Tony Payan
Erika de la Garza   *Editors*

Undecided Nation

Political Gridlock and the Immigration Crisis

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Immigrants and Minorities, Politics and Policy

Volume 6

Over the last fifty years, immigrant and minority population growth has transformed much of the developed world, particularly the United States, Canada, and Europe. Understanding the political and policy consequences of this demographic change is essential to scholars and practitioners alike. On topics ranging from elections to public policy to representation, immigrants and minorities are–or should be–increasingly important parts of the discussion. In the electoral arena, we need to better understand the implications of demographic change for parties, public opinion, and outcomes. In the policy realm, it is increasingly necessary to consider the implications of laws, rules, and practices for immigrant and minority groups. The United States population is now one-third minority, for instance, and rapidly expanding Latino communities point to a future with no majority racial-ethnic group. What are the implications of such change for politics and policy? This new series is designed to address these topics, and well as related subjects such as the integration of immigrant and minority groups, internal migration, the implications of migration for sending nations, and the forces that structure migration. If you would like to propose a book or edited volume, please contact either the series or press editor.

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Editors

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Preface

America's immigration system is irrevocably broken, and it is getting progressively worse. The failure to pass *comprehensive* immigration reform—and by that I mean a system that stands by its commitment to families, helps US workers by creating new and better jobs, reduces the incentives for exploiting workers, chooses its immigrants in ways that help them and the communities in which they settle to succeed, and meets the US economy's ever-changing needs—has left the US divided and unable to keep up with game-changing shifts in the global economy. While a number of piecemeal tweaks have become law since the last two pieces of substantial legislation were passed almost three decades ago, the cumulative effect has been one of falling further behind, if not outright failure. The longer we wait to act in a systemic way, the farther we will drift away from an immigration system that reflects both our values and economic needs.

As this volume goes to the publisher, the prospects for reform have become—if anything—less clear and certainly less straightforward. The slow economic recovery with its accompanying jobs' crisis, the fever pitch to increase enforcement efforts (because politics, rather than policy, demands it) with no agreement on what "success" in this regard would look like, and the growing polarization in the US Congress are contributing to a playing field that is becoming, once again, toxic. Congress, particularly the House of Representatives, continues to show a dangerous indecision on immigration reform. The US—now nearer to passing large-scale reform than any time in the recent past—must work diligently to not waste this moment.

The consequences of inaction are important to understand. One byproduct of the federal government's failure to address immigration in a holistic manner has been states taking matters into their own hands. We have seen a cascade of state and local "solutions" that have been quite reactionary and dissonant with the country's constitution, values, and economic interests. Arizona's controversial SB 1070, for instance, required state and local police officers to inquire into the immigration status of anyone they stopped if they had "reasonable suspicion" they were here illegally, leading to claims of racial profiling. Other responses were much more generous, such as the establishment of "sanctuary" cities determined to welcome immigrants regardless of their legal status, yet still a symptom of the same larger problem. Many of these responses are dealt with in this volume.

Support for comprehensive immigration reform picked up noticeably after the 2012 elections. Some perceived Republican presidential candidate Mitt Romney's poor performance with Latino and other ethnic and minority voters as a rebuke to the anti-immigrant rhetoric of the Republican Party. Post-election polling continued the secular trend of showing that most Americans wanted to fix the system through a combination of tougher enforcement measures (including a system to prevent employers from hiring unauthorized workers), expanding opportunities for workers to come to the US legally, and, crucially, creating a path to regularize the status of the 11 million or so unauthorized workers already in the country. Different requirements typically garner different levels of support, but the "tougher" the requirements are—such as fines composed of paying back taxes and admitting to breaking US law—the greater the support.

This new impetus for immigration reform energized a group of senators who had been intermittently talking about the issue for several years. They created a larger and more formal group, the Gang of Eight (four Republicans and four Democrats), with the goal of proposing a comprehensive piece of legislation. Their efforts led to the Border Security, Economic Opportunity and Immigration Modernization Act, which passed the Senate with 68 votes in favor and 32 against in late June 2013. The large margin was due almost exclusively to an amendment that would double the Border Patrol to 40,000 agents, build an additional 700 miles of fencing between Mexico and the US, and appropriate more than US$ 40 billion dollars to enforcement, mostly to border security. In addition to ramping up border security dramatically, the bill includes fundamental changes to the visa system (favoring the admission of both highly qualified and otherwise needed workers), a long but sure path to citizenship for the undocumented resident population, and a strengthened interior enforcement system that includes a mandatory employment eligibility verification system for all employers.

Despite the large margin in the Senate, the path to reform in the House of Representatives remains uncertain and, if it were to occur, will be much more arduous and uncertain. House Speaker John Boehner has declined to take up the Senate's immigration bill, and added that any future bill introduced in the House must have the support of a majority of Republican House members (118 in total). This sets an especially high bar, given that most Republicans in the House represent rural, highly conservative districts drawn precisely to maximize the probability that incumbents will get reelected, with insignificant Hispanic populations, providing little incentive for them to vote for the bill. Even if he were to drop this requirement, recent wavering on his part reflects the enormous opposition to any immigration reform by an important group within his party—an opposition that he does not appear to have the skills to handle politically. Republicans in the House will no doubt resist a path to citizenship for the undocumented population, which is a non-negotiable provision for most Democrats, although they may have to give up on this. Although Speaker Boehner has himself warmed up to addressing immigration reform in the House, the possibility of legislation remains illusive at the writing of this volume. Overall, immigration reform faces much more of an uphill battle than many imagined when the Senate passed the Border Security, Economic Opportunity and Immigration

Modernization Act in the summer of 2013. And we are quickly approaching the 2014 mid-term elections, which will further complicate the possibilities of reform.

In the meantime, President Obama's leadership on the issue has been intermittent if not outright negligent. While the White House staff has been playing a very important role (mostly) behind the scenes, the President's activities on this issue have focused on the Senate process and on keeping constituencies on board. One is left wondering what the President's approach is in engaging the House, where the fate of a comprehensive bill is hanging in the balance.

Despite this uncertainty, there is still a greater chance to achieve reform now than at any time in the past three decades. Before the momentum for immigration reform is lost, Congress must pass a bill that fixes the failings of the present system while building a new system that can respond to the economic, demographic, and labor force challenges already facing the US. And the immigration system that emerges from this reform must, above all, remain flexible to evolve with changing circumstances.

To that effect, this volume speaks to both the details and the big picture of reform. It presents concrete policy recommendations on various aspects of immigration (including legalization, a guest-worker program, changes to the visa program, and border security) and discusses how dynamics within Congress, various constituencies, and voter demographics have shaped, and will continue to impact, immigration reform. As immigration reform advances through the legislative process, these crucial issues will be discussed, debated, and hopefully resolved. This volume aims to contribute scholarly work and nuanced expertise to the dialogues about immigration reform in order to reach the delicate balance necessary for a sustainable solution to the country's immigration dilemmas.

Migration Policy Institute   *Demetrios G. Papademetriou*
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Introduction

Tony Payan

In this introduction to the volume, I first lay out some of the key variables that have shaped the immigration debate in the post-2012 election scenario. I then briefly explore some key issues surrounding immigration reform as reflected in the Senate debates of 2013 and the House wavering on the issue well into 2014. In the process of doing so, I argue that, in a surprising turn of events, the political environment on immigration seems to have shifted overnight, a shift largely attributed to the 2012 election results, which many Democrats interpreted as a mandate to pass immigration reform and some Republicans believe to be a rebuke of their stances on immigration up to the November 6 balloting. However, that shift may not have been enough to push legislation through the House, even if the Senate responded positively. There appears to be a disassociation between the national mood on immigration, as reflected in post-electoral surveys, and the Congressional dynamics surrounding the possibility of reform. This introduction also explains the four great issues of the immigration bill, including the status of the undocumented resident population, the shape of the new visa system, domestic enforcement in the workplace, and border security. Further, the implications of immigration reform for the border, including life on the border, the military industrial complex, and bureaucratic imperialism, are concisely explained. And, finally, before introducing the chapters found in this volume, we succinctly examine the future of immigration from Mexico and Central America and what it means for the American labor market.

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Changes in the National Political Landscape: Down and Up…and Down Again

In the history of any nation, there are watershed elections, defined as those that determine the course of politics for years, even decades. The election of Franklin D. Roosevelt in 1932 is one such election because it represented, in its own time, the realignment of several major electoral groups behind the Democratic Party. Some-times, a particular election becomes a watershed election for a specific electoral group. The election of Ronald Reagan in 1980 can be viewed as a shift to the right, with conservatives finally gaining the political upper hand they had been working toward for years prior to 1980. Recently, the 2008 election constituted a critical event for African Americans, in that Barack Obama was elected to office. The 2012 elections may yet turn out to be an important election for the future of the Hispanic electorate in the US, although this is yet to be determined. According to the Pew Hispanic Center, the share of eligible Hispanic voters has grown steadily to reach over 23 million in 2012. Although only 48 % turned out to vote in November 2012, their share of the overall votes cast grew from 9.7 % in 2008 to 11.2 % in 2012 (López and González-Barrera 2013) with the figure expected to continue to grow at a rate of about 2 % every presidential election. In an era of close elections, that 2 % can create an enormous difference. Moreover, 71 % of Hispanics voted for President Obama while merely 21 % voted for Mitt Romney, the Republican presidential candidate.

