all likelihood will continue to be—a major source of new workers in the United States. Barring substantial shifts in demographic trends, immigrants and their descendants are expected to provide the majority of the nation's population growth during the next half century. Who immigrates to the United States and what those immigrants and their descendants do after their arrival will increasingly determine the size and skill composition of the U.S. labor force.



Appendix:

Charts Presented at the Hearing



Congressional Budget Office

The Role of Immigrants in the U.S. Labor Market

Peter R. Orszag
Director



Three Topics

- **Foreign-Born Workers**
- **Their Impact on the Labor Market**
- **Implications for the Future as the Baby Boomers Exit the Labor Force**



Size and Growth of the U.S. Labor Force (Workers age 16 or older), by Nativity, 1994 and 2006

	Number (Millions)		Growth, 1994 to 2006	
	1994	2006	In Millions	Percentage Change
Total	131.1	151.4	20.4	16
Native	118.1	128.3	10.2	9
Foreign Born	12.9	23.1	10.2	79
Mexico and Central America	4.6	9.2	4.5	98
Rest of World	8.3	13.9	5.6	68



Composition and Educational Attainment of the U.S. Labor Force (Workers age 16 or older), by Nativity, 2006

	Percentage of Labor Force	Average Years of Education
Total	100.0	13.5
Native	84.8	13.8
Foreign Born	15.2	12.3
Mexico and Central America	6.1	9.6
Rest of World	9.2	14.1



Geographic Distribution of Native- and Foreign-Born Workers Age 16 or Older, 1994 and 2006

Percent

	CA	NY, FL, TX, NJ, IL	Rest of Country	Total
Distribution in 2006				
Total	100.0	100.0	100.0	100.0
Native	66.1	78.0	91.3	84.8
Foreign Born	33.9	22.0	8.7	15.2
Mexico and Central America	19.0	7.1	3.1	6.1
Rest of World	15.0	14.9	5.6	9.2
Distribution in 1994				
Total	100.0	100.0	100.0	100.0
Native	72.5	84.8	95.8	90.1
Foreign Born	27.5	15.2	4.2	9.9
Mexico and Central America	16.0	4.3	0.8	3.5
Rest of World	11.5	10.8	3.4	6.3



Educational Attainment of the U.S. Labor Force (Workers age 25 or older), by Nativity, 2006

Percent

	All Levels of Educational Attainment	8 th Grade or Less	9 th to 12 th Grade and No Diploma	High School Diploma or GED	Some College or Associate's Degree	Bachelor's Degree	Graduate Courses or Graduate Degree
Total	100	4	6	30	28	21	12
Native	100	1	5	31	30	22	11
Foreign Born	100	17	11	24	16	19	12
Mexico and Central America	100	36	21	26	11	5	2
Rest of World	100	5	6	24	20	27	19



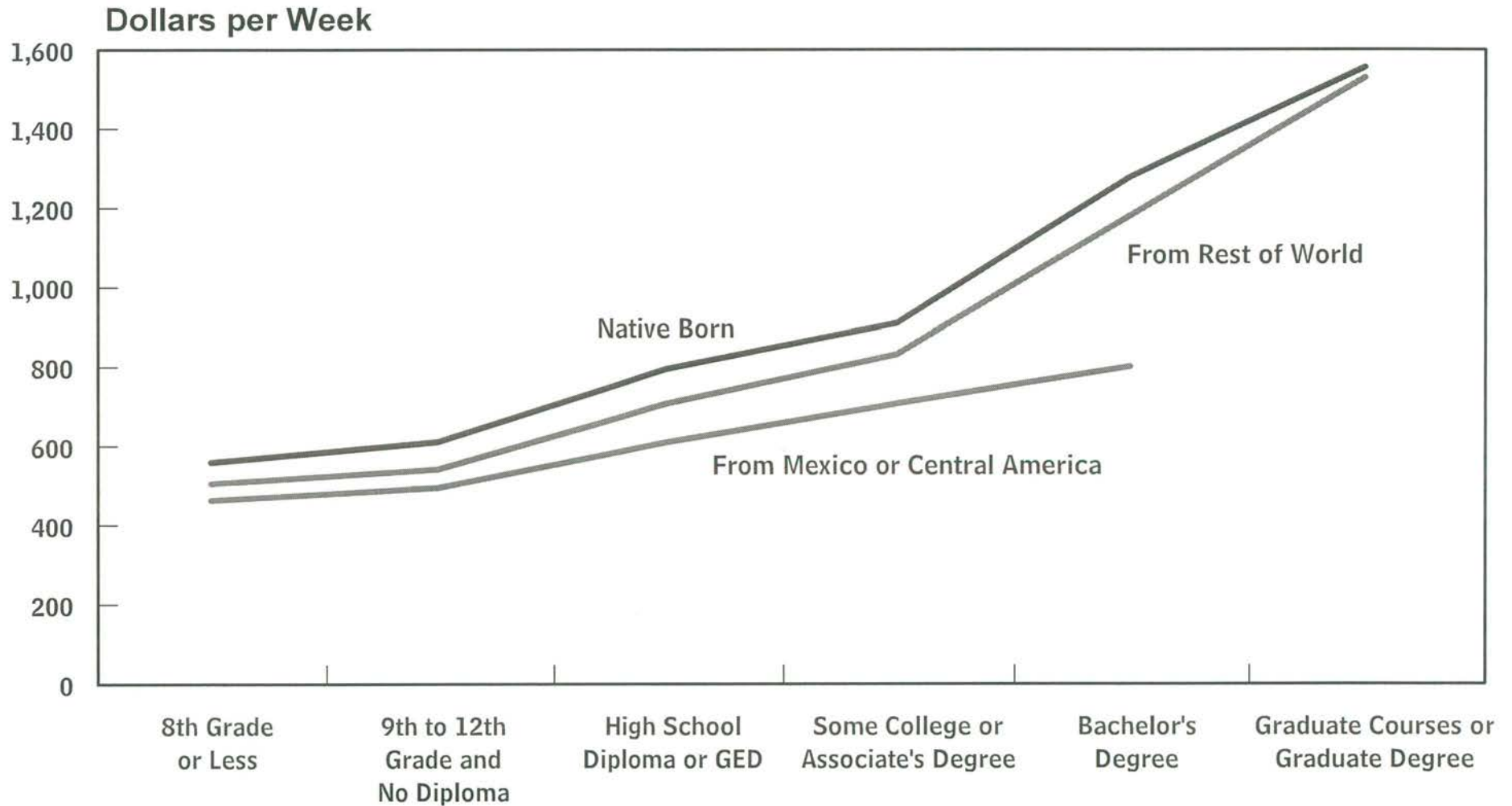
Occupational Distribution of Workers Ages 25 to 64, by Nativity, 2006

Percent

Occupation Group	Native Workers	Foreign-Born Workers		
		Total	Mexico and Central America	Rest of World
Construction, Production, Cleaning, and Maintenance	14.8	29.4	49.5	16.8
Other Occupations	<u>85.2</u>	<u>70.6</u>	<u>50.5</u>	<u>83.2</u>
Total	100.0	100.0	100.0	100.0



Average Weekly Earnings of Full-Time Male Workers Ages 25 to 64, by Educational Attainment, 2006





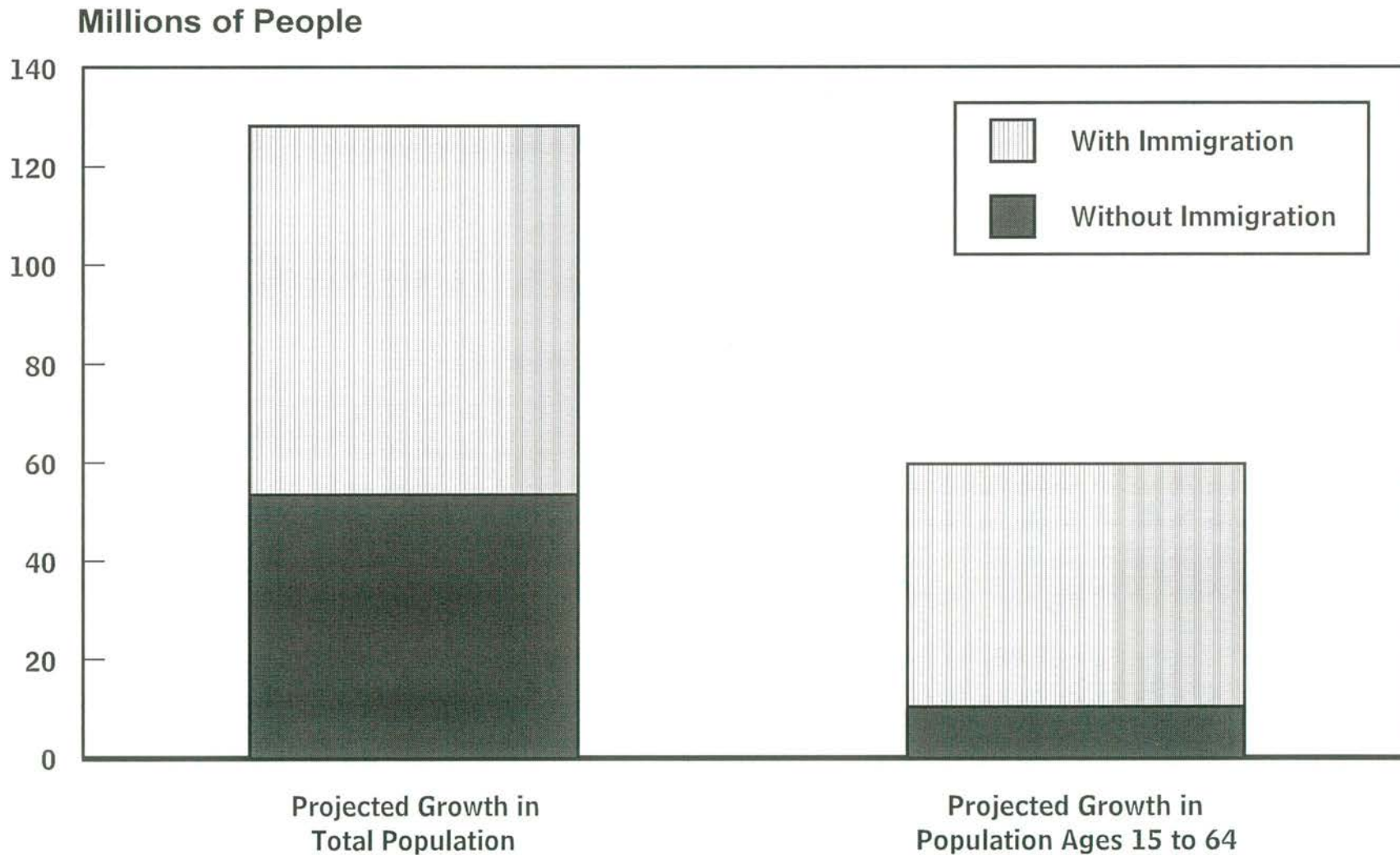
Differences in Average Weekly Earnings Between Foreign- and Native-Born Full-Time Male Workers Ages 25 to 64, 2006

Percentage Difference from Native-Born Workers with Native-Born Parents

	Unadjusted	Adjusted for Educational Attainment	Adjusted for Educational Attainment and Experience
Workers from Mexico and Central America	-45	-26	-24
Workers from Rest of World	0	-8	-8



Projected Effect of Immigration on Population Growth, 2000 to 2050



U.S. IMMIGRATION POLICY IN GLOBAL PERSPECTIVE:


International Migration in OECD Countries

WINTER 2007



IMMIGRATION POLICY CENTER

A division of the American Immigration Law Foundation



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U.S. IMMIGRATION POLICY IN GLOBAL PERSPECTIVE: *International Migration in OECD Countries*

by David L. Bartlett, Ph.D.

EXECUTIVE SUMMARY

The United States possesses a number of competitive assets in the global war for talent: most notably, its huge and flexible labor market and an abundance of leading-edge multinational corporations and world-class universities. However, the United States also faces growing competition in the global labor market from other countries within the Organization for Economic Cooperation and Development (OECD), as well as from the expanding economic opportunities available in the home countries of Indian and Chinese professionals who constitute a vital talent pool for U.S. high-tech companies. These trends underscore the need to revamp U.S. immigration policies to make them more responsive to the demands of an increasingly competitive global economy.

Yet the quota-based immigration system of the United States diminishes the country's ability to sustain, let alone expand, inflows of high-skilled immigrants. The optimal remedy for this defect in U.S. immigration policy is to replace the H1-B visa program for highly skilled foreign professionals with a quality-selective regime along the lines of the point-based systems introduced in Australia, Canada, and New Zealand. The United Kingdom is moving in this direction, away from a work-permit regime to a multi-tiered system that would entitle high-skilled immigrants to work for any British employer or to set up their own businesses in the country. However, the political environment in the United States—where homeland security concerns remain acute five years after September 11th and the furor over undocumented immigration clouds the separate issue of skilled immigration—provides little cause for optimism that such a policy reform will soon materialize.

Among the findings of this report:

Migration Patterns in the OECD, 1990-2000

- Luxembourg has the OECD's largest foreign-born population (32.6 percent in 2000), followed by Australia, Switzerland, and Canada.
- Austria, Finland, and Ireland posted triple-digit growth rates in their working-age immigrant populations during the 1990s.

Global Competition for Skilled Immigrants

- In 2000, the United States was home to 12.5 million immigrants with more than a high-school education, representing 50.7 percent of the OECD total.
- The more educated share of working-age immigrants increased significantly in several OECD countries during the 1990s, especially Ireland, the United Kingdom, Luxembourg, and Finland.

Integration of Skilled Immigrants

- Immigrants with a college degree are more likely to obtain skilled jobs in the United States than elsewhere in the OECD.
- The success of educated immigrants in securing U.S. jobs commensurate with their skills varies widely by country of origin, ranging from 76 percent of educated men from India to 25 percent of educated Moroccan men.

Out-Migration from OECD Countries

- Mexico is the OECD's biggest source of expatriates living in other OECD countries, followed by the United Kingdom, Germany, and Italy.
- The United Kingdom is the OECD's leading source of skilled emigrants living in other OECD countries, followed by Germany, Mexico, and Canada.

"Brain Gain" and "Brain Drain"

- Australia, Canada, Luxembourg, the United States, Switzerland, New Zealand, and Sweden experience the OECD's greatest net "brain gain" in the bidding for skilled workers.
- In 2000, the United States was a net importer of 9.9 million immigrants with more than a high-school education, equivalent to 5.4 percent of the U.S. working-age population.

Countries of Origin

- In 2000, 51.8 percent of the U.S. foreign-born population came from Latin America and the Caribbean, with Mexico accounting for the largest share.
- While Mexican immigrants to the United States are predominately less-skilled workers, the skilled immigrant community draws upon a much broader geographic base that includes the E.U., Eastern Europe and the former Soviet Union, East Asia, South Asia, South America, the Middle East, and Africa.

Recent Trends in Immigration to the United States

- Between 2000 and 2005, the foreign-born population from India experienced the most dramatic increase (39.8 percent), followed by Peru and Honduras.
- Among immigrants arriving from 2000 to 2004, 12.1 percent held advanced degrees (compared to 10.3 percent of those arriving between 1990 and 1999), while 22.2 percent had bachelor's degrees (compared to 17.3 percent of those arriving during the 1990s).

Competitive Challenges to the United States

- While China, South Korea, and Japan have increased their funding for research and development (R&D) significantly, especially since 9/11, U.S. R&D funding in the physical sciences and engineering has declined or remained stagnant since the early 1990s.
- Other nations, particularly in Asia, account for a rising share of published scientific papers, as well as a growing share of applications for U.S. patents.
- The foremost challenge to U.S. primacy in the global labor market comes from India and China, both of which are experiencing high economic growth rates and rapid technological developments that boost domestic job opportunities for university-degreed professionals, thus diminishing the allure of immigration to the United States.

- In Fiscal Year (FY) 2003, India alone accounted for 36.5 percent of all H1-B visas and 24.7 percent of employment-based LPR (legal permanent resident) petitions approved in FY 2004. China accounted for 9.2 percent of H1-B visas in FY 2003 and 10.0 percent of employment-based LPRs in FY 2004.

Arbitrary Limits on High-Skilled Immigration to the United States

- In 2004, Congress allowed the annual H1-B quota to revert from 195,000 to its 1990 level of 65,000, which represents just 1 percent of the U.S. science and engineering workforce and has been filled before the start of each fiscal year since it took effect.
- The time (5 months or more) and administrative/legal fees (\$3,000-5,000) required to process initial applications for H1-B visas hinder recruitment of skilled foreign professionals, while extensions of H1-B visas beyond the current six-year limit are costly and time consuming.

