



What History Reveals about Wise Immigration Policy

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Few issues played a larger role in the 2016 presidential election than that of “illegal” immigration. Currently, there are some eleven million undocumented people living and working in the United States, most from Mexico and Central America, but also some from other countries. Many of these people are forced to live in the shadows and constant fear. Often exploited and abused by their employers, they are at the same time scapegoated for national economic and social problems by some citizens and political leaders. Among the undocumented are about 700,000 young people brought to the United States by their parents as children.

Immigration policy, perhaps more than any other public policy issue, reveals the most puzzling contradictions of the American experience. The United States is both a nation of immigrants and a nation wary of immigrants; it is a country that finds immigrants essential but also often unwanted; it is a cultural mosaic at once proud of its diversity and anxious about ethnic and racial differences. Immigration policy has historically been – and remains – shaped by tensions between contradictory and opposing impulses. Because of always contested views, immigration policy has been erratic and frequently triggers unintended consequences, rendering the status of immigrants in American society unstable and perpetuating nearly intractable problems.

The Recent, Troubled History of Immigration Legislation

There are no easy answers when it comes to U.S. immigration policy. Some Americans view illegal immigration as a costly burden and argue that unsanctioned migration makes a mockery of the rule of law, they therefore advocate for deportation and harsher border enforcement. Others emphasize the economic and cultural contributions of newcomers, and thus insist on legalization and normalization of status for undocumented immigrants.

Immigration policy dilemmas are evident in two of the most important and consequential pieces of legislation of the twentieth century, the Immigration and Nationality Act of 1965 and the Immigration Reform and Control Act of 1986.

President Lyndon B. Johnson signed the 1965 law – also known as Hart-Celler after its principal sponsors. Intended as a liberal and humane companion to the Civil Rights Act, the law eliminated national origins quotas and substituted an ostensibly less discriminatory system for earlier racial and nationality quotas. However, the law inadvertently created a massive “illegal immigration problem,” as immigrants from south of the border entered the United States regardless of visa quotas. Many simply continued to migrate without documents.

The ensuing immigration “crisis” led lawmakers to repeatedly seek reforms. By the mid-1980s, a number of cross-cutting coalitions promised to “solve” immigration issues by instituting a “three-legged stool” including

increased border enforcement, employer sanctions, and amnesty for most of the millions of undocumented immigrants already in the United States. To this end, President Ronald Reagan signed into law the Immigration Reform and Control Act of 1986 on November 6, 1986.

But rather than solve the country's immigration dilemma, the 1986 law made it more complicated, because it was riddled with unintended consequences. Tougher enforcement made border crossing more dangerous, leading many Mexicans and Central Americans to move to the United States permanently rather than migrate seasonally, bringing families with them. At the same time, employer sanctions were minimal and led to a boom in false documents. While some three million people were able to obtain legal residence, those who came later remained without legal status. Earlier legislation was seen as a failure and further amnesties became unpopular.

Solutions for a Complex Problem

Despite claims by the loudest voices in the debate, immigration policy has never been solely about territorial integrity or about the rule of law. Rather, the issue of immigration has been a placeholder for broader questions about the proper role of government, the nature of U.S. capitalism and democracy, and the roles of class and race in the national imagination. Immigration law reveals what citizenship means, determines the responsibilities and privileges of citizenship, and separates deserving citizens from other people who are residents without rights.

Immigration policy is complicated in part because policymakers have regularly ignored or downplayed its larger political meaning and impact. Policymakers frequently also treat immigration as a zero-sum game, as merely a law-enforcement issue or merely a humanitarian matter. In fact, immigration policy crafted with the national interest in mind can also be humane and fair to immigrants. But doing so requires learning the historical lessons of past legislation, and recognizing that immigration patterns are far more responsive to economic conditions than to legal measures.

The following steps would pave the way for a fair, humane, and logical immigration system:

- Normalization of status for undocumented people already in the country who have proven to be law-abiding, of good moral character, and productive members of society.
- An immediate and permanent solution for the DREAMers –young people brought to United States illegally as children.
- Legislation that prioritizes family unification and replaces strict quotas and fixed limits with flexible responses to market forces and ever-shifting geopolitical conditions.
- Continued engagement with major sending countries to encourage democracy, internal development, political stability, and economic opportunity, to prevent waves of departures of their people in the first place.
- Strict enforcement of protections for all workers regardless of immigration status to discourage exploitation and the development of underground economies.

Policy makers need to acknowledge that immigration has both costs and benefits that fall on different groups and places unevenly. Smart reforms should be historically aware, economically literate, and humane. Despite previous policy failures, these principles are not mutually exclusive. It is possible to fashion immigration measures that both preserve U.S. integrity and rule of law and benefit immigrants who work, pay taxes, and contribute to the U.S. economy and society.