These numbers are significant in that they comprise the backdrop of the push for immigration reform in 2013, specifically in the introduction of the S.744 bill in the Senate. The election results were largely interpreted as the flexing of Hispanic electoral muscle, directed particularly at Congressional inaction and President Obama's heavy law enforcement approach to immigration—even though there is wide agreement that such flexing had a limited effect in the House and did not move President Obama to modify his punitive approach on immigration enforcement at all. But even if it fell on semi-deaf ears, the message was clear. Immigration was among the top priorities of the Hispanic electorate at the end of 2012, although the economy continued its reign as number one. To those Latinos who consider immigration their top priority, inaction on immigration reform seems to represent an important motivation of political choice, with this tendency increasing considerably among the foreign born and in places where Hispanics represent a minority population wise (Valenzuela this volume).

But if the message was clear, the interpretation was mixed. There were significant discrepancies in the understanding of the results by both Democrats and Republicans and by Congress and the White House. The Democrats interpreted the 2012 electoral results as a mandate, of sorts, by Hispanics to fix the immigration problem, largely in that Hispanics and their families are deeply affected by the broken state of the system. In effect, for many Democrats, it was a second chance to not only address a crucial issue in the minds of the Hispanic electorate but also a warning that they could lose the Hispanic vote in the event of inaction on immigration reform, even if it simply stayed home in the next round. Most Republicans un-

derstood the Hispanic vote differently, perceiving it primarily as a warning sign that they were alienating an increasingly important percentage of the electorate in swing states like Colorado, New Mexico, Nevada, Florida, and even states unlikely to turn blue, such as Virginia and Arizona. Given that every year 800,000 vote-eligible Hispanics come of age, Republicans immediately calculated that over time it could transform even states like Texas into purple states (Taylor et al. 2012). As recently as 2014, Senator John McCain continued to warn the Republican Party of this grave mistake. In fact, in Texas, a reliably red state, it has become clear that Hispanics punch below their weight, having never reached their true potential in the realm of voting. If Texas were to go purple or even blue, Republicans would have a tough time building a national coalition to win the White House over several presidential elections. Even so, House Republicans have paid little attention to this, and any subsequent attempts to translate this message into action have faced strong opposition within the Republican House majority, so as to make Speaker John Boehner vacillate in regard to immigration legislation. Worse yet, not all Democrats understood the message either. President Obama remains largely insensitive to the concerns of Hispanics, particularly in regard to mass deportations, and has continued to expel hundreds of thousands of undocumented migrants without regard to the humanitarian disaster he is causing right at home. The brightest light from the 2012 election results was that public opinion has turned and now favors resolving the issue and legalizing millions of undocumented workers, effectively signaling a turn in the public mood toward immigration from hostility to a slightly more welcoming attitude. The states, interestingly enough, have responded by passing increasingly accommodationist legislation, correctly reflecting the public mood—something that the federal government has just been unable to do.

However the results may have been construed by the two parties, the 2012 elections managed to expose what many had already argued in an ever-increasing stockpile of literature on immigration over the past 15 years, that the US immigration system is broken and has lacked repair for far too long (Jacoby 2006); that in the absence of political consensus to reconfigure it, the federal government's policy has become lopsided in favor of an increasingly militarized law enforcement strategy (Khimm 2012); and that the states and local governments, frustrated by the inability of the federal government to act decisively, have begun to create individualized local policies targeting immigration (Jones and Chou; Payan; Olivas; this volume). As already hinted, the elections, through mechanisms not yet fully understood, seem to have melted away much of the vitriolic discourse toward immigrants that had been simmering in the country since the mid-1990s and appears to have turned the tide of American public opinion. According to a Pew Research poll, 71 % of Americans today believe that undocumented migrants currently in the country should be permitted to stay, although 77 % believe that border security must also be increased (Pew Research Center 2013). Even the media has altered its tune. For example, The Christian Science Monitor published a memorandum by the Associated Press, announcing that it would no longer use the phrase "illegal immigrant" (Goodale 2013). The usage of the term virtually disappeared from the media by early 2013 and it is not widely viewed as pejorative in an increasing number of circles. This amounts to an axiomatic shift in attitudes on immigration, reflected even in modifications in

discourse. But why did the 113th Congress not understand this public opinion shift? And if it did, at least in the Senate, why did this not translate into comprehensive immigration reform?

Congressional Dynamics: Between the Senate and the House or a Rock and a Hard Place

The question of the way in which the 113th Congress interpreted and internalized the shift in the nation's mood in regard to immigration is far from trivial. Reforming the immigration system as a whole is a task that only Congress can perform. Clearly, President Obama has used his executive power to make marginal changes, mostly related to enforcement. One important change President Obama has carried out, for example, was the signing of Deferred Action for Childhood Arrivals (DACA) on June 15, 2012. This action, seen by many as an electorally motivated move, was designed to defer any enforcement of immigration law, notably deportation, against undocumented residents brought to the US as children. President Obama's second action was emphasizing criminal alien deportation, presumably leaving those lacking criminal records relatively unscathed (Obama 2012). Nonetheless, President Obama received much criticism from activists arguing that federal law enforcement continued to target all undocumented residents, regardless of whether they had committed serious crimes or mere traffic violations. Obama has come to be known as the greatest deporter of immigrants of all time, and his enforcement approach has sowed panic in numerous immigrant communities across the nation. But this focus of law enforcement resources toward "criminal" aliens, the administration argued, would give Congress an opportunity to act on immigration, particularly on the status of the undocumented resident population. This is a serious issue for the Democrats, because in the 2014 election, Hispanics, though they may not vote Republican, may stay home and rebalance the elections again in a move that could favor the Republicans.

Congress adapted to the shift in the national mood somewhat, particularly the Senate, which moved toward immigration reform rather quickly. The Gang of Eight, a group of four Democratic and four Republican senators, introduced a framework for reform in late January 2013 and then introduced a bill roughly 10 weeks later. This bill dealt with the major issues affecting the immigration system: (1) the status of the undocumented resident population, (2) the shape of the visa system, (3) domestic law enforcement, and (4) border security. President Obama took advantage of this opportunity to throw his support behind this bill, but did not present any concrete proposals of his own or lobby hard for the bill, further disappointing the Hispanic community. This reinforced the well-established perception in the Hispanic community that President Obama did not consider immigration a priority, as well as the expectation that he would continue to exercise tepid leadership on the issue at best. To be fair, several keen political observers have argued that it was beneficial for President Obama to have remained on the sidelines in the midst of this polemic. They argue that his activism on the subject would have alienated many Republican

votes in Congress; thus, by keeping a low profile, Obama may have actually done a great service to the Senate's bill.

The Senate's Gang of Eight did its utmost to contemplate all points of view, to open the bill to full discussion, and to keep an open mind on the amendments in order to assuage the concerns of the majority of senators. The objective was to garner as many votes as possible in the Senate and thus give the bill sufficient momentum to reach the floor and then move to the House of Representatives. This flexible attitude proved crucial in the Senate, given the many anxieties of conservative senators who feared the country could find itself in an identical crisis 15 or 20 years later if this attempt were to end in failure. The most important compromise, which won numerous votes for the bill in the Senate, was the Corker–Hoeven amendment. Senator Bob Corker (R-TN) and Senator John Hoeven (R-ND) introduced this proposal as an amendment focused on border security. It would dedicate between 30 and 40 billion dollars to border security, including the deployment of new technology (drones, sensors, etc.), doubling the Border Patrol from 21,000 to 40,000 active members, and building an additional 700 miles of border walls (Corker and Hoeven 2013). This amendment proved important in gaining Republican votes, and the final version of the bill garnered 68 votes in favor and 32 against. All 52 Democrats, 2 Independent senators, and 14 Republicans voted for the bill. All the no-votes were comprised of Republican senators (Altman 2013). The final bill did include a path to citizenship for undocumented residents, albeit a very lengthy path as it would take at least 10 years for an individual to obtain citizenship (Library of Congress 2013–2014). At this point in time, the bill is out of the Senate and now the responsibility falls to the House of Representatives to give it final passage. President Obama is likely to sign almost any bill that comes out of Congress, no matter how imperfect, as he is eager to fulfill his own promises to the Hispanic electorate.