INTRODUCTION

The United States possesses a number of competitive assets in the global war for talent: most notably, its huge and flexible labor market and an abundance of leading-edge multinational corporations and world-class universities. However, the United States also faces growing competition in the global labor market from other countries within the Organization for Economic Cooperation and Development (OECD),¹ as well as from the expanding economic opportunities available in the home countries of Indian and Chinese professionals who constitute a vital talent pool for U.S. high-tech companies. These trends underscore the need to revamp U.S. immigration policies to make them more responsive to the demands of an increasingly competitive global economy.

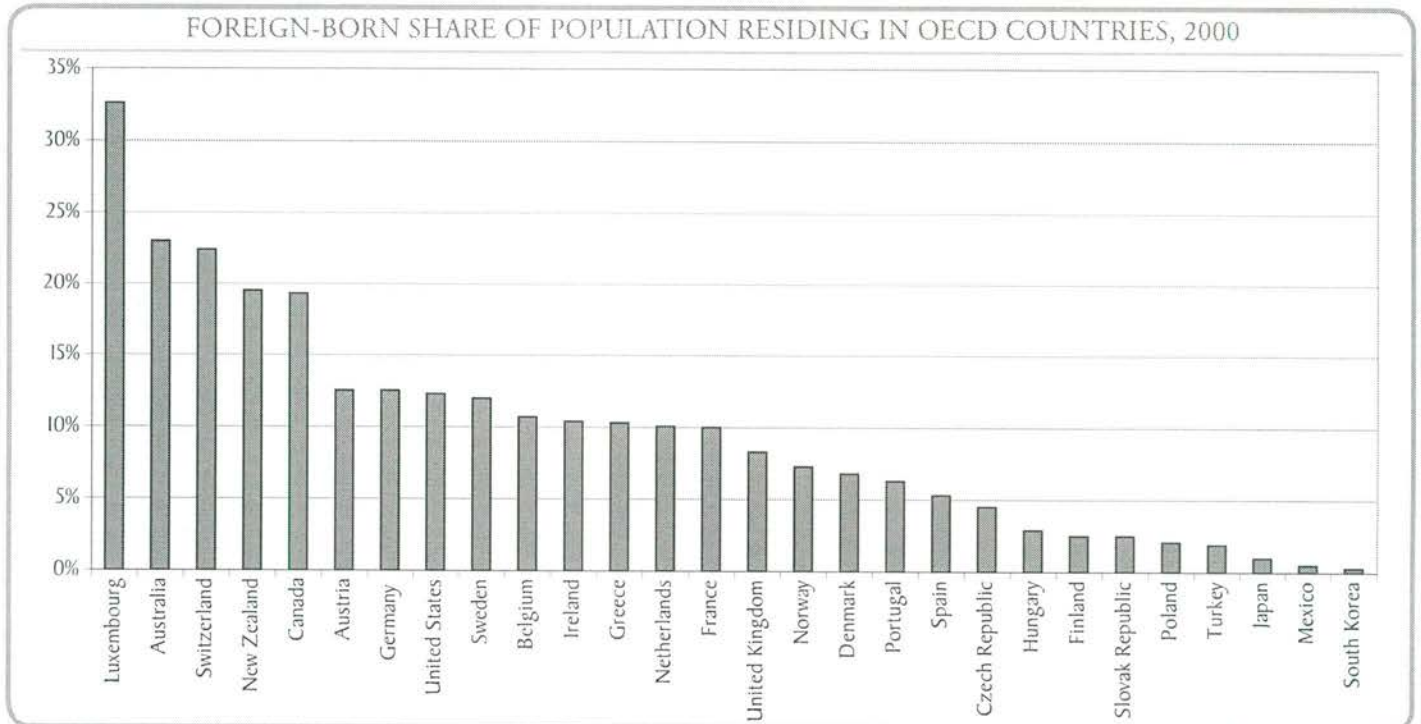
These emerging competitive challenges are highlighted by the latest international migration report from the OECD, which presents the first results of that institution's decades-long campaign to harmonize immigration data across the 30 member states.² Parallel efforts by the World Bank have boosted the quality and comparability of country-level statistics on international migration flows, augmenting the empirical base for scholarly research on the global labor market.³ These new databases shed light on three important issues: 1) how immigration to the United States compares with other advanced industrialized countries, 2) the stand-

ing of the United States in the global war for talent, and 3) measures that the United States should take to strengthen its ability to attract skilled foreign workers.

MIGRATION PATTERNS IN THE OECD, 1990-2000

At 12.3 percent of the total population in 2000 (the last year for which internationally comparable statistics are available), the foreign-born community of the United States is not exceptionally large compared to that of other advanced industrialized countries. Luxembourg has the OECD's largest foreign-born population (32.6 percent in 2000), followed by Australia, Switzerland, and Canada. The foreign-born shares of Austria, Germany, Sweden, Belgium, Ireland, Greece, the Netherlands, and France approximate that of the United States. The United Kingdom, Norway, Denmark, Spain, and Portugal have shares in the 5-10 percent range. Finland, which consistently appears at or near the top of other measures of globalization, has a foreign-born population share of just 2.5 percent—testimony to the country's geographic remoteness and difficult native language. The Czech Republic, Hungary, and Poland—recent entrants into the global labor market which joined the OECD in 1995—also register foreign-born population shares in the low single digits. Turkey and Mexico report foreign-born shares of 1.9 and 0.5 percent, respectively,

Figure 1:



Source: Jean-Christophe Dumont & Georges Lemaitre, 2006, Table 1 (Excludes Italy & Iceland).

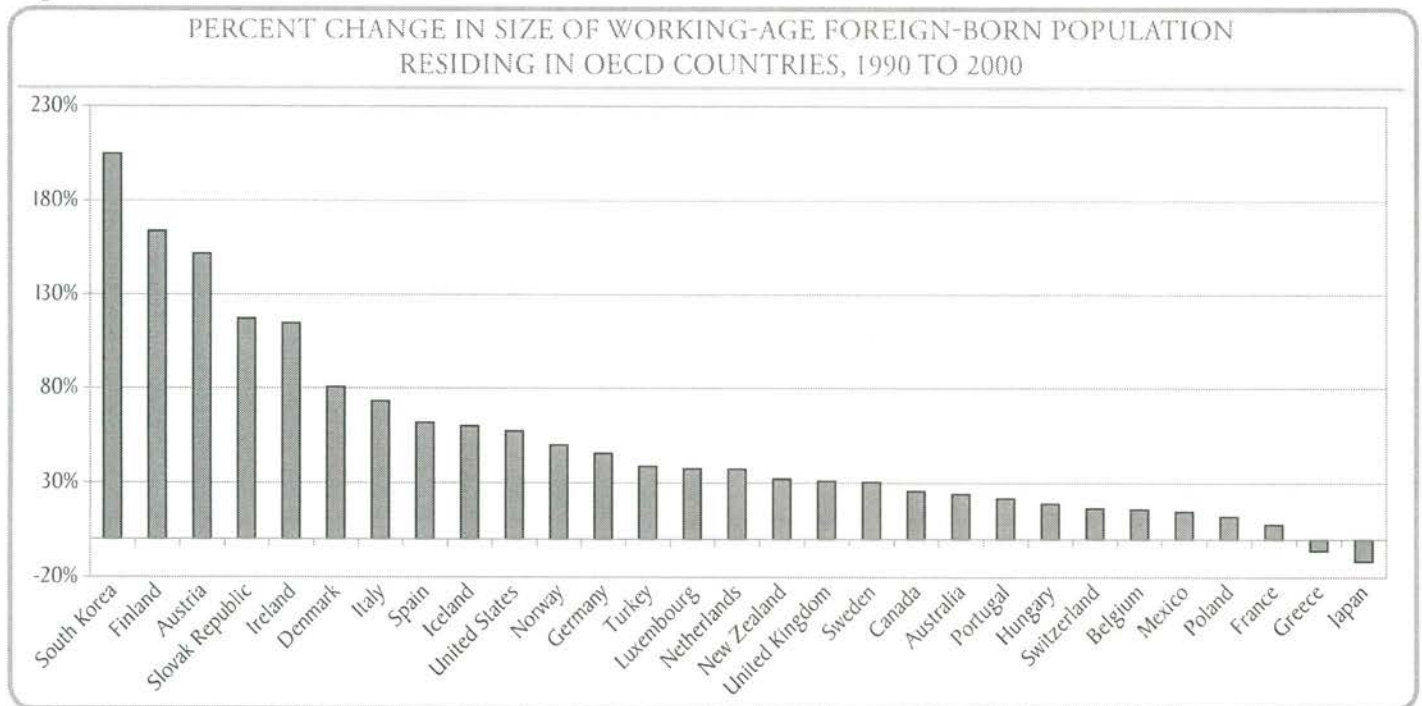
reflecting their statuses as low/middle-income economies that attract relatively few workers from abroad. Japan and South Korea, which have the OECD's most insular labor markets, also are characterized by minuscule shares of foreign-born persons (1.0 and 0.3 percent, respectively) {Figure 1}.⁴

But while the foreign-born share of the U.S. population is not particularly large, the United States plays a dominant role in global migration, particularly among those immigrants most likely to be in the labor force.⁵ Between 1990 and 2000, the number of working-age immigrants (those 25 and older) in the OECD grew by 17.2 million, or 41.0 percent. The foreign-born working-age population of the United States increased by 8.9 million, or 57.5 percent, during this period, which represents over half of the aggregate increase in the number of all working-age immigrants in the OECD. However, other OECD countries posted higher growth rates than the United States in their working-age foreign-born populations. South Korea registered the highest growth rate in the OECD (204.7 percent), reflecting that country's unusually low starting level (fewer than 50,000 working-age immigrants compared to 33.3 million working-age natives in 1990). Austria, Finland, and Ireland also posted triple-digit growth rates during the 1990s {Figure 2}.⁶

The foreign-born share of the working-age population in some OECD countries also is higher than in the United States. Compared to the U.S. share of 11.7 percent in 2000, immigrants in Luxembourg comprised 27.4 percent of the working-age population. Switzerland—which, like Luxembourg, is a small, open, wealthy European economy with heavy inflows of foreign-born workers—had a working-age immigrant share of 24.7 percent. Australia, New Zealand, and Canada—wealthy countries with strong immigrant traditions—also had higher foreign-born shares of their working-age populations than the United States {Figure 3}.⁷

However, when measured in terms of total immigration flows within the OECD, the United States far exceeds other countries. By 2000, the United States accounted for 41 percent of all working-age immigrants in the OECD. The U.S. working-age foreign-born population in that year (24.4 million) surpassed the combined total (18.7 million) of the other G-7 countries (Canada, France, Germany, Italy, Japan, and the United Kingdom).⁸ Alone among OECD countries, Japan experienced both absolute and relative declines in its working-age foreign-born population—an ominous development for a country facing greater declines in fertility and larger increases in the elderly population than either the United States or the European Union (E.U.).

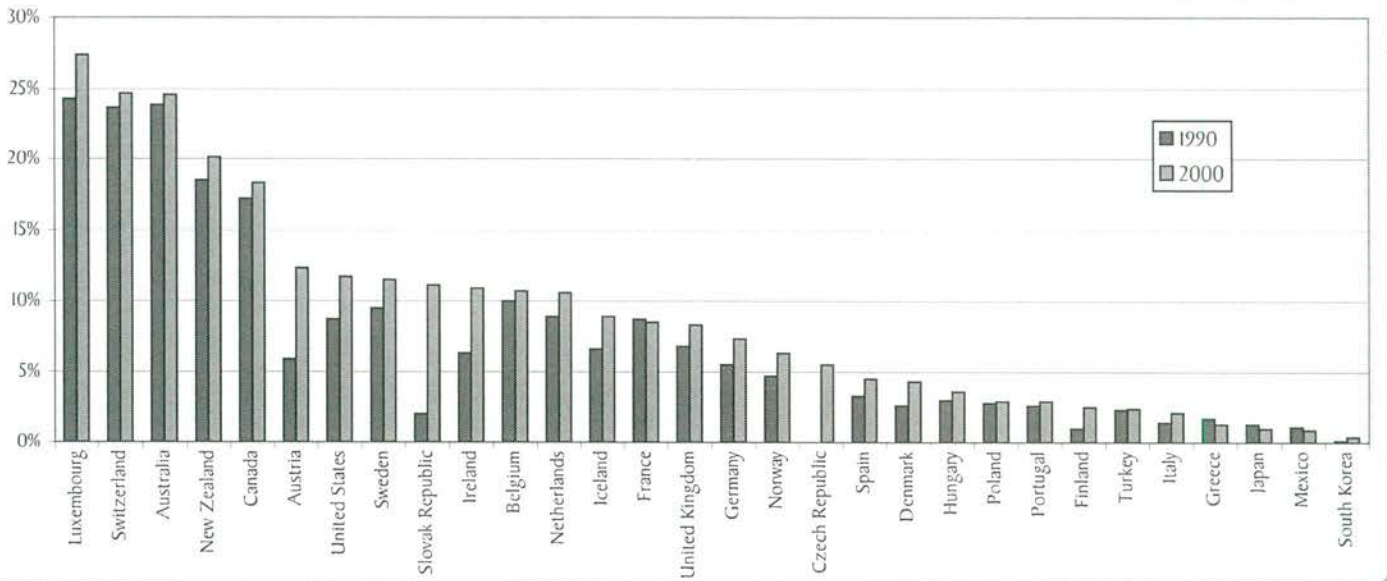
Figure 2:



Source: Frédéric Docquier & Abdeslam Marfouk, 2005, Tables 5.5.A & 5.6.A.

Figure 3:

FOREIGN-BORN SHARE OF WORKING-AGE POPULATION RESIDING IN OECD COUNTRIES, 1990 & 2000



Source: Frédéric Docquier & Abdeslam Marfouk, 2005, Tables 5.5.A & 5.6.A.

GLOBAL COMPETITION FOR SKILLED IMMIGRANTS

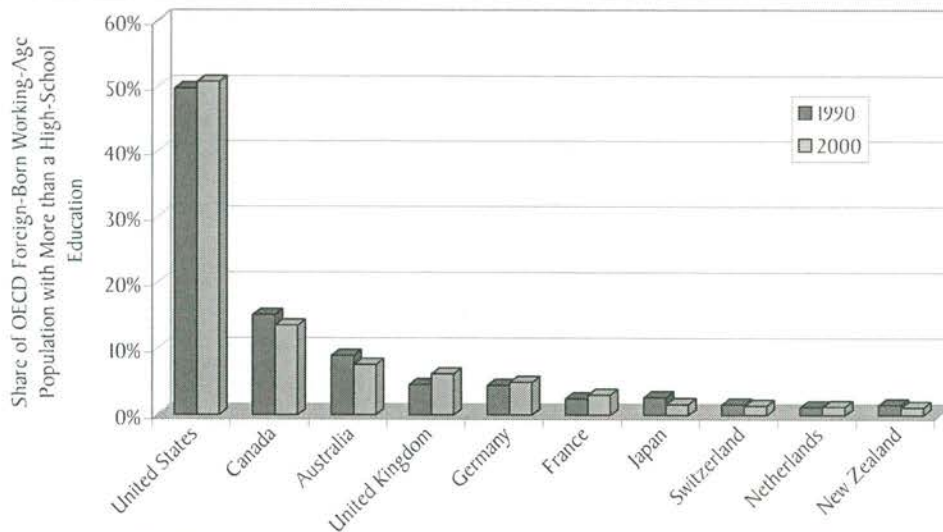
In addition to being the leading destination in the world for immigrants as a whole, the United States wields a competitive advantage in the global bidding for skilled foreign workers in particular. In 1990, the United States was home to 6.2 million immigrants with more than a high-school educa-

tion, representing 49.8 percent of the OECD total. During the ensuing decade, the number of skilled immigrants in the United States doubled to 12.5 million, or 50.7 percent of the OECD total {Figure 4}.

The dominant position of the United States in the global competition for skilled workers stems from several factors:

Figure 4:

TOP 10 OECD COUNTRIES OF RESIDENCE FOR THE FOREIGN-BORN WORKING-AGE POPULATION WITH MORE THAN A HIGH-SCHOOL EDUCATION, 1990 & 2000



Source: Frédéric Docquier & Abdeslam Marfouk, 2005, Tables 5.5.A & 5.6.A.