The environment in the House of Representatives is not as welcoming as that of the Senate. In fact, the House is paralyzed. In effect, the fate of immigration reform, as of the writing of this volume, remains uncertain, as symbolized by Speaker Boehner's constant wavering on the issue in 2014. There are several reasons for this, as well as several paths for the bill to successfully make it through the House of Representatives—although it now appears unlikely in 2014. One reason primarily deals with the strong Republican opposition to the provision commonly referred to as amnesty, or the legalization of the undocumented resident population. The majority of conservative Republicans look upon these individuals primarily as lawbreakers, and a path to citizenship as a reward for having violated the law by entering the country without authorization or for overstaying their original visas. In the House, unlike the Senate, Republicans have the majority (234 Republicans to 201 Democrats) and the Speaker of the House John Boehner (R-OH) controls the agenda (Office of the Clerk, US House of Representatives 2013). Boehner has made it clear that he will not bring the bill to the floor, although he continues to encourage different groups and caucuses to work on various aspects of immigration reform (author's personal conversation with Rep. Sheila Jackson Lee in Houston, Texas). In other instances, although Boehner has said that he was open to a bill, he has vacillated later and said it was not possible. In addition, Boehner has mandated that the

Hastert rule apply to any immigration bill, meaning that it must pass with a majority of Republicans. This self-imposed rule makes it excruciatingly difficult to pass immigration reform because it constructs a high hurdle for bill passage, requiring all 201 Democrats and at least 118 Republicans or 319 votes, assuming no Democrats are disillusioned by a potentially harsh version of the bill that could meet the approval of 118 Republican votes (Sherman 2013). Democratic votes would very easily be lost if House Republicans insist on not including a path to citizenship for the undocumented residents already living in the US, given that Democrats have made it clear that no path to citizenship means no Democratic support for the bill at all.

Slowly, however, the House is pushing a number of smaller bills forward. Although these initiatives are short of an omnibus immigration bill, they do address the four great issues of immigration: (1) the status of the undocumented population, (2) the shape of the visa system, (3) domestic law enforcement, and (4) border security. The hope is that if the House were to pass four or more of the bills, these could be bundled and reconciled with the Senate bill in conference, resulting in the opportunity for both the House and the Senate to vote on a final consolidated bill. There exists a chance for that path, albeit slim; nothing is assured, particularly since Republicans in the House seem to oppose a path to citizenship for the current undocumented residents in the US and denying such an option is unacceptable to Democrats. This may be the deciding factor that unravels the possibility of reform in 2014, as it did in 2013. Add to this the fact that 2014 is a mid-term election year, and many Republicans will likely refuse to be held accountable by their constituencies for any "amnesty" for undocumented workers. If the reform is not passed, the opportunity will disappear for at least another 8 years—a calculation made in the light of the fact that the most propitious time to pass immigration reform would be in the second term of the next president.

From an overarching view, the journey to immigration reform in the 2013–2014 period does not at all appear easy, even after the Senate's approval of a version, which many believe was the best that could be done (author's personal conversation with preeminent immigration lawyer Charles Foster in Houston, Texas). The Senate's bill seems to remain unacceptable to conservative Republicans in the House, largely on the grounds that a path to citizenship represents amnesty—even taking into account the border security concessions to Republican conservatives—but the opposite—no path to citizenship—is equally unacceptable to the vast majority Democrats. Both sides of this polemic will have to be incredibly generous for immigration reform to be achieved before the 2013 opportunity vanishes. The possibility would broaden if Democrats moved to approve a legalization-without-a-path-to-citizenship program.

The Four Corners of Immigration Reform

The immigration debate of 2013–2014 rests upon four great pillars: (1) the fate of the undocumented resident population, (2) the shape of the future visa system, (3) immigration domestic enforcement, and (4) border security. Each of these four

points, which have not fundamentally changed for years, represents a number of contentious issues in the Senate's bill, although the pivotal point in the Senate's debate seems to have been the border security component. Fortunately, the Corker-Hoeven amendment in the Senate seems to have preempted many of the potential objections by conservatives in the House in the realm of border security. This indicates that the reform in the House will pivot around the issue of the future course of action for the 11 million undocumented residents living in the US—if it is ever introduced as a comprehensive reform bill. The problem here is that, while Democrats can easily live with making deep concessions on border security, many very conservative Republicans may not be willing to accept a path to citizenship for the undocumented workers already in the country. For Democrats, legalization is a point on which they refuse to back down, although they may have to. Troublingly, there are multifarious ways for a bill to die, leaving immigration reform unresolved. Can Congress find a compromise? Let us examine each of these issues, from what the Senate has proposed, to possibilities of where the House may go in order to discern whether America will finally achieve success in immigration reform in 2014.

The Undocumented Resident Population: The 11 Million Ghosts Living in the Shadows

The undocumented resident population of the US is estimated to be roughly 11–12 million, although no individual is certain on the number of undocumented workers residing within the US today (Benedetti 2013). These 11–12 million undocumented residents constitute about 3.5 % of the total US population. While law enforcement would seem the straightforward solution, it was almost the sole approach that the Obama administration relied upon until 2012 and what many conservatives advocate for, deporting 11 million people is neither feasible nor desirable. An exclusive law enforcement approach would create a humanitarian crisis, as millions of undocumented residents would leave behind family members, leaving US citizens and legal residents without their loved ones and very often their breadwinners (Gleeson and Argo, this volume). In addition, this move would leave vast sectors of the economy that have been dependent upon this labor force without a supply of workers (Orrenius and Zavodny, this volume). The deportation of millions of workers to Mexico would create a crisis of massive proportions in Mexico as well, an event with possible repercussions on the overall stability of Mexico and implications that would eventually spill over into the US.

Yet, as previously stated, legalizing these residents remains one of the most polarizing issues in the House of Representatives. Many see any path to citizenship—a stand usually summarized by the word amnesty—as a reward for having violated the law. This point is so crucial that it may derail the train of immigration reform altogether in the House of Representatives, if and when it is introduced there. Although the Senate's bill does lay out a path to citizenship for the undocumented resident population, it is a long-winded path exceeding 10 years, and legalization would come only after a number of important obligations that every applicant would have

to fulfill. But even this proposal remains unacceptable to many Republicans in the House who are likely to continue to label this as amnesty. The Senate's bill anticipated this problem and appears to have made preemptive concessions to the Republican-controlled House by subjecting all undocumented migrants to register first as Registered Provisional Immigrants (RPIs), a status which would enable them to eventually get in line for a Green Card and ultimately citizenship, although the entire process will take a decade. No one would be able to apply for a Green Card, or Legal Permanent Residency, until the border is fully secured, as specified by the bill. That may still not meet the criteria set by the members of the House of Representatives, many of whom maintain that the proposal is inadmissible because it amounts to amnesty, even if prolonged and delayed.

A potential compromise to counteract the incongruity between what the Senate has approved and what the House may demand is to grant a legalized status to these workers, but one which does not represent full legalization—a green card and eventual citizenship. This option would involve a type of legal status short of a path to citizenship, enabling each undocumented resident to remain, work, and escape from the shadows under a protected or a temporary worker status while not allowing them to become permanent residents or citizens in the future. The precedent for this is the Temporary Protected Status (TPS) that many Central Americans are currently taking advantage of in the wake of Hurricane Mitch in their respective countries. This, however, may not meet the standards of the Democrats, who may simply abandon all efforts to achieve immigration reform and await a new opportunity in the future. Even so, there seems to be an emerging consensus within the Democratic Party to accept such a compromise.

Whatever happens, this will persist as the greatest polemic of immigration reform in the latter months of 2014 and one that could easily derail immigration reform altogether.

New Visa System

Throughout the past 15 years, the US has admitted some 850,000 to 1 million new immigrants each year (Haskins 2007). This number rose steadily from over 300,000 in the 1960s to over 450,000 in the 1970s and over 600,000 in the 1980s. The composition of the immigrant population has also been altered, becoming more greatly comprised of individuals of Latin American and Asian descent over time. Most of these entries were based on the family reunification principle. Only about 20% were based on merit/employment and diversity bases. The new system proposed by SB744 eliminates the diversity visa system by eliminating the visa lottery for countries with low US-bound immigration rates. It reduces the importance of the family reunification principle that accounted for roughly 80% of all immigration visas to the US. It also increases the importance of the merit principle number of visas, especially for high-skilled workers and entrepreneurs, by raising the caps on the numbers of visas available. Additionally, it makes the caps on visas per country more flexible and creates a new W-visa system for temporary guest workers. Taken

together, these points constitute a major yet guarded overhaul of the immigration system. The Senate's bill—SB744—is overall an excellent bill that achieves a delicate compromise among the diverse interests of a majority of the Senate's members.

In all, even though the visa system has been overhauled, some of its emphases changed, and new visas were created. Still, the general orientation of the immigration system remains fairly intact, with the industries that require higher skilled workers likely benefiting the most. The end result, if the bill passes the House unscathed and unaltered, will be that the number of diversity visas will decrease or go away altogether and that some countries with high-skilled workers desiring to leave will likely benefit the most; in fact, Science, Technology, Engineering, and Math (STEM) industries will probably reap the most benefits of all. The new visa system also concerns nonimmigrant skilled and unskilled visas. While it does increase the H1-B and L-1 visas available, it also creates a new visa known as a W-Visa, for guest workers, all of whom would, under certain conditions, eventually be able to apply for a green card. One potential compromise is the option of moving undocumented workers to a W-visa program and then giving them a future chance of applying for permanent residence.

Overall, the Senate's bill is a significant improvement on the old system, but it hardly acknowledges the larger impetus of labor market integration, reminding us that the new visa limits and the new kind of visas bear hardly any resemblance to the momentum of globalization that constitutes the push and pull forces for workers in North and Central America.

Domestic Enforcement

Another critical aspect of immigration reform in the Senate bill is domestic enforcement. This was an important component of the 1986 immigration reform, but it has been deemed as a present-day failure, as it was not mandated and most employers found it unreliable and incomplete in any event. The Senate's bill overhauls the E-Verify system, making it imperative for employers over a period of 5 years. Eventually, the E-Verify system will have at its fingertips the information of all eligible workers throughout the US, and the employability of every single worker will be available for verification. If an employer fails to verify the authorization of a worker's employment in the US, he or she will pay a hefty fine per violation— US\$ 25,000 —and potentially be charged with criminal offense. Making this system obligatory for everyone will presumably end the ability of all employers to hire workers who are unauthorized and therefore eliminate the incentive for workers to come to the US (Library of Congress 2013–2014).

This point is not likely to be so controversial as to derail a version of immigration reform in the House. In fact, the House will probably take this domestic enforcement issue separately and move it forward. Whether the system will actually be fully operational and reliable within 5 years is another matter. One aspect however is certain, the bill does specify that no employer who hires an unauthorized worker because of an error in the system will be penalized.

Border Security

Perhaps the least controversial component of the immigration bill is Title I: Border Security. The Senate preempted many of the potential objections by House members by adding stiff border security measures. This border security component of SB744 addresses the issue of undocumented crossings along the US–Mexico border through a strategy of heavy militarization. Immigration reform, as the Senate proposed, would unleash a flood of spending, not all of which is guaranteed to stop undocumented immigration to the US. The Senate's bill promises nearly US$ 50 billion in new spending, something which could constitute a veritable bonanza to consulting and technology contractors throughout the country (Library of Congress 2013–2014). The bill is laden with pork.

Although nothing is assured—and we hardly know how the House of Representatives will proceed—this component of immigration reform is likely to remain and perhaps even grow in the House of Representatives, where more conservative members appear to be focused on border security and believe that there should be no accounting for the undocumented resident population without having first ensured that no person is crossing the border without papers.

Immigration reform, as it stands now, would include hundreds of miles of double walls; new surveillance and communications equipment; new Border Patrol operating bases to be staffed by nearly 20,000 new agents in addition to the 20,000 that already operate in the Southern border; deployment of new military technology such as drones; multiple infrastructure additions which would include cameras, watch towers, ground sensors, etc.; and a domestic enforcement system for visa overstays, which could include jail time for anyone who remains in the US after his or her visa has expired.

The bill provides that no undocumented resident in the US should be able to apply for a green card without the context of ensured operational control of the border. This is, in fact, one of the primary purposes of the bill. As previously noted, before any undocumented immigrant can apply for a green card, he or she must register as a RPI and the border must be secured. The border security trigger mechanism is complicated, but it was a compromise reached in the Senate to obtain more Republican votes. Unfortunately, the border security component of the debate, in spite of its specificity in the bill, will likely not be settled until it is implemented and changes made. What it is sure to bring about, however, is the creation of new and harsher conditions on the US–Mexico border.

Military-Industrial Complex

The Corker–Hoeven amendment to the Senate's original bill is a premonition of what is to come in the future. On the one hand, it (mistakenly) punishes the border for phenomena that originate some distance away from the border and whose destination is not the border (legal and illegal flows). This is not to say that the country

does not possess the right to control that which enters and exits its border, but that this excessive spotlight on the border addresses only one symptom of the issue, not the root causes of the problem, dooming the entire immigration policy to fail again in the future. On the other hand, the amendment creates a US$ 50 billion dollar fund for border-security-related projects that are sure to attract a swarm of security and military contractors and consultants with an increased incentive to portray the border as a chaotic, violent strip of land, but one that can be fixed with more budgets and more people and more technological deployments, which they are, of course, happy to provide (Nieto-Gómez, this volume). Without questions of how this fund will be paid for in an era of tight federal budgets, these conditions will surely result in an inescapable border security-industrial complex and increasingly harsh conditions on the border that are sure to choke the economy and cost billions of dollars and hundreds of thousands of jobs through security-induced inefficiencies in a place where prosperity depends on smooth and expeditious cross-border flow.

Bureaucracy and Human Rights

Another important aspect of immigration reform deals with human rights. Although they are not generally part of the discussion, important risks exist to fast-paced bureaucracy growth. The Border Patrol, in particular, experienced severe growing pains in the 1990s and 2000s, as it doubled its number of agents to 20,000 (Haddal 2010). Going from 20,000 to the proposed 40,000 agents is likely to create additional problems. Recruiting, training, controlling, and guiding a bureaucratic force through this kind of growth is bound to produce trouble, including serious human rights abuses during law enforcement activities. As it is, the Border Patrol has been accused of firing on unarmed border jumpers and then failing to reveal its own investigation results and refusing to hold its own agents accountable for the firings. Recently, the Border Patrol was awarded the Golden Padlock Award, by the Investigative Reporters and Editors, for refusing to disclose information on its own law enforcement activities and the potential violations of human and due process rights (Horvit 2013).

The Future of the Labor Market in North America

Although there is ample recognition in the current immigration debate that the system is broken, there are two general assumptions in the proposed solutions thus far—present in both the omnibus bill in the Senate and the individual bills floating around in the House. The first deals with the dimensions of the responsibility of the border itself in the creation of the immigration crisis. In effect, the border has become the focal point of politicians in Washington DC in such a way that the response is heavily focused on border security as the ultimate response to the

immigration problem. The border is indeed an easy target. This was evident in the Senate, where the Corker–Hoeven amendment, heavily focused on the border itself, managed to garner additional votes for the bill by directing tens of billions of dollars, tens of thousands of new Border Patrol agents, hundreds of miles of new walls, and an unprecedented deployment of military technology to stop what is essentially an economic phenomenon—immigration (Corker and Hoeven 2013).

Strangely enough, there is little mention of the fact that immigration—like any other legal or illegal cross-border flow—relates to the border only inasmuch as the border is a circulation point. However, flows do not generally originate at the border, nor is the border their ultimate destination. The border is instead the focus simply because it is a passageway for transnational flows, and although addressing the problem at the border would seem the simplest solution, success has never been achieved. The push and pull of globalization forces that are really turning the wheel of immigration are rarely taken into consideration as a part of the overall immigration debate. The border turns out to be an easy component of the solution because no one speaks for the border itself. Residents are imposed decisions from above, without any input or feedback. The proposed wall, the heavily militarized traffic to come, and the technological deployment are likely to create environmental havoc, human and due process violations, and an undue burden on the lives of borderlanders, with hardly an ounce of consideration to life on the border.

In addition, the new conditions outlined in the immigration reform debate—border security before anything else—imply that there will be an additional cost of billions of dollars to the border economy in the form of traffic delays and human hours spent handling an overbearing bureaucracy, poised to make life on the border nearly impossible. None of these hidden costs are duly accounted for in the total costs of the new border security apparatus. The enormous burden that immigration reform imposes on the border communities appears completely absent from the overall discussion.

The second critical element largely ignored in the immigration debate is the continued labor market integration occasioned by the North American Free Trade Agreement. The laborers of the US and Mexico have undergone an unacknowledged integration. They complement each other and are likely to continue to do so in the future. The Senate's bill hardly acknowledges this fact, even as it proposes a new visa system. The new visa system fails to acknowledge, for example, that mid- and low-level skilled labor markets deserve a deeper and more carefully crafted discussion, one separate from the high-skilled labor talks. A perfect example of this can be found in the thousands of daily laborers that cross the US–Mexico border every day to garden, babysit, house-clean, etc.; these workers are barely acknowledged as long-standing labor market integration in the 26 border counties (Pisani and Yozkovitz 2001). In this manner, the kinds of jobs that the economy produces the most in times of greater prosperity are lost in the debate regarding high-skilled or STEM workers and entrepreneurial visas. There appears to be a reluctance to grant that these jobs, and if sufficient visas are not provided, these forms of occupation will likely continue to attract an underclass of clandestine workers, who will continue to live in the shadows, in fear, and possibly under exploitative conditions.

Thus, the failure to acknowledge that the border is not the sole problem, but that there are much greater forces of labor integration and globalization at work, and the failure to more comprehensively provide for labor market integration may end up sabotaging the intentions of the bills to remedy the immigration system once and for all. Immigration reform will achieve temporary efficacy under these circumstances, even if it manages to pass, and America is likely to find itself in exactly the same place again in two to three decades.

Outline of the Book

As this introduction makes clear, the issues at stake are many and the debate will likely continue through 2013. The rest of this book explores some of the thorniest points that constitute the fodder for the current immigration debate.

In Chapter 1 "The Congressional Dynamics of Immigration Reform," Tichenor explores how unauthorized immigration and the status of millions of undocumented immigrants in the US are subjects that for years have spurred ferocious debate over the airwaves, on campaign trails, and in statehouses across the country. Yet these fiery battles stood in bold contrast to the deep freeze that enveloped comprehensive immigration reform in the halls of Congress since the start of the Obama administration. But at the start of Obama's second term, the changing demography of American democracy produced the seemingly impossible: the emergence of significant, bipartisan legislation tackling this issue. This chapter focuses on the congressional dynamics of American immigration reform. The manner in which Congress shapes immigration politics and policy reflects several recurrent and emergent patterns. One of the most important dynamics is the fact that the federal courts long have granted Congress sweeping control over immigration, while the issue also generates distinctive partisan and intraparty conflicts that regularly bedevil major reform efforts. These political fissures point to a second pattern: Congressional action on immigration reform typically requires the formation of "strange bedfellow" alliances that are unstable and demand "grand bargains" to address disparate goals. The result is often legislation that introduces a new set of daunting immigration policy dilemmas. Finally, one of the most crucial dynamics of congressional immigration policymaking has been a shift over time from relatively insulated client politics to increased engagement by mass publics and key voting blocs. This expanding scope of conflict and its impact on congressional immigration politics receives the most extensive attention in this chapter. In the contemporary politics of immigration reform, lawmakers now balance the demands of well-organized lobbies and advocacy groups with grassroots constituency pressures and electoral calculations.