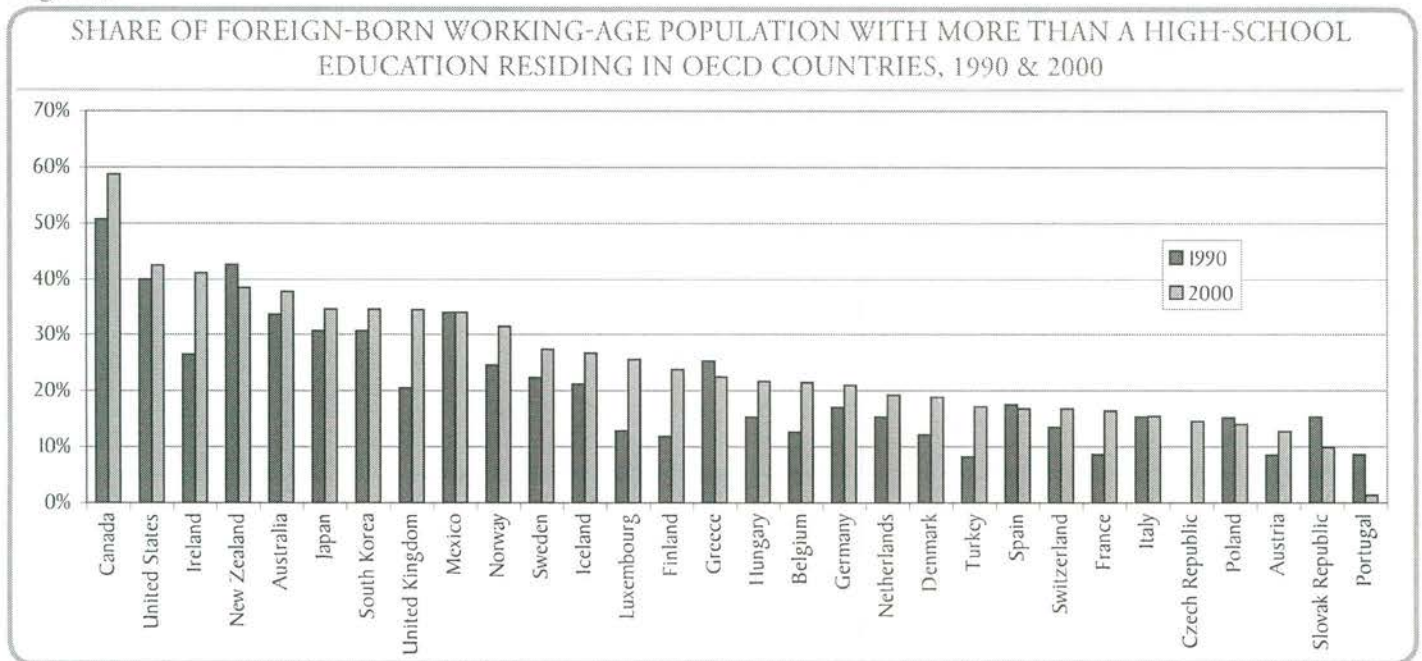
(1) the size, diversity, and flexibility of the U.S. labor market, which generates a variety of professional opportunities for immigrants with college degrees; (2) the premier quality of U.S. institutions of higher education, which attract large numbers of foreign students who stay after graduation to work in U.S. companies; (3) the high concentration of foreign-based multinational corporations with a presence in the United States, the U.S. subsidiaries of which bring in scientists, engineers, and managers from the parent company; and (4) the large number of U.S.-based multinationals with a presence abroad, the foreign subsidiaries of which dispatch foreign professionals to the United States on rotational assignments.

However, large, technologically advanced economies with robust international business communities such as Germany and France also attract significant numbers of foreign-born professionals. Japan, on the other hand, had only 286,000 working-age immigrants with more than a high-school education in 2000—only marginally more than countries with much smaller populations like Switzerland, the Netherlands, and New Zealand. While the United States maintained its commanding lead in both absolute numbers and relative shares of educated immigrants between 1990 and 2000, other industrialized countries exhibited a growing capacity to attract skilled workers and students from abroad.¹⁰

The share of working-age immigrants in the United States with more than a high-school education increased from 40.0 percent in 1990 to 42.5 percent in 2000, a share surpassed only by Canada (58.8 percent in 2000). During the same period, the more educated share of working-age immigrants increased significantly in several OECD countries, especially Ireland, the United Kingdom, Luxembourg, and Finland. In addition, Hungary's share rose from 15.3 to 21.7 percent, illustrating its growing attraction as a multinational investment locale. Combined with the more modest gains registered by other E.U. countries, this trend reflects both increasing labor migration within the European community and the growing appeal of the E.U. as an alternative destination to the United States for skilled foreign workers. At 34.6 percent of working-age immigrants, the more educated share of the foreign-born population in Japan and South Korea matched the OECD average. But owing to their small foreign-born populations, these countries do not pose a significant competitive challenge to the United States in the global labor market [Figure 5].¹¹

On the other end of the educational spectrum, the share of working-age immigrants with less than a high-school diploma fell in the United States from 25.6 in 1990 to 23.0 percent in 2000, a pattern evidenced in most other OECD countries. Notable exceptions were Portugal, Belgium, the Slovak Republic, and, to a lesser extent, Germany, Den-

Figure 5:

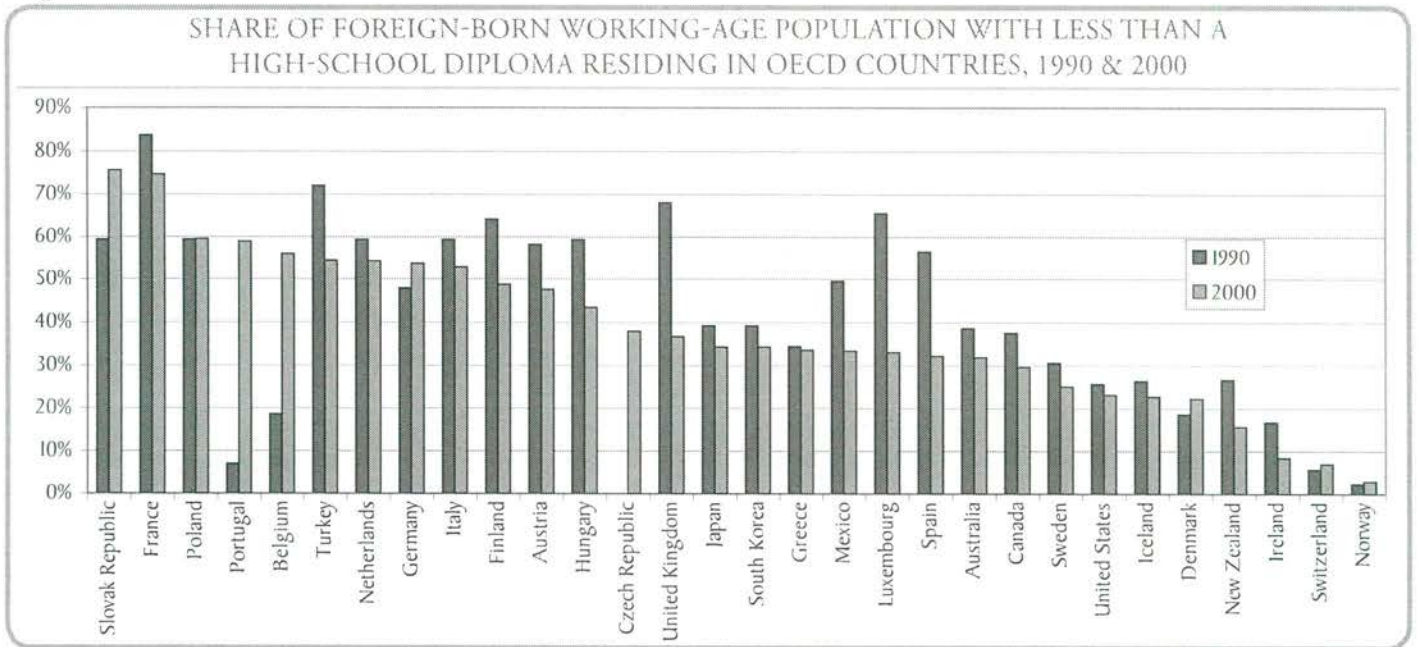


Source: Frédéric Docquier & Abdeslam Marfouk, 2005, Tables 5.5.A & 5.6.A.

mark, and Switzerland—where the less-educated share of the foreign-born population increased. The share of less-educated working-age immigrants in France fell during the 1990s, but—at 74.6 percent in 2000—remained higher than any other OECD country except the Slovak Republic (75.5 per-

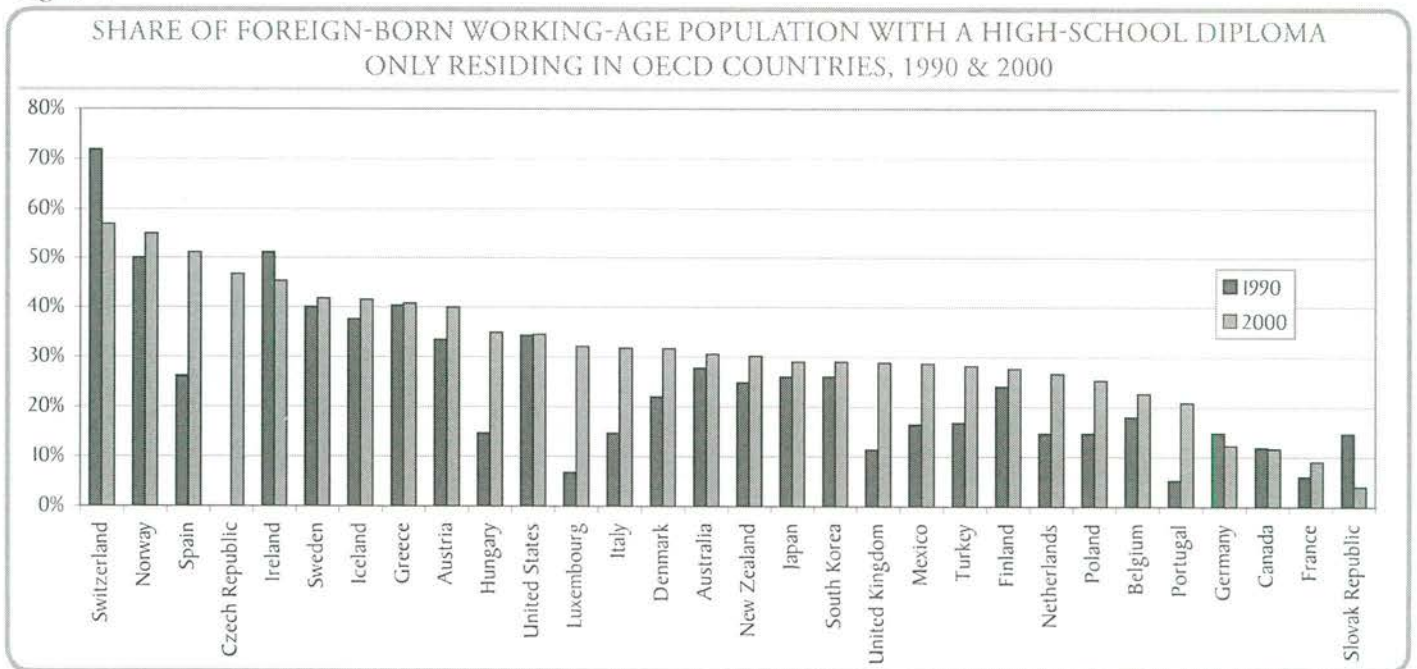
cent), illustrating France’s continued reliance on less-skilled workers from North Africa and Southeastern Europe {Figure 6}. The share of immigrants with only a high-school diploma increased most dramatically in Luxembourg, Spain, Hungary, the United Kingdom, Italy, and Portugal {Figure 7}.¹²

Figure 6:



Source: Frédéric Docquier & Abdeslam Marfouk, 2005, Tables 5.5.A & 5.6.A.

Figure 7:



Source: Frédéric Docquier & Abdeslam Marfouk, 2005, Tables 5.5.A & 5.6.A.

The United States has been more successful than the E.U. in attracting skilled immigrants from every source country except Mexico. Only 14 percent of foreign-born Mexicans in the United States have more than a high-school education, compared to 52 percent of Mexican immigrants in the E.U. But the overall U.S. advantage over the E.U. in attracting skilled workers is especially apparent with immigrants from Taiwan, South Africa, India, Egypt, and Russia. The United States even enjoys an advantage over the E.U. in the competition for skilled workers originating from within the E.U. itself {Figure 8}.¹³

INTEGRATION OF SKILLED IMMIGRANTS

The ability of the United States to attract skilled immigrants stems in large part from the nature of the U.S. labor market, which is not only large, but also affords a higher degree of professional mobility than other OECD countries. As a result, immigrants with a college degree are more likely to obtain skilled jobs in the United States than elsewhere in the OECD. However, the success of educated immigrants in securing U.S. jobs commensurate with their advanced skill sets varies widely, ranging from 76 percent of educated men from India to only 25 percent of educated Moroccan men. South Korean men fare poorly in this measure, with just 33 percent of those with college degrees finding skilled jobs in the United States. Educated immigrants from China, which has emerged as a major source of technological talent for the

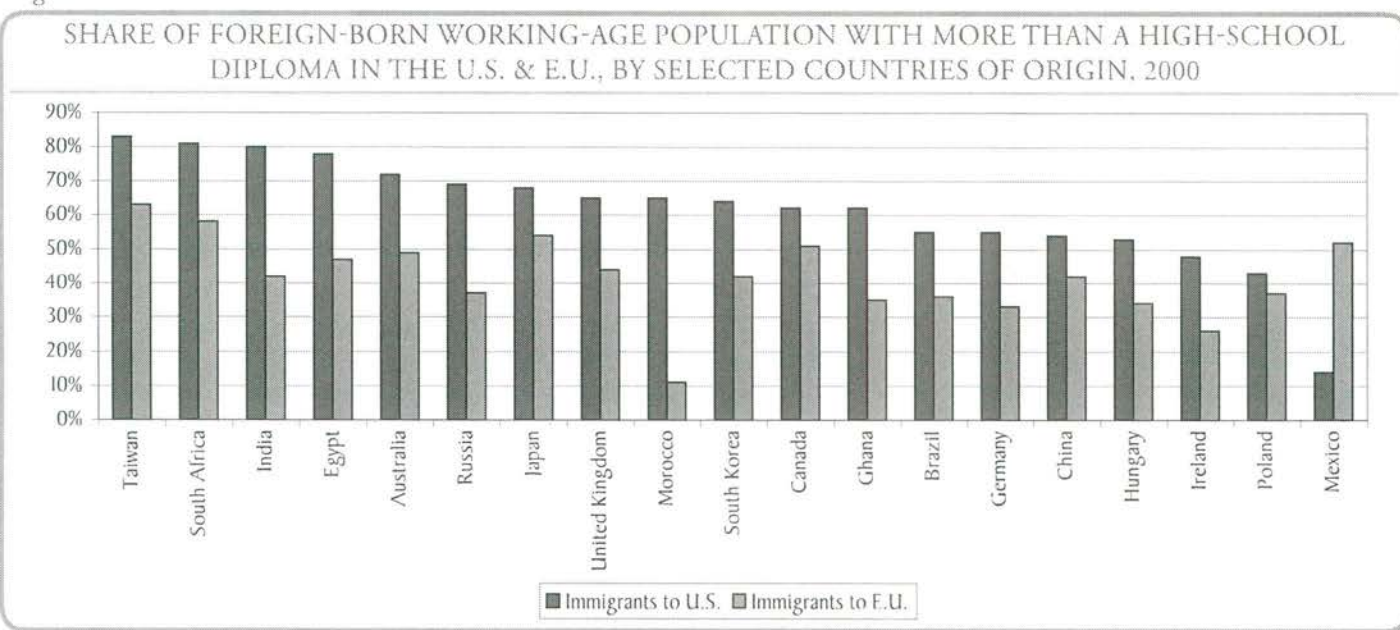
United States, perform better, with 51 percent of men with a college degree securing skilled employment. Educated immigrants from Hungary are more likely to find skilled jobs than those from either Poland or Russia, frustrating generalizations about the integration of skilled immigrants from these formerly socialist economies {Figure 9}.¹⁴

These findings demonstrate that the United States not only attracts a large share of the global supply of skilled labor, but that high percentages of educated immigrants succeed in finding jobs that are properly aligned with their skill sets. World Bank research indicates that these two factors are related: comparatively large numbers of skilled professionals migrate to the United States precisely because of the relative ease of locating high-quality jobs in the U.S. labor market.¹⁵

OUT-MIGRATION FROM OECD COUNTRIES

The newly released OECD data also illuminate the dominant position of the United States in the global labor market as measured by the out-migration of expatriates.¹⁶ Mexico is by far the biggest source country of expatriates in the OECD, with 8.4 million legal emigrants living in other OECD countries in 2000, nearly equaling the combined total of the next three countries on the list: the United Kingdom, Germany, and Italy {Figure 10}.¹⁷ Inclusion of undocumented

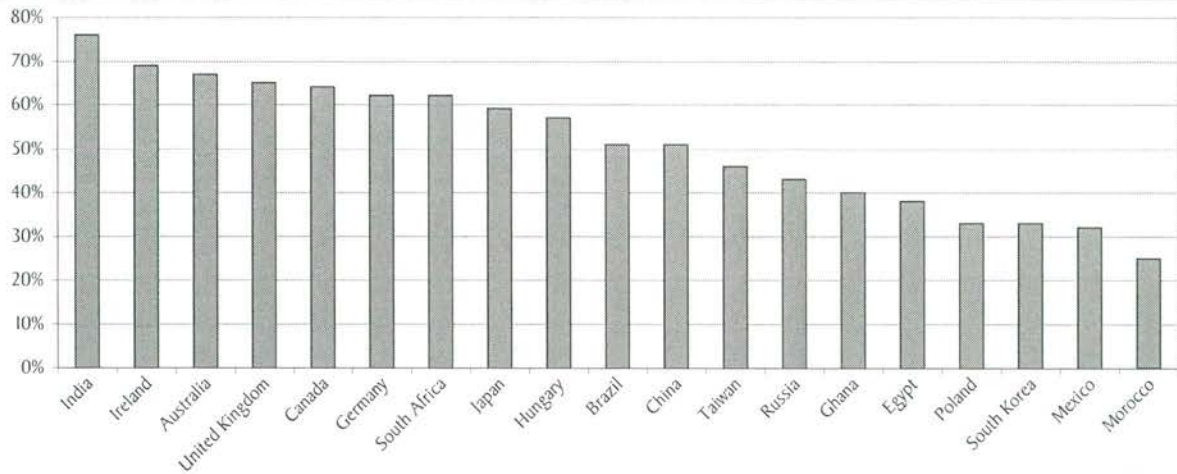
Figure 8:



Source: Çağlar Özden, 2005, Figure 7.3.