Chapter 2 "Latino Issue Priorities and Political Behavior across US Contexts," by Valenzuela and Stein, ask to what extent and in which contexts the issue of immigration is salient to Latino voters and linked to their partisan attachments and voting behavior. The authors look at four surveys of Latino voter opinion collected in 2009, 2010, 2011, and 2012 with US Census demographics and election results in order to

assess how Latino issue priorities vary by individual attributes and local contextual conditions. In particular, they ask how changes in the rate of growth and size of the local Latino population interact with political competition to shape the salience of immigration among Latino voters. They argue that the process linking demographics to issue priorities is conditioned by the degree of two-party competition. They also explore links between the importance that Latinos place on immigration reform and their support for the Democratic Party and President Obama in 2012. They find that immigration issue salience declines with increasing Latino population proportions, controlling for a number of individual and contextual characteristics, except prior to 2012 in electorally competitive counties where immigration issue salience increases with the Latino population in neighborhoods. In addition, the issue of immigration is strongly predictive of Democratic Party identification and voting preference for President Obama over Governor Romney in 2012. These analyses generate insight into the impact of demographic context and the composition of local populations on the salience of immigration among Latino voters, as well as how the political environment works to politicize (or not) the issue of immigration and its connection to Latino political behavior.

Leal discusses the Latino dimension of contemporary immigration policy debates in Chapter 3 "Immigration Policy Versus Immigration Politics: Latinos and the Reform Debate," particularly how the politicized nature of the immigration debate shapes Latino opinions and votes. While past research has found that Latino views about immigration are more diverse than is often assumed, the current political environment shows strong Latino support for comprehensive approaches, not to mention strong electoral support for Obama. The author notes how contemporary "immigration politics"—whereby the issue becomes a political football that questions the place of all Latinos in America—is largely benefiting the Democratic Party. The Grand Old Party (GOP) might be advised to return to an era of "immigration policy," a good-faith discussion of policy options that avoids political noise, exaggeration, and blame, followed by comprehensive legislation along the lines of the Senate bill. Taking immigration reform off the table may be the best GOP hope to successfully compete for an essential, growing electorate. The chapter also discusses related contextual factors, such as growing libertarian policy perspectives and a renewed evangelical Protestant interest in immigration reform, that work to favor comprehensive legislation.

Chapter 4 "Immigration Policy and Partisan Politics in the State Legislatures: 2010–2012," by Jones and Chou, explores the state and local responses to federal inaction in the area of immigration reform. Between 2010 and 2012, legislatures in a number of states took it upon themselves to debate and, in some instances, approve restrictive omnibus legislation designed to address the presence of undocumented immigrants within their respective borders. This chapter utilizes roll-call vote data from these legislatures to examine the partisan, ethnic/racial, and regional dynamics surrounding the debate over this restrictive omnibus immigration legislation in these states. The authors highlight the extremely partisan nature of the votes on this legislation, with virtually all Republicans supporting the omnibus bills and an overwhelming majority of Democrats opposing. While there is little intra-party variance in Republican support, among Democrats rural Anglo legislators were significantly

more likely than their colleagues to break with the party majority and side with the GOP legislators in support of restrictive immigration reform legislation.

In Chapter 5 "The Immigration Debate in Texas," Payan claims that the failure of the US Congress to deal with immigration reform prompted many local governments to craft their own responses to the presence of undocumented immigrants in their communities. The federal government's lack of leadership led to local responses that ranged from protective to punitive. Although some states like Arizona went to the extreme to create a hostile environment for undocumented migrants, other states and local governments were much more moderate. Local responses to undocumented immigrants depended on a number of variables, including demographics, political leadership, economic forces, and historical variables. The state of Texas, like other state governments, produced its own response to undocumented migration, and many counties and cities in the state joined in the heated debates of the previous decade with their own ordinances. The final landscape was quite uneven, with somewhat generous initiatives mixed with others that were quite harsh. Texas' response could be considered moderate when compared to other states. This chapter explores state and local initiatives in Texas to explain why the overall environment in Texas remains moderate when so many other states have responded harshly to undocumented immigration.

Chapter 6 "US Immigration Policy in the Twenty-First Century, with Special Reference to Education: Examining Crosscurrents of Nativist and Accommodationist Policymaking," by Olivas, maintains that in the spring of 2012, the Republican candidates for their party's presidential nomination argued over immigration policy, focusing especially on a topic that few had been aware of: whether or not the undocumented should be allowed to attend college and receive resident tuition. The topic receded, especially after Texas Governor Rick Perry, who had borne the brunt of the disdain for his "accommodationist" policies on the subject, left the race. Yet, the higher-education debate that emerged briefly has since become a more sustained controversy, and, in the summer of 2012, President Barack Obama enacted a significant policy change in the use of prosecutorial discretion concerning undocumented college students, a continuation of his 2011 review of assigning priorities to those who would be removed or deported from the US if their status were unauthorized. Paradoxically, in the early twenty-first century, there has been a rise in the country's anti-immigrant sentiment, especially in the growing enactment of "restrictionist" state and local ordinances, many of which are playing out in courts and legislatures. At the same time, there have been widespread efforts to incorporate these students and undocumented families into the larger community—not just in progressive enclaves but in surprisingly mainstream and heartland areas. This chapter will examine these contradictory strains of US immigration policy issues in more detail, employing the fundamental trope of education as the anchor for the good, the bad, and the ugly of immigration policies and the resultant discourse.

Hinojosa, in Chapter 7 "The Costs and Benefits of Immigration Enforcement," contends that for more than two decades, the US government has attempted to put a stop to unauthorized immigration from (and through) Mexico by implementing "enforcement-only" measures along the US–Mexico border and at work sites

throughout the country. These measures have not only failed to end unauthorized immigration but have placed downward pressure on wages in a broad swath of industries. In recent decades, the US government's avoidance of immigration reform and dependence upon enforcement-only approaches to immigration has served only to deepen a vicious cycle of underground labor markets, lower wages, lower consumption, lower tax revenue, and reduced productivity. Were the government to end this failed enforcement-only crusade and create a pathway to legal status for unauthorized immigrants in the US, as well as new legal limits on immigration that respond to market forces, it would *raise* the social floor for the entire US economy—to the benefit of both immigrant and native-born workers.

In Chapter 8 "Immigrants in the US Labor Market," Orrenius and Zavodny argue that immigrants supply skills that are in relatively short supply in the US labor market and account for almost half of labor force growth since the mid-1990s. Migrant inflows have been concentrated at the low and high ends of the skill distribution. Large-scale unauthorized immigration has fueled growth of the low-skill labor force, which has had modest adverse fiscal and labor market effects on taxpayers and US-born workers. High-skilled immigration has been beneficial in most every way, fueling innovation and spurring entrepreneurship in the high tech sector. Highly skilled immigrants have had a positive fiscal impact, contributing more in tax payments than they use in public services. Immigration reform appears to be on the horizon, and policies such as a legalization initiative, a guest-worker program, and more permanent visas for high-skilled workers would likely be an improvement over the status quo.

Chapter 9 "Workers, Families and Immigration Politics," by Gleeson and Abrego, examines how the current immigration policy context is shaping the living experience of Latino immigrants, families, and communities of various legal statuses. It assesses how employer sanctions contribute to workplace violations and inhibit workers' ability to access formal labor rights. Because many workers are also parents, exploitation prevents entire families from thriving—in the US and in their home countries. Immigration and educational policies also deter immigrant families from incorporating fully into the country when children who are educated here cannot reap the rewards of their hard work—even in light of recent proposals for deferred action. In some of the debates, legislators propose temporary worker programs as a possible solution, but the chapter reveals the problems of this approach by shining a light on the challenges facing immigrants with only TPS. They end by discussing the implications of the political disenfranchisement of noncitizens, and how the lack of a comprehensive immigrant integration program that supports immigrant civil society contributes to further inequality.

Similarly, in Chapter 10 "US Children with Parents in Deportation Proceedings," Capps, Chaudry, Pedroza, Castañeda, Santos, and Scott explore the various hardships that current immigration enforcement, based solely on mass deportation of undocumented workers, puts on families, including their US-born children. Through a series of interviews with subjects of deportation proceedings, Capps et al. show the economic, psychological, and social disruption to tens of thousands of families throughout the US. In recounting the consequences for migrant families and the

general stressors of the Obama administration's inability to achieve immigration reform, Capps et al. portray the general despair to which women, children, and entire families are subjected. Once detected, migrants and their families live in a constant fear of separation and a general despair, which creates a quiet humanitarian crisis in our midst.

Chapter 11 "Security and Immigration Policy: An Analytical Framework for Reform," by Totten, asks what the relationship between security and US immigration policy is. This question is important because the volume of international migration has been rapidly rising in recent decades, and, since the 9/11 attacks, leaders are increasingly called on to produce policy to address its perceived security implications. The chapter takes on this question by discussing two common ways of structuring security and US immigration—the national security and human rights/security traditions—that often lead to distinct policy outcomes; presenting an analytical framework of national security and American immigration policy with three dimensions (domestic or internal security interests, material and military considerations, and foreign policy); and using this framework to identify meta-security themes underlying major US immigration policy decisions. The chapter concludes by examining national security and post-9/11 American immigration responses, and discussing the policy implications of its findings.

In Chapter 12 "Ctrl+Alt+Del: Rebooting Immigration Policies through Socio-Technical Change," Nieto-Gómez, explores the immigration policy of the US arguing that it has become a dysfunctional socio-technical system where technology deployment has little relation with the way the system behaves. An escalating law enforcement narrative has encouraged the research and development of linear simple technologies to try to solve complex adaptive situations, thus remaining ineffective and actually becoming harmful to US interests. It is a process that neglects the evolving nature of the immigration policy space and the desirable effects of migratory behaviors, and instead insists on the technological fortification of the borderlands to interdict the negative ones. It has also failed to identify counterintuitive points of intervention to improve the performance of the migration socio-technical regime. Under these conditions, most immigration technologies have demonstrated limited capacity to pivot and adapt to a changing environment, with the exception of the clandestine technologies developed by deviant actors to penetrate the border interdictions. The study of socio-technical systems provides a good tool to understand the limitations of the current technological architecture of the immigration policy of the US, as well as an approach to reboot the whole system, in order to update it to a more adaptive design.

In Chapter 13 "US Immigration, Demography, and Citizenship in a Digital Age," Ackleson asks what role immigration played in crafting the current demographic fabric of the US and what future flows of the foreign born will mean for the future composition of the country. To what degree are new foreign-born arrivals to the US becoming citizens a key indicator of integration? What does citizenship mean for immigrants and the country in the digital age? Answers to these and other related questions are central to understanding immigration policy reform in the US. Blending public-use data from the US Census Bureau and the US Department of

Homeland Security (DHS), this chapter presents a snapshot of demographic profiles and trends among the foreign-born (immigrant) population in the US. The chapter also examines US naturalization patterns as an indicator of civic integration of the foreign born and discusses a set of barriers to naturalization within the framework of new scholarship on "digital citizenship." It concludes by exploring several of the key implications of these findings by sketching two divergent potential immigration and citizenship policy pathways.

Finally, in Chapter 14 "The Path to US Immigration Reform," Martin seeks to explain the apparent paralysis that has affected efforts to address the very real immigration problems that the US faces. The answer appears to lie in the divergence between the politics and the economics of immigration that has prevented the Congress from adopting comprehensive reforms that would rationalize an immigration system riddled with contradictions and continuing tolerance for illegal migration. The chapter begins with a historical overview of immigration policy decision-making processes in the US. It then briefly presents current immigration policies and explains their successes and failures. This section also sets out the principal policy recommendations that have been under consideration to reform immigration. The chapter then discusses three factors that help explain the difficulties in enacting comprehensive reform: (1) the coalitions that form around immigration policy, which often successfully coalesce over specific provisions in the law but break apart over others; (2) public ambivalence about immigration, particularly among those who see their own immigrant forebears through rose-colored glasses but are fearful that today's immigrants will fail to adopt American norms and values; and (3) practical impediments that make effective reform difficult to achieve. The final section discusses future prospects for immigration reform and presents recommendations for steps that may help achieve that end.

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Part I
The Politics Behind the Gridlock

The Congressional Dynamics of Immigration Reform

Daniel J. Tichenor

Introduction

Unauthorized immigration and the status of millions of undocumented immigrants in the US are subjects that for years have spurred ferocious debate over the airwaves, on campaign trails, and in statehouses across the country. Yet these fiery battles have stood in bold contrast to the deep freeze that enveloped comprehensive immigration reform in the halls of Congress. As congressional scholars like Thomas Mann and Norman Ornstein have observed, the emergence of increasingly "parliamentary parties" on Capitol Hill—parties that are ideologically polarized, internally unified, and vehemently oppositional—has yielded stalemate and dysfunction in a separation-of-powers system. And few issues rivaled illegal immigration for how great the divide was between the Democratic and Republican bases—an ideological distance replicated in Congress (McCarty et al. 2006a, b). Soon after entering office in 2009, President Barack Obama's administration found it impossible to find key Republican lawmakers willing to work across the aisle on immigration reform. Obama officials responded to these hurdles by explaining that immigration legislation would have to come after more looming priorities such as economic stimulus, health care, and financial regulatory reform (Thompson and Herszenhorn 2009; Farrell 2009). Meanwhile, partly as a "down payment" on comprehensive reform, the Obama administration continued and expanded several enforcement programs initiated during the final years of the administration of President George W. Bush, deporting a record number of unauthorized immigrants in each of Obama's first 2 years in office.

What a difference an election makes. During the waning stages of the 2012 contest, Republican presidential nominee Mitt Romney appeared on an online forum broadcast by the Spanish-language Univision network to assure the mostly Latino audience that, if elected, he would achieve sweeping immigration reform, while also promising not to pursue mass deportation of the 10–12 million undocumented

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immigrants living in the US. The Romney campaign invested heavily in ads on
Spanish-language media in swing states, and had deployed his son Craig, who
speaks Spanish, to help court Latino voters. These efforts represented an attempt
to minimize Obama's strong advantage among Latino voters, the fastest-growing
ethnic group in the US and a crucial voting bloc in pivotal swing states. Romney's
difficulties with Latino (and Asian) voters stemmed from his endorsement during
the Grand Old Party (GOP) primaries of punitive state immigration laws that would
encourage "self-deportation," but they reflected a deeper estrangement between the
Republican Party and the nation's growing Latino population. In the end, Obama
won 71 % of the Latino vote with a 44-point advantage that was even more decisive
than his 36-point margin (67 % of the Latino vote) in 2008. When he began his first
term, Obama later told Univision reporters, "we could not get…a single Republican
[senator], including the 20 who had previously voted for comprehensive immigra-
tion reform, to step up and say, 'we will work with you to make this happen'"
(Office of the Press Secretary 2012). At the start of his second term, the changing
demography of American democracy produced the seemingly impossible: the emer-
gence of significant, bipartisan legislation tackling one of the thorniest problems
on the public agenda. The purpose of this chapter is to illuminate the congressional
dynamics of American immigration reform.

How Congress shapes immigration politics and policy reflects several recurrent
and emergent patterns. One of the most important dynamics is the fact that the
federal courts have long granted Congress sweeping control over immigration at
the same time as the issue generates distinctive partisan and intraparty conflicts
that regularly bedevil reform efforts. These distinctive political fissures point to a
second crucial dynamic: congressional action on immigration reform requires the
formation of "strange bedfellow" alliances that are unstable and demand "grand
bargains" addressing disparate goals. The result is often legislation that introduces
a new set of immigration policy dilemmas. Finally, one of the most crucial dynam-
ics of congressional immigration policymaking has been a shift over time, from
relatively insulated client politics to increased engagement by mass publics and
key voting blocs. This expanding scope of conflict and its impact on congressional
immigration politics receives the most extensive attention in this chapter. In the
contemporary politics of immigration reform, lawmakers balance the demands of
well-organized lobbies and advocacy groups with grassroots constituency pressures
and electoral calculations. Let us consider each of these dynamics in turn.

Congressional Power and Disorienting Conflict: The Challenges of Immigration Reform

Despite broad constitutional authority to regulate immigration, Congress largely
avoided doing so until after the Civil War. By the 1880s, when federal lawmak-
ers enacted draconian Chinese exclusion laws, the Supreme Court ruled that Con-
gress could determine who may or may not be admitted to US territory on whatever

basis as it saw fit. In the Chinese Exclusion Case (1889), the court underscored that Congress exercised "plenary" or absolute power to control immigration as part of its authority to assert US national sovereignty and to shape foreign policy in the same way as it exercised the power to declare war or ratify international treaties. Only a few years later, the court reinforced this "plenary power doctrine" in another Chinese exclusion decision: "Aliens enter and remain in the United States only with the license, permission, and sufferance of Congress" (*Fong Yue Ting v. US* 1893). The court recently reaffirmed this doctrine in one of its blockbuster decisions of the summer of 2012, Arizona v. United States. This decision found that key provisions of Arizona's controversial SB1070—the so-called show me your papers law—were unconstitutional because they intruded on congressional primacy over immigration control. In sum, Congress' absolute power over alien admission and exclusion remains a central tenet of contemporary immigration law.

Arizona's restrictive law and others like it were symptoms of deep frustration at the state and local levels with more than a decade of gridlock on Capitol Hill over immigration reform. For Congress, logjams have emerged so regularly because the rival ideas and interests inspired by this issue make basic problem definition and legislative majorities elusive. The challenge has been more than partisan polarization. To be sure, the differences between Republicans and Democrats on immigration reform have been profound for years, but as recently as 2004, both major party platforms embraced comprehensive reform and a means for undocumented immigrants "to come out of the shadows" and enjoy "full participation in America."