Figure 9:

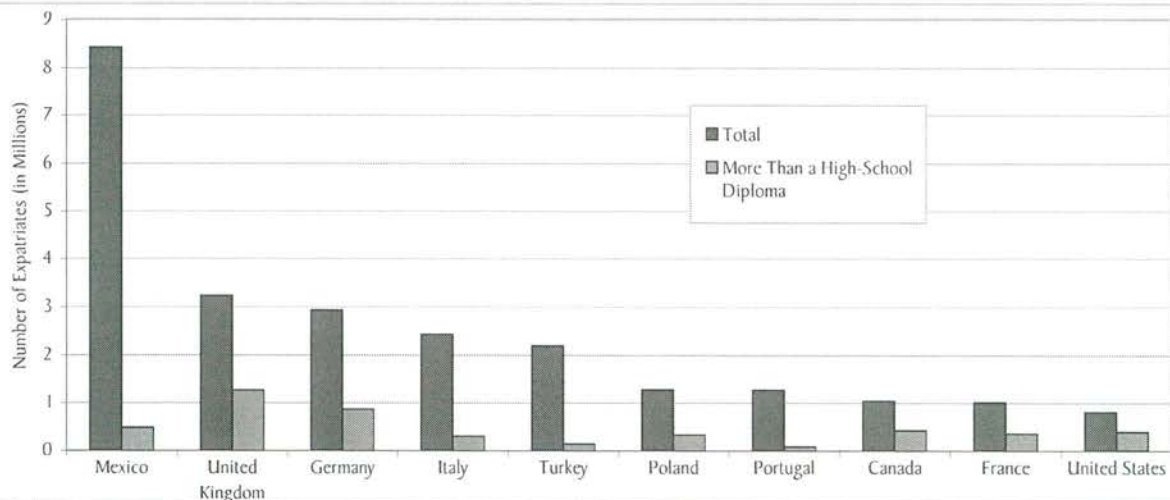
SHARE OF FOREIGN-BORN MALES WITH A BACHELOR'S DEGREE OR MORE EDUCATION FROM THEIR HOME COUNTRIES, WITH SKILLED JOBS IN THE UNITED STATES, BY SELECTED COUNTRIES OF ORIGIN, 2000



Source: Çağlar Özden, 2005, Figure 7.6.

Figure 10:

TOP 10 OECD COUNTRIES OF ORIGIN FOR EXPATRIATES LIVING IN OTHER OECD COUNTRIES, BY EDUCATION, 2000



Source: Jean-Christophe Dumont & Georges Lemaitre, 2006, Table 3.

immigrants from Mexico who reside in the United States would more than double the estimated number of Mexican expatriates within the OECD.

The United Kingdom is the OECD's leading source of **skilled** emigrants by a considerable margin, producing 1.3 million expatriates with more than a high-school education living in other OECD countries in 2000. During the same year, the United States produced 390,244 educated expatriates who lived in other OECD countries, roughly a third of the United Kingdom total and lower than the levels of

Germany, Mexico, and Canada. Overall, the United States ranks 10th among OECD countries in total expatriates and 5th in terms of educated expatriates.¹⁸ These modest expatriate numbers suggest that the same factors which make the United States a highly attractive destination for skilled immigrants also generate a multitude of job opportunities for native-born professionals who might otherwise seek employment abroad. In this regard the United States enjoys a competitive advantage over the United Kingdom, which also hosts world-class universities and leading multinational companies, but whose university-degreed citizens often pursue jobs overseas.

“BRAIN GAIN” AND “BRAIN DRAIN”

The net “brain drain” or “brain gain” in OECD countries can be measured by subtracting the number of high-skilled expatriates from the number of high-skilled immigrants and then calculating that number as a percentage of the country’s working-age population. By this measure, Australia, Canada, Luxembourg, the United States, Switzerland, New Zealand, and Sweden emerge as the biggest winners in the bidding for skilled workers. In 2000, the United States was a net importer of 9.9 million immigrants with more than a high-school education, equivalent to 5.4 percent of the working-age population. Mexico, South Korea, Poland, Italy, and the United Kingdom were the foremost net exporters of skilled workers. Interestingly, Ireland, which registered one of the OECD’s sharpest increases in skilled immigration during the 1990s and which has become a vanguard of labor market integration in the E.U., posted the largest net loss (4.0 percent) {Figure 11}.¹⁹

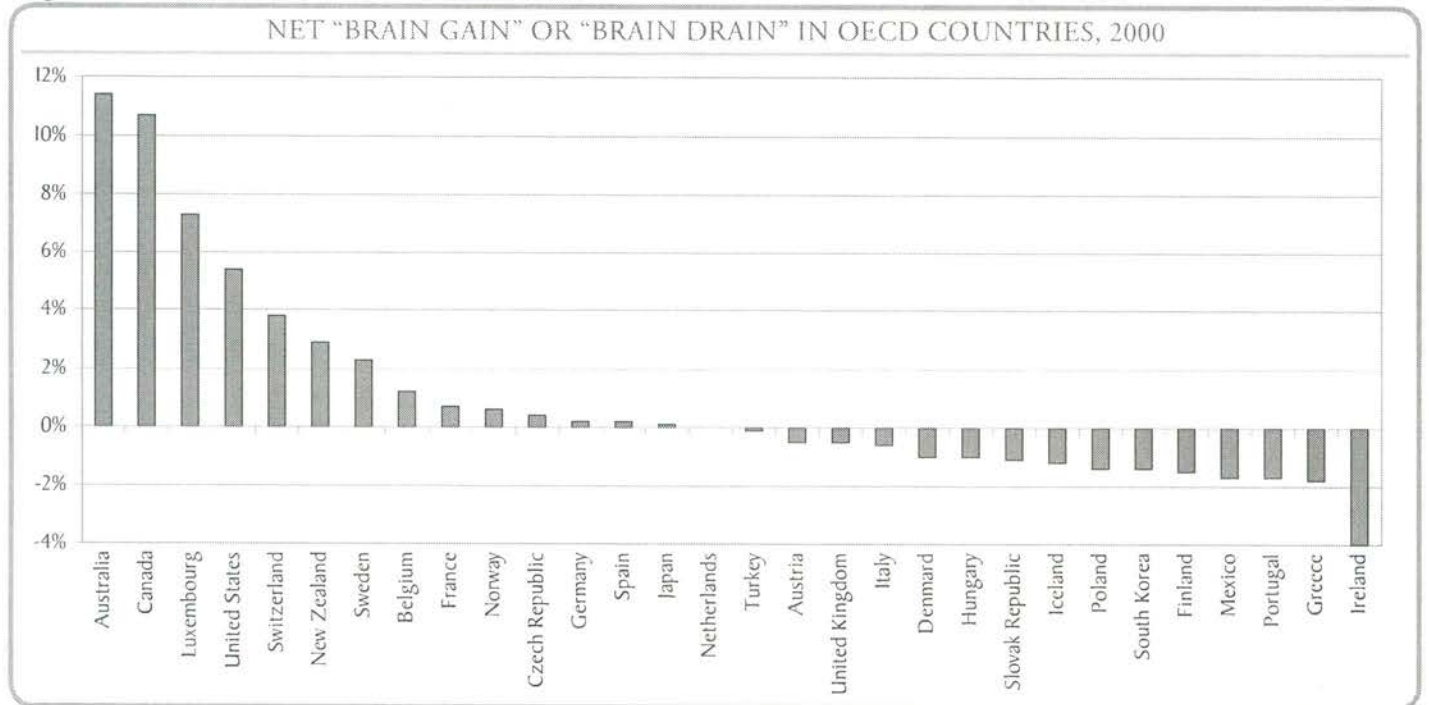
However, the home country effects of out-migration are complex and not unambiguously negative. Out-migration of skilled workers may generate positive spillover in the source economy insofar as (1) remittances of foreign earnings by expatriates boost the disposable income of family members

left at home, (2) overseas periods of residence enlarge the professional skill sets and international networks of expatriates, and (3) the foreign experiences of skilled expatriates heighten the market value of higher education and thus promote human capital development in the home economy.²⁰ Accordingly, one must exercise caution in interpreting the data as clear demonstration of “winners” and “losers” in the global competition for skilled labor. Nevertheless, the migration patterns reported above support the broad proposition that the United States occupies a highly favorable position in the global labor market that permits it simultaneously to attract large numbers of skilled foreign workers and to generate professional opportunities for educated U.S. citizens.

COUNTRIES OF ORIGIN

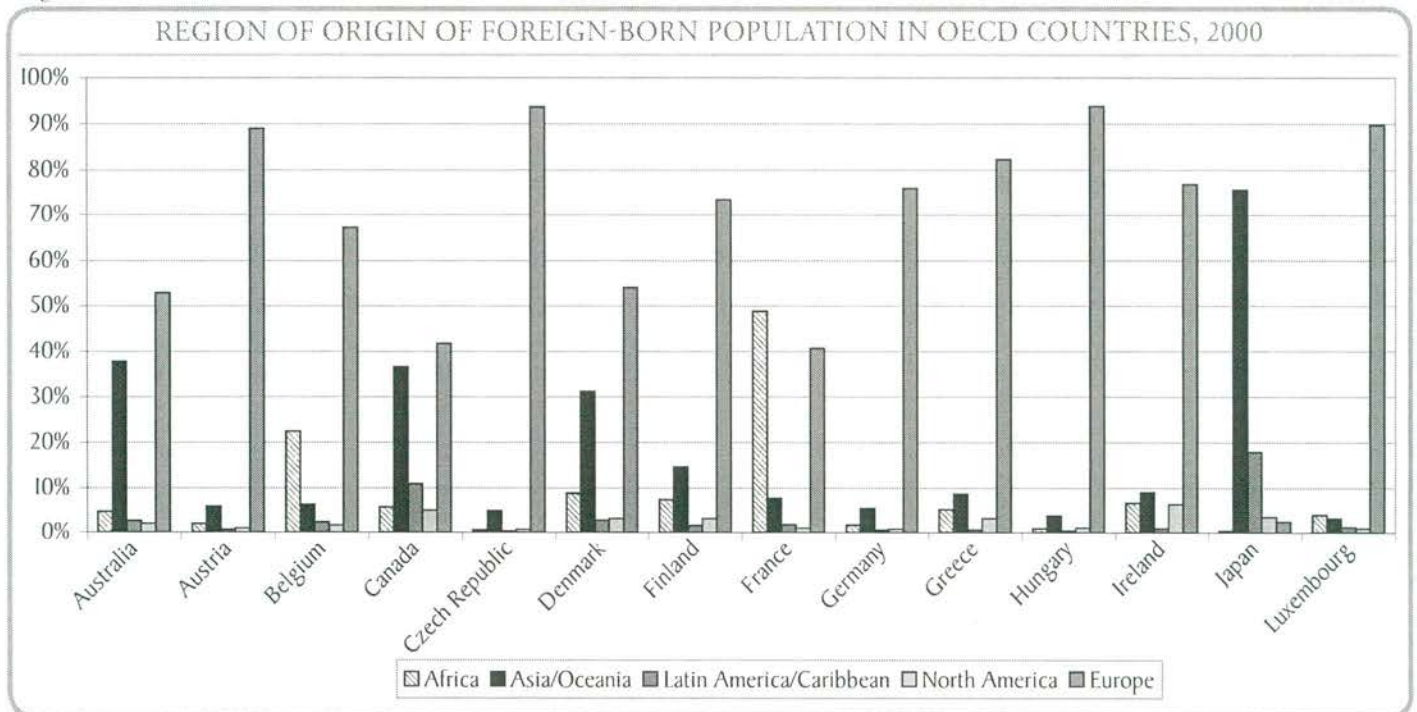
Geographic proximity is a key driver of labor migration. Japan and South Korea, for example, draw the overwhelming majority of their foreign workers from Asia (74.9 and 86.4 percent respectively). The pull of geography is even more pronounced in the E.U. The overall European share of foreign-born populations in some Central and Eastern European countries exceeds 90 percent, illustrating extensive cross-border labor movements between Austria, Germany, and

Figure 11:



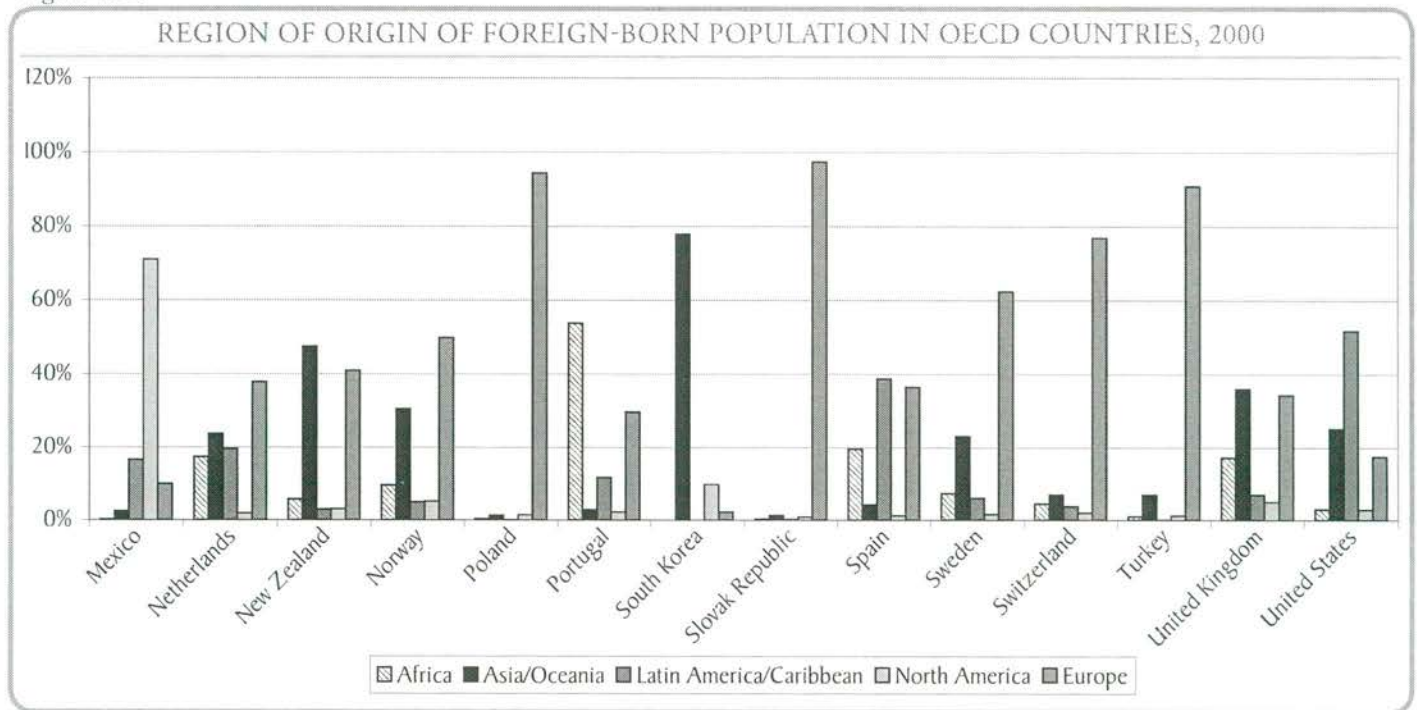
Source: Frédéric Docquier & Abdeslam Marfouk, 2005, Table 5.6.B.

Figure 12a:



Source: Jean-Christophe Dumont & Georges Lemaître, 2006, Table A3 [Excludes Italy & Iceland].

Figure 12b:



Source: Jean-Christophe Dumont & Georges Lemaître, 2006, Table A3 [Excludes Italy & Iceland].

the E.U. accession countries (those admitted to the E.U. on May 1, 2004). Austria, Germany, Poland, Greece, and Hungary experience sizeable inflows of workers from Southeastern

Europe (notably from Turkey in the case of Germany) and the western part of the former Soviet Union (from Ukraine and Belarus in the case of Poland) {Figures 12a and 12b}.²¹

Similarly, immigration to the United States also is strongly influenced by geography. In 2000, 51.8 percent of the U.S. foreign-born population came from Latin America and the Caribbean, with Mexico accounting for the largest share. Mexican immigrants to the United States are predominately less-skilled workers. However, the skilled immigrant community in the United States draws upon a much broader geographic base that includes the E.U., Eastern Europe and the former Soviet Union, East Asia, South Asia, South America, the Middle East, and Africa.²²

Beyond geography, E.U. countries that once were imperial powers experience large-scale immigration from their former colonies. The largest share of immigrants entering the United Kingdom, for instance, comes not from the E.U. but from Asia. The biggest share of immigrants to France and Portugal comes from Africa (48.8 and 53.7 percent, respectively), while the largest portion of immigrants to Spain come from Latin America and the Caribbean (38.7 percent).²³

In recent decades, Australia, New Zealand, and Canada have exhibited the greatest diversity in the origins of their immigrant populations. Augmenting immigrant flows from Asia and Oceania, Australia and New Zealand draw heavily on the E.U. for foreign workers. Similarly, Canada experiences large immigrant flows from Asia and Europe.²⁴ The ability of these countries to attract foreign workers from geographically distant regions may demonstrate the efficacy of the “quality-selective” immigration policies enacted by their governments.

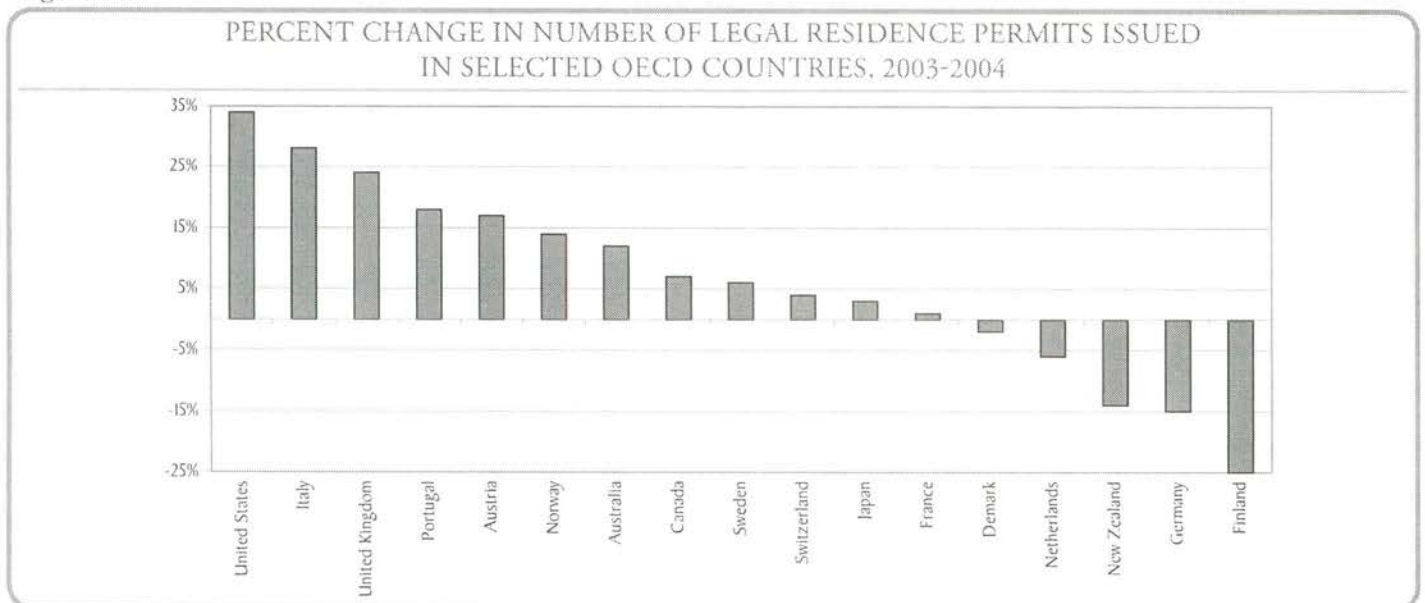
RECENT TRENDS IN IMMIGRATION TO THE UNITED STATES

Even after 2001, the United States remained the favored destination for immigrants despite the September 11th terrorist attacks and the 2000-02 economic recession, both of which prompted a tightening of U.S. border controls and heated disputes over U.S. immigration policy. Despite these events, legal immigration to the United States rose by 34 percent from 2003 to 2004. Meanwhile, Italy and the United Kingdom also experienced increases in legal immigration, while immigration to Finland, Germany, and New Zealand declined {Figure 13}.²⁵

Between 2000 and 2005, the foreign-born population of the United States increased by 4.9 million persons, boosting the foreign-born share of the population from 11.2 to 12.4 percent. Equally significant, the countries of origin of immigrants to the United States are changing. The foreign-born population from India experienced the most dramatic increase between 2000 and 2005 (39.8 percent), followed by Peru and Honduras. Immigration to the United States from the advanced industrialized countries rose only slightly (an increase of 2.1 percent from Canada and 1.0 percent from the United Kingdom) or declined (a decrease of 16.1 percent from Italy) {Figure 14}.²⁶

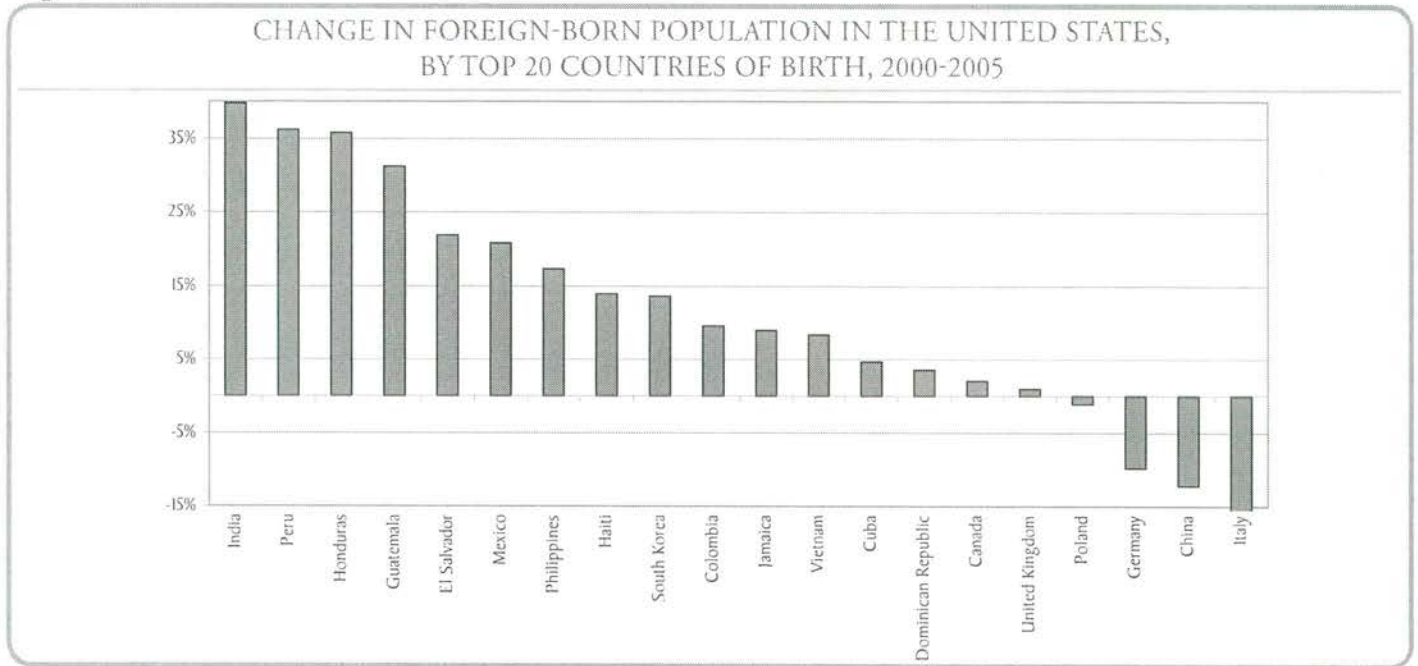
There also has been a general rise in the educational attainment of immigrants who entered the United States after 2000. Among immigrants arriving from 2000 to 2004, 12.1 percent held advanced degrees, compared to 10.3 percent of immigrants arriving between 1990 and 1999. The share

Figure 13:



Source: OECD, *International Migration Outlook*, 2006, Table I.1.

Figure 14:



Source: Rick Lyman, "New Data Shows Immigrants' Growth and Reach," *New York Times*, August 15, 2006.

of immigrants with a bachelor's degree also increased from 17.3 during 1990-1999 to 22.2 percent during 2000-2004.²⁷ However, immigrants from Latin America still tend to be less educated than immigrants from Asia and Europe. In 2004, just 3.2 percent of Latin American immigrants in the United States held advanced degrees versus 19.7 percent of Asian immigrants and 15.9 percent of European immigrants. On the opposite end of the educational spectrum, 33.1 percent of Latin American immigrants to the United States had less than a 9th grade education versus 8.8 percent of Asian immigrants and 9.3 percent of European immigrants.²⁸

COMPETITIVE CHALLENGES TO THE UNITED STATES

Although the United States still is the world leader in the global competition for skilled workers, the nation faces serious competitive challenges. A 2006 report from the National Academy of Sciences highlights many of these. The United States now runs a trade deficit in high-technology products. While China, South Korea, and Japan have increased their funding for research and development (R&D) significantly, especially since 9/11, U.S. R&D funding in the physical sciences and engineering has declined or remained stagnant since the early 1990s. Other nations, particularly in Asia, account for a rising share of published scientific papers, as well as a growing share of applications for U.S. patents. U.S. high-school

students lag behind their counterparts in other advanced, industrialized countries in math and science proficiency. There are not enough highly qualified math and science teachers in the country. And relatively few U.S. college students pursue science and engineering degrees.²⁹ In addition, post-9/11 immigration policies have, according to the report, "discouraged [foreign] students from applying to U.S. programs, prevented international research leaders from organizing conferences here, and dampened international collaboration."³⁰

Apart from post-9/11 restrictions, the U.S. immigration system imposes arbitrary numerical caps on how many highly skilled immigrants can enter the United States each year. As a result, the country is at a comparative disadvantage vis-à-vis Australia, Canada, and New Zealand, which have moved from quota-based to quality-selective systems that assign points to immigrant applicants based on the skills they can contribute to the host economy.³¹ While these countries do not present serious challenges to the United States in the global bidding for skilled labor, their proactive immigration policies are worthy of consideration by U.S. policymakers currently preoccupied with the war on terror and distracted by political rancor over the very different issue of undocumented immigration.

With 450 million people and a huge regional labor market, the E.U. represents a greater competitive challenge to the United States than Australia, Canada, or New Zealand. The high

concentration of scientists, engineers, and mathematicians in Eastern Europe (augmented by generous supplies of technically trained workers in the Soviet successor states) affords a larger regional supply of skilled workers for the E.U. than Mexico and Central America provide for the United States. Moreover, legal and regulatory integration of markets (including labor) is substantially more advanced in the E.U. than in NAFTA. But while these assets create the possibility of a regional labor market capable of challenging the United States, labor market integration still is relatively shallow in the newly enlarged E.U.

At the time of the May 2004 enlargement of the E.U. from 15 to 25 members, 12 of the E.U. 15 countries availed themselves of the 7-year transitional arrangements specified in the East European accession treaty. The experiences of the three E.U. countries that opted instead to fully open their labor markets to East European immigrants in 2004 (Ireland, Sweden, and the United Kingdom) have lessened fears in some quarters that workers from the new accession states displace local workers. Empirical studies have demonstrated that East European immigration had positive effects on the labor markets of those countries,³² which prompted four other E.U. 15 countries (Finland, Greece, Portugal, and Spain) to remove their restrictions on some East European immigration in April 2006. Confronting mounting labor shortages and evidence of the benefits of labor market integration, other E.U. nations may face pressure to liberalize their markets as the transitional period draws to a close at the end of the decade.

However, there is little evidence to suggest that full integration of the E.U. 25 labor market will instigate major shifts in labor flows within Europe, at least in the near term. Ireland, which has the most liberal immigration regime in the E.U., experienced a two-fold increase in East European immigration during the first year after the 2004 accession. By 2005, guest workers from the East European accession states represented 3.9 percent of Ireland's working-age population. But analyses by the European Commission indicate that new migratory flows such as these are too small to exert much of an impact on the European labor market.³³ Previous enlargement rounds to the Iberian Peninsula, Southeastern Europe, and Scandinavia did not stimulate major increases in immigration from new member states. Despite the removal of *de jure* restrictions on labor migration, a variety of *de facto* impediments to labor mobility (cultural, economic, linguistic, political, and social) persist in Europe. In 2006, just 1.5 percent of E.U. citizens resided in member states other than

their country of origin, a share that has barely changed since the early years of European integration.³⁴

Nor does the E.U. appear positioned to boost dramatically its share of skilled immigrants from outside of Europe in the near future. A number of E.U. countries (Austria, Belgium, Denmark, Finland, France, the Netherlands, Sweden, and the United Kingdom) have enacted tax incentives targeting foreign-born professionals, as have Japan and South Korea. These programs include preferential income tax schedules, deductions for pension and healthcare costs, allowances for household living expenses, tax-free employer reimbursement of dependents' education fees, and other fiscal inducements.³⁵

In theory, highly skilled immigrants surveying alternative host countries are more responsive to differential tax regimes than are less-skilled immigrants. Those with fewer skills are very sensitive to non-fiscal factors (notably the presence of established immigrant communities that provide housing, financial aid, and local contacts to new arrivals from the home country), while highly skilled immigrants enjoy greater mobility that lowers their reliance on migrant networks and heightens their responsiveness to fiscal incentives. However, empirical research indicates that tax inducements generate at best a modest impact on global migration patterns. Although skilled immigrants exhibit a preference for low-tax environments, the aggregate effect is small—suggesting that non-tax considerations (e.g., quality of life, range of professional opportunities) weigh more heavily in their choice of destination.³⁶

Currently, the principal threat to the United States in the global war for talent comes not from those countries that have enacted the most progressive immigration laws (Australia, Canada, New Zealand), or the E.U. (individual members of which are major destinations for skilled immigrants, but which collectively do not match the United States in the bidding for human capital), or developed Asian countries (Japan and South Korea, which remain peripheral players in global labor market). Rather, the foremost challenge to U.S. primacy in the global labor market comes from India and China. Both countries are experiencing high economic growth rates and rapid technological developments that are boosting domestic job opportunities for university-degreed professionals, thus diminishing the allure of immigration to the United States.³⁷

As key suppliers of skilled workers, these two countries occupy a pivotal role in U.S. immigration policy. In Fiscal

Year (FY) 2003, India alone accounted for 36.5 percent of all H1-B visas granted by the U.S. government to highly skilled professionals. Indian immigrants also represented the largest share (24.7 percent) of employment-based LPR (legal permanent resident) petitions approved in FY 2004. China was the second biggest source country, accounting for 9.2 percent of H1-B visas in FY 2003 and 10.0 percent of employment-based LPRs in FY 2004.³⁸ However, the foreign-born population from China dropped by 12.2 percent between 2000 and 2005, signaling both the growing domestic job opportunities for Chinese citizens who might otherwise migrate to the United States, and “reverse brain drain” as Chinese nationals who arrived in the United States before 2000 returned home.³⁹

Yet, advanced degree holders from India and China exhibit a greater preference to stay in the United States than skilled immigrants from other countries. A National Science Foundation survey of foreign recipients of science and engineering doctorates conferred by U.S. universities in 2000-2003 indicated that 66.6 percent of Indian Ph.D.s and 63.6 percent of Chinese Ph.D.s intended to remain in the United States.⁴⁰ However, the stay rates of Indian and Chinese immigrants likely will diminish as growing professional opportunities in their home countries induce young professionals working in the United States to return.

ARBITRARY LIMITS ON HIGH-SKILLED IMMIGRATION TO THE U.S.