Immigration is a potent, crosscutting issue in American national politics. It defies the standard liberal–conservative divide and often polarizes major party coalitions. This is hardly new; Americans have been arguing about and taking stands on immigration since the earliest days of the republic. There are four rather durable ideological traditions that have found traction in national debates and political struggles over immigration. Consider two dimensions. The first focuses on immigration numbers, and divides those who support expansive immigration opportunities and robust numbers from those who favor substantial restrictions on alien admissions. The second concentrates on the rights of noncitizens residing in the US and distinguishes those who endorse the provision of a broad set of civil, political, and social rights (as defined by T. H. Marshall) to newcomers from those who advocate strict limitations on the rights accorded to noncitizens (Marshall 1950). These two dimensions of immigration policy reveal tensions between cosmopolitans and economic protectionists on the left, and between pro-business expansionists and cultural protectionists and border hawks on the right. Tellingly, these conflicts are especially pronounced when the agenda focuses on unauthorized immigration and those residing in the country illegally.

The rival commitments of ideology and interest unleashed by illegal immigration make basic problem definition a tall order for policymakers. Indeed, recent immigration reform efforts have captured profoundly different assumptions and conceptions of what the problem is or, for some, whether a problem even exists. Moreover, powerful organized interests and competing constituencies—from agribusinesses, service industries, and Microsoft, to labor unions, ethnic and civil rights

advocates, and church groups, to anti-immigrant activists of the Minuteman Project and Tea Party movement—regularly mobilize and clash over immigration reform. The resulting battles not only pit interest groups and constituencies allied with the Republican Party against those allied with the Democratic Party but also divide organized interests within these partisan coalitions and sometimes even among those associated with the same interest or constituency, such as internal fights on this issue within the labor movement or among environmental and population control groups.

For cosmopolitans, or pro-immigration liberals, the problem is not the presence of millions of undocumented aliens in the US, but rather their status as vulnerable, second-class persons. The chief imperative for these activists is to make the estimated 12 million unauthorized migrants living in the country eligible for legal membership. "What we want…is a pathway to their legalization," Representative Luis V. Gutiérrez (D-IL) explains, "so that they can come out of the shadows of darkness, of discrimination, of bigotry, of exploitation, and join us fully" (Gutiérrez 2006). Latino immigrants such as the journalist and scholar Edward Schumacher-Matos add that Hispanics have proven their loyalty to the nation in countless ways, including joining the military at higher rates than most groups, which "means that we have earned our say over the direction of the country…and what we do on immigration" (Schumacher-Matos 2009). Legalization, or "earned citizenship," initiatives draw strong support today from immigrant advocate and civil rights groups; Latino, Asian, and other organizations; religious associations; and the leading federations of organized labor.

Economic protectionists have been particularly hostile toward illegal immigration, which they view as enhancing the wealth of corporate and professional America with little concern about the consequences for blue-collar workers or the unemployed. As much as César Chávez complained bitterly in the late 1960s that undocumented Mexicans were being recruited to undermine his efforts to organize legal farmworkers, Carol Swain recently pointed to the deleterious "impact that high levels of illegal immigration [are] having in the communities when it comes to jobs, when it comes to education, when it comes to health care" (Swain 2007, pp. 4–5). Former CNN newsman Lou Dobbs regularly sounds similar themes, claiming that illegal immigration has "a calamitous effect on working citizens and their families" and "that the industries in which illegal aliens are employed in the greatest percentages also are suffering the largest wage declines" (Dobbs 2007). Economic protectionists endorse sanctions against unscrupulous employers who knowingly hire undocumented aliens, and they vehemently oppose guest worker programs, which they associate with a captive workforce subject to exploitation, abuse, and permanent marginalization. These views resonate among many rank-and-file members of labor unions and the constituencies of moderate Democrats in Congress.

For pro-immigration conservatives devoted to free markets and business growth, the chief problem is that existing federal policies fail to address "the reality," as former president George W. Bush put it, "that there are many people on the other side of our border who will do anything to come to America to work;" in short, the US economy has grown dependent on this supply of cheap, unskilled labor (Bush

2006). For this camp, the solution lies in regularizing employers' access to this vital foreign labor; if the back door is to be closed, then this labor supply must be secured through temporary worker programs and an expansion of employment-based legal immigration. Powerful business groups in this camp also oppose employer sanctions and eligibility verification requirements as unwelcome and unfair regulatory burdens placed on American businesses, large and small.

Finally, border hawks today see the illegal immigration problem as nothing short of an unprecedented breakdown of American sovereignty that compromises national security, the rule of law, job opportunities for citizens, public education, and social services (Tancredo 2006). Mobilized by conservative talk radio, columnists, and television commentators, many Main Street Republicans are outraged that the nation's fundamental interest in border control and law enforcement has been trumped by the power of immigrant labor, rights, and votes. Amnesty or legalization proposals inspire hostile resistance from this camp, which views them as unethical rewards to those who break the rules and as stimulants to new waves of undocumented immigrants anticipating similar treatment. Likewise, temporary worker programs are scorned by these activists, because many guest workers historically have remained in the country illegally, and because they contest the notion that only foreign workers will do certain menial jobs. Border hawks believe enforcement must come first. They favor a strengthened Border Patrol and tougher security measures along the nation's borders, as well as crackdowns on unauthorized immigrants and their employers within US territory. They endorse a strategy of attrition in which targeted deportation efforts, workplace enforcement, and denial of social services and other public benefits would persuade many unauthorized migrants to return home.

It is difficult to imagine more widely divergent definitions of a public policy problem, or, concomitantly, more disparate blueprints for reform. Building majority support for legislation involving tough choices is always challenging, but it is especially so amid ideological disorientation and intraparty warfare. Clashing interests and ideals have meant that when policy initiatives are designed to meet the demands of one important constituency, they invariably incur the wrath of others, and the result has often been legislative paralysis, leaving in place a status quo in which unauthorized immigrants are a significant share of new inflows. As we shall see, these distinctive (crosscutting) political fissures also have meant that congressional action on immigration reform typically requires the formation of "strange bedfellow" alliances that are unstable and demand "grand bargains" addressing disparate goals.

Uneasy Coalitions and Faustian Bargains

The long-standing linkage between the achievement of immigration reform and so-called grand bargains among unlikely political allies should hardly surprise us. The distinctive ideological traditions inspired by American political struggles over immigrant admissions and rights reminds us that none of the four major camps identified above has been able to secure significant policy innovation independently.

Over time, major immigration reform almost invariably has required the building of incongruous Left–Right coalitions. Strange bedfellows not only abound in US immigration politics, but uneasy alliances also make nonincremental policy change possible. Faustian bargains have been recurring features of national immigration policymaking. Let us consider four of these earlier congressional compromises and their implications for unauthorized flows.

Mexican Labor and the First World War

Ironically, the origins of America's illegal immigration dilemma can be traced to one of the most restrictive periods in our nation's history, namely, the early twentieth century. This was a time when the federal government enacted a literacy test requirement for immigrants, a so-called Asiatic Barred Zone, a draconian national origins quota system, and an overall ceiling on annual overseas immigration that slowed European arrivals to a trickle. It was also a time when Mexican laborers were being recruited in steady numbers to develop a budding Southwestern economy. But new impediments to this labor stream emerged with enactment of the Immigration Act of 1917. The new law made all alien admissions contingent upon payment of an US $ 8.00 head tax and passage of a literacy test. The new requirements slowed the flow of Mexican workers across the southern border, although many simply crossed without inspection or official authorization. When the First World War began, the supply of Mexican laborers was more dramatically dampened when rumors that they would be drafted into the US armed forces spurred a mass exodus (Reisler 1976, pp. 24–32).

Against this backdrop, southwestern growers, ranchers, miners, railroad companies, and supportive lawmakers pressured the Labor Department—then responsible for the Immigration Bureau and domestic enforcement—to facilitate the importation of thousands of Mexican workers. Bowing to this intense lobbying on the grounds that the war had produced labor shortages, Labor Secretary William Wilson invoked a special clause of the 1917 law (the ninth proviso of section 3) that enabled him to "issue rules and prescribe conditions…to control and regulate the admission and return of otherwise inadmissible aliens applying for temporary admission" (Reisler 1976, p. 27). Wilson ordered that the literacy test, head tax, and contract labor restrictions be waived for Mexicans; he also led publicity efforts to assure potential guest workers that they would not be conscripted into the armed forces. Although Mexican contract labor was justified as an emergency wartime measure, an array of southwestern employers of low-wage labor joined with their congressional representatives in demanding extensions of the program after wartime hostilities ceased in 1918. The Labor Department again acceded to this lobbying pressure, as it did in subsequent years. Between 1917 and 1921, roughly 75,000 Mexicans worked as contract laborers in the US under Wilson's waiver plan, along with an indeterminate number of undocumented workers (Tichenor 2002, pp. 168–170).