Despite the emerging competitive challenges to U.S. preeminence in the global market for highly skilled workers, recent changes in U.S. immigration policy have in fact diminished the country’s ability to sustain, let alone expand, inflows of high-skill immigrants. In 2004, Congress allowed the annual H1-B quota to revert from 195,000 to its 1990 level of 65,000. This move was precipitated by rising concerns over homeland security after September 11th and mounting anxieties among U.S. workers, sharpened by the 2000-02 recession, over the presumed job displacement effects of immigration. The current H1-B quota of 65,000—which represents just 1 percent of the U.S. science and engineering workforce—has been filled before the start of each fiscal year since it took effect. Congress also has set a separate annual cap of 20,000 on H-1B visas issued to foreign-born graduate students, a large number of whom are pursuing advanced degrees in science and engineering disciplines in high demand in many technology-intensive industries.⁴¹

The quota-based immigration system of the United States creates a number of liabilities for U.S. companies competing for top global talent. The time (5 months or more) and administrative/legal fees (\$3,000-5,000) required to process the initial applications for H1-B visas hinder recruitment of skilled foreign professionals. Extensions of H1-B visas beyond the current six-year limit are possible under current U.S. law, but such extensions also are costly and time consuming, typically involving re-interviews of individuals already screened for their first visas and thereby heightening uncertainty for both foreign employees and sponsoring companies.⁴²

REFORMING U.S. IMMIGRATION POLICY

The optimal remedy for these defects in U.S. immigration policy is to replace the H1-B quota system with a quality-selective regime along the lines of the point-based systems introduced in Australia, Canada, and New Zealand. The United Kingdom is moving in this direction, away from a work-permit regime to a multi-tiered system that would entitle high-skilled immigrants to work for any British employer or to set up their own businesses in the country.⁴³ However, the political environment in the United States—where homeland security concerns remain acute five years after September 11th and the furor over undocumented immigration clouds the separate issue of skilled immigration—provides little cause for optimism that such a policy reform will soon materialize.

In May 2006, the Senate passed an immigration reform bill (S. 2611) that would raise the annual H1-B cap to 115,000 and trigger a 20 percent yearly increase if that quota is filled. The Senate bill also would loosen restrictions on foreign graduate students, permitting Ph.D. candidates in science and engineering fields to remain in the United States for a year after graduation to seek employment and making those individuals eligible for permanent residency after they secure jobs. But the enforcement-laden immigration bill passed by the House of Representatives in December 2005 (H.R. 4437) contained no increase in the H1-B cap, and House/Senate conferees, approaching the hotly contested midterm elections, proved unable to reconcile the two versions before Congress adjourned in September. In brief, politics so far has trumped economics in the debate over U.S. immigration policy. One can only hope that the newly elected Congress will place the best interests of the U.S. economy ahead of partisan politics and enact immigration reform that makes the United States more competitive in the global battle for talent.

Appendix I:

WORKING-AGE FOREIGN-BORN POPULATION RESIDING IN OECD COUNTRIES, 1990 & 2000

	Working-Age Foreign-Born Population		% Change, 1990-2000	Foreign-Born Share of Working-Age Population	
	1990	2000		1990	2000
Australia	3,284,279	4,075,721	24.1%	23.9%	24.6%
Austria	324,201	816,001	151.7%	5.9%	12.3%
Belgium	748,543	867,620	16.0%	10.0%	10.7%
Canada	3,709,285	4,661,330	25.7%	17.2%	18.3%
Czech Republic	NA	410,249	NA	NA	5.5%
Denmark	93,934	169,664	80.6%	2.6%	4.3%
Finland	34,305	90,511	163.8%	1.0%	2.5%
France	3,480,664	3,755,514	7.9%	8.7%	8.5%
Germany	3,262,057	4,746,000	45.5%	5.5%	7.3%
Greece	112,805	106,041	-6.0%	1.7%	1.3%
Hungary	211,715	251,715	18.9%	3.0%	3.6%
Iceland	10,565	16,927	60.2%	6.6%	8.9%
Ireland	130,940	281,232	114.8%	6.3%	10.9%
Italy	533,312	923,788	73.2%	1.4%	2.1%
Japan	1,075,317	951,302	-11.5%	1.3%	1.0%
Luxembourg	83,398	114,625	37.4%	24.3%	27.4%
Mexico	363,626	417,371	14.8%	1.1%	0.9%
Netherlands	961,662	1,320,320	37.3%	8.9%	10.6%
New Zealand	456,792	603,606	32.1%	18.5%	20.1%
Norway	136,241	204,182	49.9%	4.7%	6.3%
Poland	661,517	741,571	12.1%	2.8%	2.9%
Portugal	170,390	207,476	21.8%	2.6%	2.9%
South Korea	49,500	150,812	204.7%	0.1%	0.4%
Slovak Republic	196,205	426,072	117.2%	2.0%	11.1%
Spain	845,977	1,370,657	62.0%	3.3%	4.5%
Sweden	617,449	805,143	30.4%	9.5%	11.5%
Switzerland	1,463,670	1,704,948	16.5%	23.7%	24.7%
Turkey	596,045	826,110	38.6%	2.3%	2.4%
United Kingdom	2,778,527	3,639,907	31.0%	6.8%	8.3%
United States	15,472,972	24,366,085	57.5%	8.7%	11.7%
OECD Total	41,866,000	59,022,000	41.0%	6.0%	7.3%

Source: Frédéric Docquier & Abdeslam Marfouk, 2005, Tables 5.5.A & 5.6.A.

Appendix 2:

EDUCATIONAL ATTAINMENT OF FOREIGN-BORN WORKING-AGE POPULATION
RESIDING IN OECD COUNTRIES, 1990 & 2000

	Education							
	Less Than High-School Diploma		High-School Diploma Only		More Than High-School Diploma		Unknown	
	1990	2000	1990	2000	1990	2000	1990	2000
Australia	38.6%	31.8%	27.7%	30.5%	33.7%	37.8%	0.0%	0.0%
Austria	58.1%	47.5%	33.4%	39.9%	8.5%	12.7%	0.0%	0.0%
Belgium	18.5%	55.9%	18.0%	22.6%	12.6%	21.5%	50.9%	0.0%
Canada	37.5%	29.6%	11.8%	11.6%	50.7%	58.8%	0.0%	0.0%
Czech Republic	NA	37.9%	NA	46.6%	NA	14.5%	NA	0.0%
Denmark	18.5%	22.2%	22.0%	31.6%	12.1%	18.8%	47.4%	27.4%
Finland	64.2%	48.7%	24.0%	27.6%	11.8%	23.8%	0.0%	0.0%
France	83.6%	74.6%	6.0%	9.0%	8.6%	16.4%	1.8%	0.0%
Germany	47.8%	53.6%	14.8%	12.2%	17.0%	21.0%	0.0%	13.2%
Greece	34.4%	33.5%	40.3%	40.7%	25.3%	22.5%	0.0%	3.3%
Hungary	59.3%	43.4%	14.7%	34.9%	15.3%	21.7%	10.7%	0.0%
Iceland	26.3%	22.7%	37.5%	41.4%	21.2%	26.7%	15.0%	9.2%
Ireland	16.7%	8.4%	51.2%	45.2%	26.5%	41.1%	5.6%	5.3%
Italy	59.3%	52.8%	14.7%	31.7%	15.3%	15.4%	10.7%	0.0%
Japan	39.2%	34.2%	26.0%	29.0%	30.7%	34.6%	4.1%	2.2%
Luxembourg	65.6%	33.0%	6.7%	32.0%	12.8%	25.6%	14.9%	9.4%
Mexico	49.5%	33.3%	16.5%	28.6%	34.0%	34.0%	0.0%	4.1%
Netherlands	59.3%	54.2%	14.7%	26.6%	15.3%	19.2%	10.7%	0.0%
New Zealand	26.6%	15.6%	24.8%	30.1%	42.6%	38.5%	6.0%	15.8%
Norway	2.3%	2.9%	50.0%	55.0%	24.6%	31.5%	23.1%	10.6%
Poland	59.3%	59.5%	14.7%	25.3%	15.2%	14.0%	10.8%	1.2%
Portugal	7.0%	58.9%	5.2%	20.8%	8.6%	1.4%	79.2%	18.9%
South Korea	39.2%	34.2%	26.0%	29.0%	30.7%	34.6%	4.1%	2.2%
Slovak Republic	59.3%	75.5%	14.7%	4.0%	15.3%	9.9%	10.7%	10.6%
Spain	56.4%	32.1%	26.1%	51.1%	17.5%	16.8%	0.0%	0.0%
Sweden	30.6%	25.0%	40.0%	41.7%	22.4%	27.4%	7.0%	5.9%
Switzerland	5.7%	7.0%	71.8%	56.9%	13.5%	16.8%	9.0%	19.3%
Turkey	72.0%	54.4%	16.8%	28.1%	8.2%	17.1%	3.0%	0.0%
United Kingdom	68.1%	36.7%	11.4%	28.8%	20.5%	34.5%	0.0%	0.0%
United States	25.6%	23.0%	34.3%	34.5%	40.0%	42.5%	0.0%	0.0%
OECD Total	40.4%	34.2%	25.3%	29.0%	29.8%	34.6%	24.5%	2.2%

Source: Frédéric Docquier & Abdeslam Marfouk, 2005, Tables 5.5.A & 5.6.A.

Appendix 3:

NET "BRAIN GAIN" IN OECD COUNTRIES, 2000

	Skilled Foreign-Born Population	Skilled Expatriates	Net Brain Gain	Net Brain Gain as % of Working- Age Population
Australia	1,539,670	116,723	1,422,947	11.4%
Canada	2,742,090	516,471	2,225,619	10.7%
Luxembourg	29,321	7,281	22,040	7.3%
United States	10,354,285	431,330	9,922,955	5.4%
Switzerland	286,682	88,051	198,631	3.8%
New Zealand	232,296	161,740	70,556	2.9%
Sweden	220,731	77,703	143,029	2.3%
Belgium	186,186	102,187	83,999	1.2%
France	614,598	312,494	302,104	0.7%
Norway	64,239	46,286	17,953	0.6%
Czech Republic	59,631	88,112	-28,481	0.4%
Germany	996,000	848,414	147,586	0.2%
Spain	230,159	159,889	70,703	0.2%
Japan	328,870	268,925	59,946	0.1%
Netherlands	253,651	256,762	-3,111	0.0%
Turkey	141,034	174,043	-33,009	-0.1%
Austria	103,239	130,487	-27,248	-0.5%
United Kingdom	1,256,892	1,441,307	-184,415	-0.5%
Italy	142,469	408,287	-265,818	-0.6%
Denmark	31,873	68,643	-36,770	-1.0%
Hungary	54,502	124,426	-69,923	-1.0%
Slovak Republic	41,989	79,451	-37,462	-1.1%
Iceland	4,512	6,598	-2,086	-1.2%
Poland	103,496	459,059	-345,563	-1.4%
South Korea	52,137	652,894	-600,757	-1.4%
Finland	21,515	76,132	-54,617	-1.5%
Mexico	141,912	922,964	-781,052	-1.7%
Portugal	29,816	147,438	-117,622	-1.7%
Greece	23,810	159,895	-136,085	-1.8%
Ireland	115,721	209,156	-93,435	-4.0%
OECD Total	20,403,000	8,533,000	11,870,000	1.6%

Source: Frédéric Docquier & Abdeslam Marfouk, 2005, Table 5.6.B.

Appendix 4:

REGION OF ORIGIN OF FOREIGN-BORN POPULATION IN OECD COUNTRIES, 2000

	Africa	Asia	Latin America	Caribbean	North America	E.U. 25	Other Europe	Oceania	Unknown
Australia	4.7%	27.4%	1.8%	0.8%	2.0%	46.4%	6.5%	10.4%	0.0%
Austria	2.0%	5.7%	0.6%	0.0%	0.9%	36.4%	52.6%	0.2%	1.7%
Belgium	22.5%	6.2%	1.9%	0.4%	1.6%	56.5%	10.7%	0.1%	0.0%
Canada	5.7%	35.7%	5.9%	5.0%	5.0%	35.2%	6.6%	0.9%	0.0%
Czech Republic	0.5%	4.8%	0.2%	0.1%	0.6%	76.8%	16.9%	0.1%	0.0%
Denmark	8.8%	30.6%	2.6%	0.2%	3.1%	32.7%	21.4%	0.6%	0.0%
Finland	7.4%	14.0%	1.4%	0.2%	3.1%	39.3%	34.1%	0.6%	0.0%
France	48.8%	7.6%	1.4%	0.4%	1.0%	33.7%	7.0%	0.1%	0.0%
Germany	1.7%	5.5%	0.5%	0.0%	0.8%	24.9%	51.1%	0.0%	15.5%
Greece	5.2%	6.8%	0.5%	0.1%	3.2%	17.0%	65.3%	1.9%	0.1%
Hungary	0.9%	3.7%	0.3%	0.1%	1.1%	22.2%	71.6%	0.1%	0.0%
Ireland	6.7%	6.9%	0.7%	0.2%	6.4%	72.8%	4.1%	2.1%	0.1%
Japan	0.4%	74.9%	17.9%	0.0%	3.5%	2.0%	0.5%	0.7%	0.0%
Luxembourg	4.0%	3.1%	1.1%	0.2%	1.0%	81.5%	8.3%	0.1%	0.7%
Mexico	0.2%	2.2%	14.5%	2.0%	70.9%	9.0%	0.8%	0.2%	0.1%
Netherlands	17.3%	22.8%	13.7%	5.8%	1.8%	21.1%	16.7%	0.8%	0.0%
New Zealand	5.6%	25.1%	0.5%	2.4%	3.0%	38.8%	2.1%	22.3%	0.0%
Norway	9.4%	30.0%	4.5%	0.4%	5.1%	34.9%	14.9%	0.4%	0.2%
Poland	0.4%	1.2%	0.1%	0.0%	1.4%	32.1%	62.3%	0.1%	2.4%
Portugal	53.7%	2.6%	11.5%	0.1%	2.2%	24.4%	5.2%	0.2%	0.0%
South Korea	0.0%	77.4%	0.0%	0.0%	9.6%	2.2%	0.0%	0.5%	10.4%
Slovak Republic	0.3%	1.2%	0.1%	0.1%	0.8%	83.9%	13.5%	0.1%	0.0%
Spain	19.5%	4.0%	34.3%	4.4%	1.2%	27.5%	9.0%	0.2%	0.0%
Sweden	7.2%	22.7%	5.6%	0.3%	1.6%	42.3%	20.0%	0.3%	0.0%
Switzerland	4.4%	6.5%	3.1%	0.6%	1.9%	54.4%	22.5%	0.3%	6.5%
Turkey	1.0%	6.6%	0.1%	0.0%	1.2%	35.6%	55.2%	0.3%	0.0%
United Kingdom	17.2%	32.5%	2.0%	4.8%	4.9%	30.7%	3.6%	3.5%	0.9%
United States	2.9%	24.3%	38.9%	12.9%	2.8%	13.3%	4.2%	0.8%	0.0%

Source: Jean-Christophe Dumont & Georges Lemaitre, 2006, Table A3.

FOOTNOTES

- ¹ The OECD describes itself as a “forum where the governments of 30 market democracies work together to address the economic, social and governance challenges of globalisation as well as to exploit its opportunities.” These countries are: Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, South Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States. (OECD, *The OECD*. Paris: November 2006, p. 7, 29).
- ² OECD, *International Migration Outlook*. Paris: June 2006.
- ³ Frédéric Docquier & Abdeslam Marfouk, “International Migration by Education Attainment, 1990–2000,” in Çağlar Özden & Maurice Schiff, eds., *International Migration, Remittances, and the Brain Drain*. New York, NY: Palgrave Macmillan (for the World Bank), November 2005.
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- ⁵ The terms “foreign born” and “immigrant” are used interchangeably in this report.
- ⁶ Frédéric Docquier & Abdeslam Marfouk, 2005, Tables 5.5.A & 5.6.A.
- ⁷ *ibid.*
- ⁸ *ibid.*
- ⁹ *ibid.*
- ¹⁰ *ibid.*
- ¹¹ *ibid.*
- ¹² *ibid.*
- ¹³ Çağlar Özden, “Educated Migrants: Is There Brain Waste?” in Çağlar Özden & Maurice Schiff, eds., *International Migration, Remittances, and the Brain Drain*. New York, NY: Palgrave Macmillan (for the World Bank), November 2005, Figure 7.3.
- ¹⁴ *ibid.*, Figure 7.6.
- ¹⁵ *ibid.*, p. 236-237.
- ¹⁶ “Expatriates” are defined as citizens of OECD countries legally residing abroad, regardless of the duration of their overseas residence.
- ¹⁷ Jean-Christophe Dumont & Georges Lemaître, 2006, Table 3.
- ¹⁸ *ibid.*
- ¹⁹ Frédéric Docquier & Abdeslam Marfouk, 2005, Table 5.6.B.
- ²⁰ *ibid.*, p. 151-152.
- ²¹ Jean-Christophe Dumont & Georges Lemaître, 2006, Table A3.
- ²² *ibid.*
- ²³ *ibid.*
- ²⁴ *ibid.*
- ²⁵ OECD, *International Migration Outlook*, 2006, Table I.1.
- ²⁶ Rick Lyman, “New Data Shows Immigrants’ Growth and Reach,” *New York Times*, August 15, 2006.
- ²⁷ U.S. Census Bureau, Foreign-Born Population of the United States, Current Population Survey - March 2004, Detailed Tables (PPL-176), “Table 2.5: Educational Attainment of the Foreign-Born Population 25 Years and Over by Sex and Year of Entry: 2004.”
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- ²⁹ National Academy of Sciences, National Academy of Engineering & Institute of Medicine, *Rising Above the Gathering Storm: Energizing and Employing America for a Brighter Economic Future*, February 2006 edition. Washington, DC: National Academies Press, 2006, p. 1-7, 1-8, 3-3, 3-6, 3-7, 3-9.
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- ³¹ Frederic Docquier & Abdeslam Marfouk, 2005, p. 152-153.
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- ³⁶ Thomas Liebig & Alfonso Sousa-Poza, *Taxation, Ethnic Ties and the Locational Choices of Highly Skilled Immigrants* (OECD Social, Employment and Migration Working Paper No. 24). Paris: July 29, 2005.
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⁴⁰ National Science Board, *Science and Engineering Indicators 2006* (Volume 2). Washington, DC: National Science Foundation, Appendix Table 2-33.

⁴¹ David Bartlett, *Building a Competitive Workforce: Immigration and the U.S. Manufacturing Sector*. Washington, DC: Immigration Policy Center, American Immigration Law Foundation, August 2006.

⁴² Spencer E. Ante, "Give Me Your Diligent, Your Smart," *Business Week*, May 1, 2006; Fay Hansen, "Visa Limits Fuel Frustration in Efforts to Fill Technical Jobs," *Workforce Management* 85(7), April 10, 2006.

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The IPC's mission is to raise the level of informed awareness about the effects of immigration nationally, regionally and locally by providing policymakers, academics, the media, and the general public with access to accurate information on the role of immigrants and immigration policy in all aspects of American life.

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The American Immigration Law Foundation is an IRS-designated 501(c)(3) non-profit, educational, charitable organization dedicated to increasing public understanding of the value of immigration to American society and to advancing fundamental fairness and due process under the law for immigrants. AILF relies on voluntary financial contributions to support its mission. All donations are tax-deductible as allowed by law. Please visit www.aifl.org/donate for additional details.



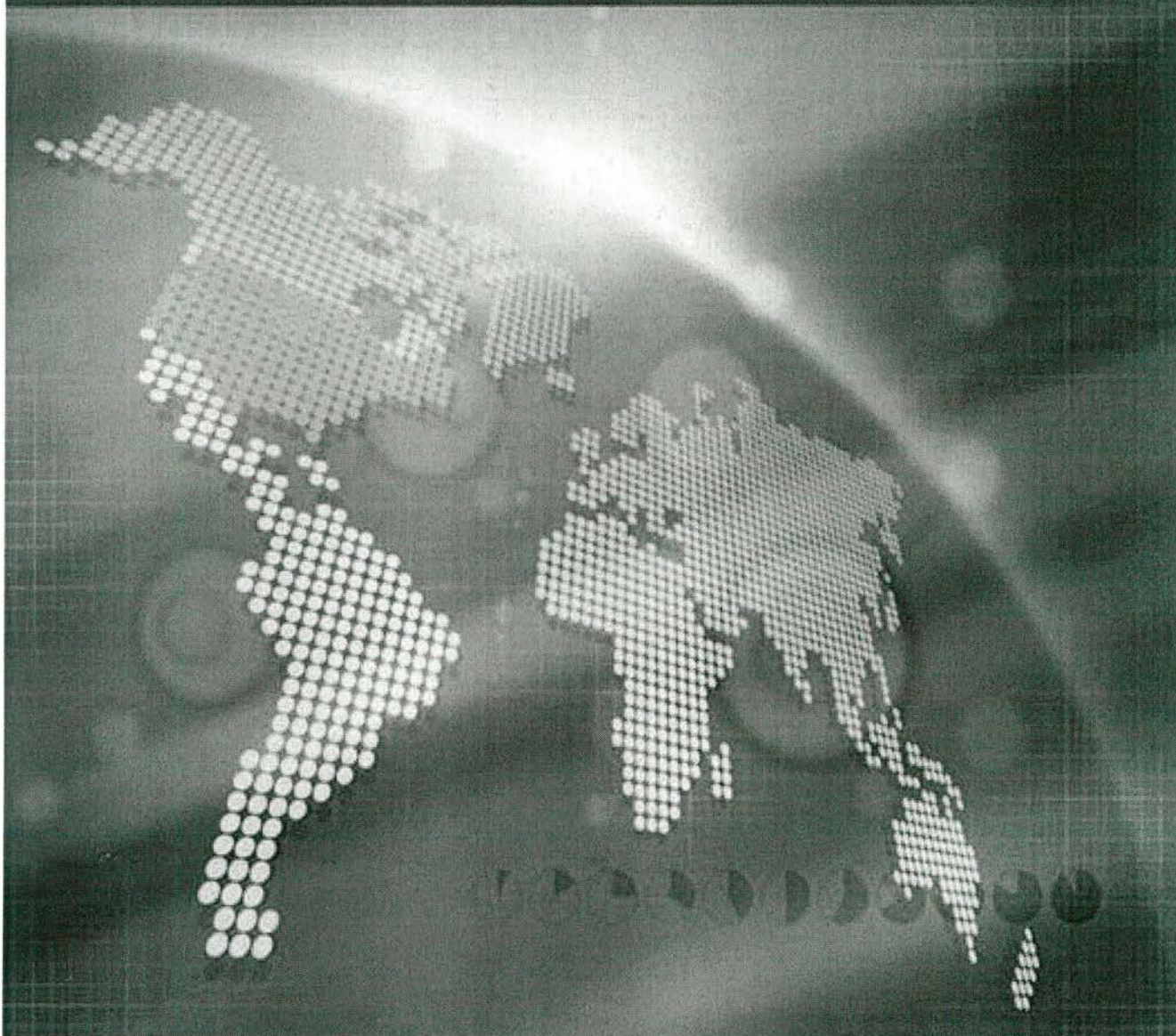
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Immigration and America's Future: A NEW CHAPTER



REPORT OF THE INDEPENDENT TASK FORCE ON IMMIGRATION AND AMERICA'S FUTURE
CO-CHAIRS, SPENCER ABRAHAM AND LEE H. HAMILTON

Doris Meissner
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 **mpi**
MIGRATION POLICY INSTITUTE

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FOREWORD

FEW POLICY AREAS AFFECT A SOCIETY as directly or as deeply as do immigration and immigration policy. Large-scale immigration magnifies those effects enormously.

The United States has been taking in unprecedented numbers of immigrants – legal and illegal – for over a decade now. Including those who come into the country both within and outside the parameters of the permanent immigration system and stay for extended periods of time, annual US immigration today totals about 1.8 million. Temporary immigrants entering legally on visas that do not require proof of an intention to return home and foreigners who enter and/or stay without authorization comprise the difference between the annual legal flows, which have averaged nearly one million in recent years, and the “actual inflow” figure estimated at 1.8 million.

No country can afford to have an immigration system that either ignores or otherwise merely ratifies the facts on the ground. Yet, that is what the United States has been doing for a while now. The result is a challenge to the most basic rules of governance; a hit-or-miss relationship between immigration policy and crucial US economic and social priorities; and an exceptional degree of political attention, not all of which has been thoughtful or productive. For these reasons, the Migration Policy Institute (MPI) organized the bipartisan Independent Task Force on Immigration and America's Future. This volume presents the results of the Task Force's effort to understand the key challenges and opportunities that immigration represents for the nation and the group's proposals for sensible but fundamental solutions.

Under the steady leadership of two distinguished American public servants, Spencer Abraham and Lee H. Hamilton, the Task Force recommendations articulate a vision that promotes US global competitiveness in the context of post-9/11 security imperatives, while also grappling with many of the technical details that have made immigration such an intractable public policy problem. The resultant proposals call for a flexible system that meets US economic interests now and in the future, promotes longstanding social goals and priorities, respects core US values, and dramatically improves the government's ability to advance the rule of law, a standard no longer being met by the status quo.

As with most efforts to fundamentally re-think complex and deeply ingrained systems and practices, the ideas the Task Force is presenting will require thoughtful debate and time for thorough assessment. The members of the Task Force, my MPI colleagues, and I are pleased to contribute the new thinking the Task Force has generated to the national immigration conversation now underway.

Demetrios G. Papademetriou
PRESIDENT, MIGRATION POLICY INSTITUTE

ACKNOWLEDGMENTS

THIS REPORT IS THE CULMINATION of the efforts of many skilled, effective individuals. We begin by expressing our gratitude to Spencer Abraham and Lee Hamilton for agreeing to serve as co-chairs of the Task Force. They have presided over the project with steady hands and seasoned judgments about the issues at stake in today's immigration debate. We are also grateful to the members of the Task Force for engaging in the process of dialogue and debate that took place during Task Force meetings and for committing time and imagination to grappling with the truly complex, wide-ranging issues addressed in this report. Our partners in convening the Task Force were the Manhattan Institute (MI) and the US Studies program and the Mexico Institute of the Woodrow Wilson International Center for Scholars (WWIC). We thank Tamar Jacoby, Andrew Selee, and Philippa Strum from those organizations for helping to organize the Task Force. Finally, the background information and perspectives provided by the ex officio members of the Task Force broadened the scope of the issues in valuable ways.

The idea for the Task Force dates back almost three years. Throughout its gestation, funding, research, meetings, and preparation of publications, all of our MPI colleagues have supported the initiative in varying ways. We have worked extremely well together in a spirit of warm collegiality preparing for Task Force meetings and bringing this report to fruition. We want especially to recognize Julia Gelatt, whose attention to detail, quantitative contributions, and tenacity in tracking down information have been indispensable. Her many contributions include tables, graphs, citations, and sidebars; Marc Rosenblum for intellectual ingenuity and persistent "drilling-down" on several key issues in the report; and Lisa Dixon for smooth liaison with members and funders, professionally managed meetings, and an excellent sixth sense for preventing things from falling through the cracks. Finally, our colleague Muzaffar Chishti added important perspectives and suggestions on a range of pertinent topics. Their work and dedication were exceptional.

The report reflects a great deal of research and analysis for which we also thank current and former MPI staff members Jeanne Batalova, Betsy Cooper, David Dixon, Kevin Jernegan, Julie Murray, and Kevin O'Neil, with assistance from interns Megan Davy, Shirin Hakimzadeh, Mary Helen Johnson, and Eliot Turner. We are indebted to Colleen Coffey and Meg Weaver for outstanding help

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The quality of discussion at Task Force meetings was sparked by excellent briefings and written analyses. In particular, we wish to thank Frank Bean, David Ellwood, Susan Ginsburg, Leighton Ku, James Loy, David Martin, Susan Martin, and Jeffrey Passel. Many additional authors also contributed importantly to the project. The papers they prepared were, or are being, published to contribute solid information and analysis to the ongoing debate. A full list of Task Force publications and authors appears in the appendix.

Finally, we are extremely grateful to the Carnegie Corporation, Charles Evans Hughes Foundation, Ford Foundation, Haas Foundation, JEHT Foundation, JM Kaplan Fund, and Open Society Institute for their confidence in and financial support for this project.

Doris Meissner, Task Force Director
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* Because of their legislative roles, currently serving members of Congress were not asked to endorse the Task Force recommendations.

Note: Some Task Force members submitted additional comments that appear at the end of the report. One member submitted a dissenting comment.

PREFACE

INTERNATIONAL MIGRATION IS TRANSFORMING not only the United States, but also more countries than at any time in history. The United States has long been a world leader in welcoming and integrating newcomers. Yet, our nation's official immigration policies are increasingly disconnected from the economic and social forces that drive immigration.

The nation's attention is focused on illegal immigration. Americans are deeply divided in their opinions about the impact of immigration on the country, and anger about illegal immigration colors public attitudes about all aspects of immigration, illegal or otherwise. Confronting the problem of illegal immigration is long overdue. Still, illegal immigration is but one aspect of immigration. Today's debate side-steps the broader question that looms for America's future: What kind of immigration policy and system would harness the benefits of immigration to advance US national interests in the 21st century?

The Independent Task Force on Immigration and America's Future was convened by the Migration Policy Institute (MPI) to grapple with that question. Its report and recommendations are based on careful analysis of the economic, social, and demographic factors driving today's large-scale immigration, illegal and legal. Its core conclusion is that the benefits of immigration far outweigh its disadvantages and that immigration is essential to US national interests and will become even more so in the years ahead. But to harness the benefits, the United States must fundamentally rethink its policies and overhaul its system for managing immigration.

The Task Force is a bipartisan group of leaders and experts from key sectors concerned with immigration. The co-chairs are Spencer Abraham, Principal, The Abraham Group, former Secretary of Energy and Senator from Michigan, who chaired the Subcommittee on Immigration of the Committee on the Judiciary; and Lee Hamilton, President and Director of the Woodrow Wilson International Center for Scholars (WWIC), former Vice-Chair of the 9/11 Commission and Representative from Indiana who chaired the House Committee on Foreign Relations. The Division of United States Studies and the Mexico Institute of the Woodrow Wilson Center and Manhattan Institute have collaborated with MPI in convening the Task Force.

The Task Force first met in May 2005. Research and analyses prepared for it have been released at regular intervals during the past year to inform policy-makers, the press, and the public about critical issues.⁹ Since the first meeting, legislative debate suddenly accelerated in the Congress. Because of their legislative roles, currently serving members of Congress were not asked to endorse the Task Force recommendations. Many Task Force members have been actively engaged in advocacy on behalf of key constituencies. Their support for the recommendations in the report in no way alters positions they may have taken on pending legislation and does not necessarily imply agreement with every aspect of the report.

This report is the culmination of the work of the Task Force. It addresses issues in the current debate and beyond. The Task Force hopes it will serve as a durable foundation upon which to build the discourse and policies that can meet the challenges and opportunities immigration poses for the 21st century.

EXECUTIVE SUMMARY

IMMIGRATION IS THE OLDEST AND NEWEST story of the American experience. The same dreams of freedom and opportunity that galvanized people to cross the ocean hundreds of years ago draw people to America today. Immigration has enabled America's growth and prosperity, and helped shape our dynamic American society. Yet just as it has been a vital ingredient in America's success, immigration generates changes that can be unsettling and divisive.

Immigration is essential to advancing vital American interests in the 21st century. To maximize the benefits and mitigate the strains caused by immigration, the United States needs a new immigration policy and system for a new era.

Three times in our history, the United States has experienced "peak periods" of large-scale immigration that coincided with transformative economic change. Today, we are living through a fourth peak period, as globalization prompts the United States to complete the transformation from a manufacturing to a knowledge-based economy. With over 14 million newcomers, legal and illegal, the 1990s ranks numerically as the highest immigration decade in American history; the current decade will almost certainly surpass it.¹

As with previous peak periods, immigration is helping the United States respond to shifting economic realities, while also enriching American society. At the same time, communities across the country are experiencing rapid change and new challenges in integrating diverse new populations. In particular, the United States is faced with an unprecedented level of illegal immigration. Demands for greater border control, an immigration system that can meet neither workforce requirements nor the need for families to unify, and government agencies at all levels that are struggling to manage immigration mandates are all signs that our policy is broken and outdated.

The American people are deeply divided about whether immigration helps or hurts the country. They recognize the imperative for change, but often give contradictory answers when asked to choose among various policy options.² Legislative action has mirrored this division. The House of Representatives passed a bill in December 2005 that focused on tough new enforcement measures at the border and in the interior of the country. The Senate passed a bill in May 2006 that complements stringent enforcement measures with substantially

expanded opportunities for legal immigration and earned legal status with a “path to citizenship” for unauthorized immigrants.

The Independent Task Force on Immigration and America's Future welcomes the national dialogue on immigration. We applaud Congress for taking action, but believe that both the House and Senate bills are insufficient. The House bill will not fix the problem because it fails to address the economic forces driving immigration. The Senate bill is preferable because it is more comprehensive and bipartisan, but the bill is overly complex to implement and fails to correct systemic problems in immigration law and policy.

The Task Force report is based upon a careful analysis of the economic, social, and demographic factors driving today's large-scale immigration. In crafting recommendations, we sought to design a new and simplified system that averts illegal immigration, while also harnessing the benefits of immigration for the future.

THE BENEFITS OF IMMIGRATION

Immigration offers the United States unique benefits that will allow us to be a more productive, competitive, and successful nation in the 21st century.

Productivity

Immigration augments and complements the workforce exceptionally well because the US economy is creating more jobs than can be filled by native-born workers. In the 1990s, half of the growth in the US labor force came from new immigrants.³ That share is projected to grow. This demand for foreign labor is evident across the skills spectrum. At a time when Japan and most European countries are less competitive and face mounting social welfare costs because of declining working-age populations, infusions of young, taxpaying immigrants are helping the United States overcome worker, skills, and entitlement program shortfalls. Without immigration, we cannot sustain the growth and prosperity to which we have become accustomed.

Competitiveness

Immigrants are helping the United States maintain a competitive edge. In the critical fields of science and engineering, immigrants play a pivotal role. To take just one example, in 2004, 50 percent of students enrolled in engineering graduate programs in the US higher education system were foreign-born.⁴ At a time when China and India are increasingly competitive, the United States must continue to attract the world's best and brightest — or risk losing an important resource to other nations.

Immigration also propels entrepreneurship. Immigrants are more likely to be self-employed than native-born Americans.⁵ The number of Hispanic-owned businesses has grown at three times the national average.⁶ And one quarter of Silicon Valley start-ups were established at least in part by immigrants, including Intel, Sun Microsystems, and Google.⁷ These and countless immigrant-owned businesses across the country are creating jobs, revitalizing neighborhoods, and helping the US economy adapt to changing global market conditions.

Dynamism

Immigration remains a driving force behind the dynamism of American society. The impact of immigration on daily life is evident in the food we eat, the entertainment we watch, the houses of worship we attend, and the sports we play. Prominent immigrants have won Nobel Prizes, built soaring skyscrapers, written or performed masterpieces, and served at the highest levels of government. Classic indicators such as employment, education, military service, intermarriage, and home ownership show that today's immigrants are successfully integrating into American society.

In an age of globalization, America's openness to immigrants is also an important foreign policy asset. Those who live, study, or emigrate to the United States learn first-hand about our values of freedom, opportunity, individual rights, and the rule of law. And in a global economy that increasingly demands global interaction, exposure to a diversity of people and experiences is a unique resource for Americans.

THE CHALLENGES OF IMMIGRATION

Despite these substantial benefits, America's immigration system has been overwhelmed by myriad challenges. Many of these challenges are tied to illegal immigration and the resulting population of unauthorized immigrants in the United States.

Illegal immigration

The most dramatic manifestation of the breakdown of America's immigration system is that a large and growing share of today's immigration is illegal. According to recent estimates, 11.5 to 12 million unauthorized immigrants are in the United States — nearly one-third of the country's foreign-born population.⁸ For a nation of immigrants that is also a nation of laws, this level of illegal immigration is unacceptable. Illegal immigration generates insecurity about America's borders, carries economic and fiscal costs, and risks the creation of an isolated underclass. The prevalence of illegal immigration also generates disturbing social and cultural tensions, and causes a decline in Americans' support for immigration more generally.

Temporary immigration

Along with illegal immigration, nonimmigrant (temporary) immigration programs constitute the primary ways immigration has adapted to new conditions and labor market demands. Temporary immigration programs have increasingly been used as a step to permanent immigration and are filling standing, ongoing labor market needs. The result is that illegal immigration is meeting the nation's low-skill demands, and temporary visa programs are meeting the demands for mostly high-skilled immigration.

An over-burdened system

Illegal immigration occurs within the bounds of a broader immigration system that is over-burdened and no longer serves the nation's needs. The primary

engines of immigration — family unification and employment — generate far more demand than the immigration system can meet. Individuals who apply to immigrate legally — on a temporary or permanent basis — face overly complex procedures, unreasonable delays, and inflexible statutory ceilings that dictate levels of immigration to the United States.

Native-born workforce

Immigration — particularly illegal immigration — also presents challenges to the native-born workforce. While the net economic impact of immigration is beneficial to the US economy, today's immigration also has some troubling consequences. Illegal immigration can have negative impacts on wages at the bottom end of the pay scale. And immigrant labor, particularly of unauthorized immigrants, can lead to declining labor standards that undercut the position of native-born workers.

Integration

The sheer number of today's immigrants — and the fact that many are unauthorized — presents substantial integration challenges. Many of the costs and responsibilities associated with integration are borne by states and localities. Large numbers of immigrants are now settling in states such as Georgia, North Carolina, and Nebraska that do not have recent traditions of immigrant integration. Unauthorized immigrants by definition cannot be integrated into American society, complicating integration further. And at the local level, communities are often faced with demands for services from unauthorized immigrants, particularly for education and health care, which are costly and engender resentment.

Security

Despite more than a decade of unprecedented growth in resources for border security, the number of unauthorized immigrants residing in the United States has led to a sense that the government lacks the ability and will to secure its borders. Many border communities feel besieged, and citizens across the country are calling increasingly for strengthened border enforcement. Within the country, rules against employers hiring unauthorized immigrants are easily broken, manipulated, or simply under-enforced.

While the overwhelming majority of migrants entering the United States do not represent a threat to national security, the borders must be the front line for security. In a post-9/11 environment, Americans are particularly concerned about terrorists crossing a permeable border or fraudulently gaining admittance to the country at legal ports of entry. In addition, increases in smuggling, dangerous border crossing patterns that have led to tragic migrant deaths, and vigilantism all pose risks to migrants and border communities alike.

AN IMMIGRATION POLICY FOR THE 21ST CENTURY

The Independent Task Force on Immigration and America's Future believes America has entered a new era of immigration, and thus needs a new framework for immigration policy. Our recommendations integrate economic, security, and social concerns. We make proposals that are comprehensive, and governed by rules that are simplified, fair, practical, and enforceable. Above all, we have sought to build for the future upon a firm foundation of America's values and traditions of successful immigration.

Attracting the immigrants the United States wants and needs

The Task Force recommends the simplification and fundamental redesign of the nation's immigration system to accomplish timely family unification and to attract the immigrant workers required for the United States to compete in a new economy.

A re-designed system

Immigration should take place through three new streams: temporary, provisional, and permanent. Temporary visas would be issued for short-term stays and work assignments, such as seasonal employment. Provisional visas would allow employers to recruit foreign-born workers for permanent jobs and possible future immigration after a testing period of several years. A combination of such temporary and provisional visas, based on the nature of the job, is preferable to a bracero-like guest-worker program, which ties workers to individual employers and provides no opportunity for permanent residence. Finally, permanent immigration would be available both to those who apply directly, and those who "graduate" from provisional status.

The proposed system would initially set annual immigration levels at about 1.5 million, approximately 300,000 less than the actual annual number of immigrants – legal and illegal – being absorbed into the labor market and the country today. The system would simplify many visa categories and procedures, so that US immigration is better able to meet family unification and labor market goals. Special visa categories would be created, such as "strategic growth visas" for individuals in strategically important disciplines.

Standing Commission

An independent, federal agency called the Standing Commission on Immigration and Labor Markets should be created. The Standing Commission would make recommendations to Congress every two years for adjusting immigration levels. Its recommendations would be based on analyses of labor market needs, unemployment patterns, and changing economic and demographic trends. In adjusting immigration levels to be flexible to changing market conditions and ongoing review, the Standing Commission would provide an important tool for policymaking, much as the Federal Reserve does for monetary policy.

Executive branch

To bolster the government's capacity to implement immigration policy, the president should: 1) name a White House coordinator for immigration policy;

2) issue an executive order establishing an interagency cabinet committee for immigration policy; and 3) strengthen the capacity of executive branch agencies to implement major new immigration mandates.

Enforcing the rules

People cross the border illegally or overstay their visas because of the availability of jobs in the United States and the absence of legal immigration opportunities. Any strategy to reduce illegal immigration must therefore increase the numbers of workers admitted legally, and then effectively and credibly punish employers who continue to hire unauthorized workers. The new bargain must be that with increased employment-based immigration, employers be given the tools to reliably hire only authorized workers, and be held to high standards of compliance with immigration and other labor standards laws.

Employer enforcement

Mandatory employer verification and workplace enforcement should be at the center of more effective immigration enforcement reforms. Without them, other reforms – including border enforcement – cannot succeed. Electronic verification is a major undertaking that relies on upgrading several massive federal databases. Government agencies must be given sufficient, sustained resources and support to upgrade databases and establish privacy and anti-discrimination safeguards. To assist in the process, the Department of Homeland Security should create a Workplace Enforcement Advisory Board to help build support for new employer enforcement policies, and monitor the progress of new measures.

Secure documents

A secure Social Security card is necessary to combat fraud, enable individuals to establish their eligibility to work, and allow employers to easily verify the documents presented by legally authorized workers – US citizens and non-citizens alike. A secure, biometric Social Security card should be developed to replace existing non-secure cards. Along with “green” cards and immigration work authorization cards – which are already secure, biometric documents – the three cards should eventually be the only documents used to verify work eligibility.

Border enforcement

Border enforcement must accomplish a number of intertwined goals: restricting the illegal entry of people and goods; regulating the flows of people and goods that the United States wishes to admit; protecting against terrorism and other national security threats; and protecting against criminality, violence, and other threats to the quality of life.

■ *Smart borders.* To accomplish these goals, implementation of “smart border” measures that combine personnel, equipment, and technology should be accelerated. The administration should submit an annual report to Congress and the American people that establishes measures of effectiveness for border enforcement and reports progress in meeting them. Three particular areas that need to be closely monitored are Border Patrol staffing and support, the effectiveness of technology, and civil rights protections of migrants and border community

residents. Border enforcement efforts have received substantial resources in recent years with uncertain results. In implementing border enforcement policies, Congress and the public need better information to assess the effectiveness of those investments.

- *Ports of entry.* Immigration enforcement in other areas of border security should continue to be strengthened, especially legal ports of entry and overseas visa issuance. As southwest border enforcement increases, incentives for individuals to use legal ports of entry to gain admittance to the United States will continue to grow. Legal immigration admissions procedures must not become “weak links” in border protection. Sustained attention to document security and vigilance in the issuance of overseas visas will continue to be of key importance. Meanwhile, security must be balanced with efficiency, as facilitating legitimate trade and travel are essential to economic prosperity and US engagement around the world.

- *Counter-terrorism.* Terrorist travel and transportation tactics should be aggressively targeted with the same depth and urgency as terrorist communications and finance. International terrorists depend upon mobility. Every time a terrorist crosses an international border, he must make contact with an enforcement official. This represents a significant vulnerability for terrorists, and a vital opportunity for counter-terrorism officials. The tracking and disruption of terrorist travel demands higher priority and resources. Border officials must have ready access to information, such as real-time intelligence and law enforcement watch-lists, to enable them to promptly identify terrorism suspects.

Labor market protections

A re-designed immigration system must not diminish employment opportunities or wages of native-born US workers. Furthermore, increased levels of immigration must not be accompanied by declining labor standards — for US workers or for foreign-born workers.

- *Labor certification.* The existing case-by-case labor certification system should be replaced with a system that provides for pre-certified employers, designates shortage occupations for blanket certifications, and uses a streamlined individual certification process for non-shortage occupations. Pre-certifications would require employers to file sworn attestations that no qualified US workers are available to do the job, that no striking workers are being replaced, and that prevailing wages will be paid.

- *Worker flexibility.* Temporary and provisional workers should have the right to change employers after an initial period without jeopardizing their immigration status, and to exercise labor rights comparable to those of similarly employed US workers.

Immigrant integration

US immigration policies are specified in great detail in US laws, but integration policies are skeletal, ad hoc, and under-funded. Immigrant integration is an essential dimension of successful immigration, especially in a period of large-

scale immigration. Currently, there is no focal point for leadership in the federal government to promote immigrant integration. Individual, family, and state and local efforts accomplish a great deal, but they could be better leveraged to achieve important national goals.

Office of Immigrant Integration

A National Office on Immigrant Integration should be created to provide leadership, visibility, and a focal point at the federal level for integration policy. The office would establish goals for immigrant integration, and measure the degree to which these goals are met. The office would assess and coordinate federal policies and agencies related to integration, and serve as an intermediary with state and local governments. As a principal priority, the office should examine the supply of and demand for English-language instruction among limited English-proficient groups, and provide leadership and expertise for public and private sector initiatives and resources to meet that demand.

The unauthorized population

An earned path to permanent legal status is the most urgent immigrant integration need at this time and should be provided for unauthorized immigrants currently in the United States. The requirements for earning legal status should be the same for all eligible applicants. A legalization process should be simple, with an eligibility date that is as recent as possible. The process should include registration for work eligibility in the United States, accompanied by a background security check, English-language requirements, and payment of a substantial fine for illegally entering the United States. Earned legal status should occur within the context of broad, comprehensive immigration reform.

The Region

Illegal migration is a regional issue. Nearly 80 percent of the unauthorized population in the United States is from Latin America, primarily from Mexico and Central America. The flow of remittance earnings from migrants in the United States to families and communities in their home countries has reached record amounts. The United States must engage Mexico and Canada in longer-term initiatives that result in viable economies and higher standards of living throughout the region.

Conclusion

America's ability to effectively manage and take advantage of our current period of large-scale immigration constitutes a new chapter in the nation's immigration experiences that will play a large part in shaping our nation in the 21st century. Will we be able to compete effectively? Will we be secure? Will we maintain our tradition of openness? The Task Force strongly believes that the United States can answer each of these questions in the affirmative, but only if we adopt a simplified, comprehensive, and new approach to immigration that addresses the American people's sense of crisis about illegal immigration, as well as the opportunities that immigration provides for the United States in a new era.

NOTES

- 1 About 9.8 million immigrants gained lawful permanent resident (LPR) status in the United States between 1990 and 1999, while an estimated 4.9 million immigrants entered and remained in the country without authorization. However, immigrants made up a larger share of the total US population at the turn of the century — about 15 percent, compared to only 12 percent currently. US Department of Homeland Security, *Yearbook of Immigration Statistics: 2004*, Table 1 (Washington, DC: US Department of Homeland Security Office of Immigration Statistics, 2006); Jeffrey S. Passel, "The Size and Characteristics of the Unauthorized Migrant Population in the U.S." (Washington, DC: Pew Hispanic Center, March 2006), <http://pewhispanic.org/files/reports/61.pdf>; and Tabulations from the Current Population Survey, March 2005.
- 2 For one recent poll of US opinions on immigration, see Pew Research Center for the People and the Press and Pew Hispanic Center, "America's Immigration Quandary: No Consensus on Immigration Problem or Proposed Fixes" (Washington, DC: Pew, March 2006), <http://pewhispanic.org/reports/report.php?ReportID=63>.
- 3 Andrew Sum, Neeta Fog, Paul Harrington, et al., "Immigrant Workers and the Great American Job Machine: The Contributions of New Foreign Immigrants to National and Regional Labor Force Growth in the 1990s" (Boston, MA: Northeastern University Center for Labor Market Studies, August 2002), 16–17.
- 4 The Council of Graduate Schools found that 50 percent of students enrolled in graduate degree programs in engineering were foreign-born temporary US residents, while 41 percent of students enrolled in graduate degree programs in the physical sciences were foreign-born temporary residents. Heath A. Brown, "Graduate Enrollment and Degrees: 1986 to 2004" (Washington, DC: Council of Graduate Schools, Office of Research and Information Services, 2004).
- 5 About 10.4 percent of foreign-born workers are self-employed, compared to 9.4 percent of native workers. Jeanne Batalova and David Dixon, "Foreign-Born Self-Employed in the United States," *Migration Information Source* April 1, 2005, <http://www.migrationinformation.org/USFocus/display.cfm?ID=301>.
- 6 US Census Bureau, "Growth of Hispanic-Owned Businesses Triples the National Average," Press Release (Washington, DC: US Census Bureau, March 21, 2006), http://www.census.gov/Press-Release/www/releases/archives/business_ownership/006577.html.
- 7 A study by the University of California, San Diego, found that one-quarter of Silicon Valley start-ups were established by Chinese and Indian immigrants during the 1990s. See AnnaLee Saxenian, "Silicon Valley's New Immigrant Entrepreneurs" (University of California, San Diego, The Center for Comparative Immigration Studies, May 2000).
- 8 Passel, "The Size and Characteristics of the Unauthorized" (see n. 1).
- 9 To access MPI's publications prepared for the Independent Task Force on Immigration and America's Future, see <http://www.migrationpolicy.org/ITFIAF/publications.php>.
- 10 See n. 1.
- 11 US Census Bureau, "Hispanic Population Reaches All-Time High of 38.8 Million, New Census Bureau Estimates Show," Press Release, June 18, 2003, http://www.census.gov/Press-Release/www/releases/archives/hispanic_origin_population/001130.html.
- 12 Ben J. Wattenberg, *First Universal Nation* (New York: Touchstone, 1992).
- 13 David Ellwood, "How We Got Here," In *Grow Faster Together. Or Grow Slowly Apart*. (Washington, DC: The Aspen Institute Domestic Strategy Group, 2002).
- 14 Andrew Sum, et al., "New Foreign Immigrants and the Labor Market in the US" (Boston, MA: Center for Labor Market Studies, Northeastern University, January 2005).
- 15 Ellwood, "How We Got Here" (see n. 13).
- 16 B. Lindsay Lowell, Julia Gelatt, and Jeanne Batalova, "Immigrants and Labor Force Trends: The Future, Past, and Present," Task Force Insight No. 17 (Washington, DC: Migration Policy Institute, July 2006), 3.
- 17 Richard Jackson, "The Global Retirement Crisis" (Washington, DC: Center for Strategic and International Studies, April 2002).
- 18 Ellwood, "How We Got Here" (see n. 13).
- 19 Lowell, Gelatt, Batalova, "Immigrants and Labor Force Trends" (see n. 16).
- 20 *Ibid.*, 15–17.

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