"Restrictions…with a bribe": Closing the Ports and Opening the Borders

The issue of Mexican migratory labor threatened the immigration restriction movement in the 1920s. The diverse nativist coalition that emerged from the Progressive Era was united in its hostility toward Asian and southern and eastern European immigration, as well as in its devotion to eugenicist principles of racial order and Anglo-Saxon superiority. But Mexican labor flows were another matter. The northern Immigration Restriction League, the American Federation of Labor (AFL), patriotic societies, and a number of northern lawmakers favored stringent limits on Latin and South American immigration. By contrast, southern and western lawmakers and groups favoring national origins quotas for overseas immigration also extolled the virtues of a cheap and flexible Mexican labor force. Representative John Nance Garner (D-TX), President Franklin D. Roosevelt's future vice president, explained that, "the prices that [Mexicans] charge are much less than the same labor would be from either the negro or the white man" (Reisler 1976, p. 40). He assured his House colleagues that Mexican laborers were by definition temporary, powerless, and easily expelled. The Grange and the American Farm Bureau Federation adamantly opposed a change in Mexico's nonquota status. "We do not want to see the condition arise again when white men who are reared and educated in our schools have got to bend their backs and skin their fingers," business interests like the Great Western Sugar Company explained to Congress. "You have got to give us a class of labor that will do…back-breaking work, and we have the brains and ability to supervise and handle the business part of it" (Reisler 1976, p. 175).

The uneasy 1920s coalition of northern nativists, organized labor, and southern and western restrictionists were deeply divided over Mexican labor. The controversy seemed to place the national origins quota system begun in 1921 in jeopardy. Immigration defenders attempted to exploit these fractures within the nativist coalition during legislative debates of 1924, the year when the 1921 quotas were due to expire. Representatives Fiorello La Guardia (D-NY) and Adolph Sabath (D-IL) offered an amendment that placed strict quotas on Western Hemisphere countries. Their hope was to kill the 1924 quota legislation by sundering the disparate restrictionist camp. Faced with stalemate or defeat, restrictionists called for a compromise on the divisive Mexican labor question. As one closed-border advocate declared, "I want the Mexicans kept out, but I do not want this bill killed by men who want these and all others admitted in unrestricted numbers" (Reisler 1976, p. 201).

The Immigration Act of 1924 ultimately erected formidable barriers to southern and eastern Europeans and reinforced Asian exclusion, but was decidedly permissive on Canadian and Mexican admissions. Aliens with 10 years continuous residence in a Western Hemisphere country could enter the US as nonquota immigrants. "Restrictions of immigration and setting up of un-American racial tests has been enacted through a fusion of northern Republicans from urban districts with southern Democrats, with a bribe tossed to the latter by keeping Mexico open," observed one pro-immigration lobbyist (Kohler n.d.). As nativist reformers prepared

new quota legislation in 1928, they agreed to treat Mexican inflows as a distinctive issue. "These two kinds of restriction are quite separate and independent," New York restrictionist Demarest Lloyd declared in reference to overseas versus Western Hemisphere migration. "We all agree that unity of restrictionists is desirable" (Demarest Lloyd to Joseph Lee 1928). Recalling the potential split in 1924, the IRL also urged coalitional comity on "the National Origins-Mexican Quota situation" (Robert Ward to Joseph Lee 1928). It even expressed sympathy for the dilemma faced by southwestern nativists. "Although the West has become racially conscious and wants to be a white civilization, it also wants to develop and to develop rapidly. For this it needs unskilled labor of a mobile type, like the Mexicans, for it cannot get white labor to do its unskilled work" (Immigration Restriction League 1928). The 1928 law codified this compromise, reaffirming a bifurcated system that imposed draconian restrictions on European and Asian immigration while remaining open and flexible toward labor inflows from Mexico and other Western Hemisphere countries.

Mexican Braceros and Undocumented Aliens

During the first New Deal, AFL leaders campaigned for legislation that would place national origins quotas on Mexico and other Western Hemisphere countries. In 1924, the AFL's Washington office vigorously pursued legislation that would establish a 1500 annual quota for Mexican immigrants. But the AFL failed to build a broad coalition of support, and it faced insurmountable opposition from the House and Senate Immigration Committees that were dominated by southern and western legislators who favored European and Asian restrictions but welcomed Mexican labor migration (American Federation of Labor 1934). By 1938, the Immigration and Naturalization Service (INS) reported that illegal immigration from Mexico was soaring due to the construction of new highways and "automobile travel" (US Department of Labor 1939, pp. 95–96). At the start of the Second World War, southwestern growers and other business interests, joined by their legislative champions, complained to executive branch officials that war-induced labor shortages necessitated a new Mexican temporary worker program. In response, an interagency committee was formed to facilitate the importation of Mexican guest workers. In 1942, the State Department negotiated a special agreement with Mexico establishing the Bracero Program that Congress swiftly approved. Under the bilateral agreement, the US pledged that wages, living conditions, workplace safety, and medical services would be comparable to those of native workers. In turn, the Mexican government was to supervise the recruitment and contracting of braceros (Altmeyer 1942). Once the Bracero Program began, neither employers nor federal administrators saw that the negotiated protections of Mexican laborers were honored. Mexican braceros routinely received much lower wages than native workers and endured substandard living and working conditions. Contrary to the bilateral agreement, the INS permitted growers and other employers to directly recruit braceros at the border. If

they resisted direct employer recruitment, one INS official recalled, "a good many members of Congress would be on the service's neck" (Calavita 1992, pp. 32–35). Tellingly, the Bracero Program endured for almost two decades after the war ended. Guarded by a "cozy triangle" of agribusinesses, southern and western congressional "committee barons," and a lax immigration bureaucracy, roughly 4.2 million Mexican workers were imported under the Bracero Program. Unauthorized flows across the southern border also continued apace.

During the early 1950s, influential restrictionist legislators such as Senators Pat McCarren (R-NV) and James Eastland (D-MS), and Representative Francis Walter (D-PA), fervently guarded stringent limits on Asian, African, and southern and eastern European immigration. The McCarren-Walter bill promised to maintain the national origins quota system. As in the past, the AFL pledged support for the national origins quotas, but it joined other labor organizations in expressing alarm that Mexican braceros and unauthorized migrants had "depressed wages and destroyed working conditions." In 1951, the AFL proclaimed that the presence of hundreds of thousands of braceros, coupled with an estimated 1.5 million undocumented aliens, compromised the "security" of American workers. Their appeal had no impact on the policy process. McCarren and Eastland shepherded passage of Public Law 78 reauthorizing the Bracero Program in 1951, claiming that termination would be "unfair to the farmer and the Mexican involved" (Reimers 1992, p. 54).

During floor action on the McCarren-Walter bill one year later, liberal Senator Paul Douglas (D-IL) proposed legal sanctions against those who illegally smuggled aliens into the country and on employers who intentionally hired illegal aliens. But McCarran and Eastland successfully defeated the amendment; the final legislation contained language that made it unlawful to transport or harbor illegal aliens, but stipulated that "harboring" did not include employment of unauthorized migrants (Reimers 1992). This "Texas proviso," as it later became known, highlighted the lengths to which many key congressional defenders of national origin quotas were willing to go to preserve Mexican labor flows, both legal and illegal.

After the 1960 election, the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) lobbied hard for the Bracero Program's termination. The administration of President John F. Kennedy and Democratic leadership in Congress lent their support to the effort. Yet growers and other business interests exerted considerable pressure of their own on members of Congress. The American Farm Bureau Federation, the National Cotton Council, the United Fresh Fruit and Vegetable Association, the National Beet Growers, ranchers, and other business interests rallied to save the Bracero Program. In 1961, these pressure groups won a 2-year extension of the program but failed to win reauthorization in 1963 despite vigorous lobbying. Sweeping immigration reform in 1965 dismantled national origin quotas in favor of a new preference system that emphasized family-based immigration, but it also placed a 120,000 annual ceiling on Western Hemisphere visas (Calavita 1992, pp. 163–169).[1] Reformers did not anticipate that this new ceiling and the end of the Bracero Program would swell unauthorized Mexican inflows.

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[1] Henry B. González, personal interview, March, 1996.

From Prolonged Gridlock to the Immigration Reform
and Control Act of 1986

The issue of illegal immigration inspired more media attention, public concern, and remedial proposals by policymakers than did any other migratory issue of the 1970s (including legal immigration, refugees, or temporary worker programs). In 1971, Representative Peter Rodino (D-NJ), chair of the House Judiciary Committee's Subcommittee on Immigration, led pro-labor liberals in the pursuit of employer sanctions legislation to resolve the perceived illegal immigration crisis (Andrew Biemiller to Peter Rodino 1973). Rodino's employer sanctions legislation initially passed the House in 1972 but languished in the Senate where Eastland refused to allow the Judiciary Committee he chaired to take action.[2] When Rodino reintroduced his bill a year later, new resistance emerged in the House from fellow Democrats who warned that the measure would lead to job discrimination against Latinos, Asians, and anyone who looked or sounded foreign (Congressional Record 1972). By 1977, the administration of President Jimmy Carter ignored the warnings of congressional Democratic leaders when it proposed a comprehensive plan for addressing illegal immigration. The reform package included stiff civil and criminal penalties who engaged in a "pattern or practice" of hiring undocumented aliens; use of the Social Security card as an identification document for verifying employee eligibility; enhanced Border Patrol forces at the Mexican border; and an amnesty program that would confer legal resident alien status on all aliens living in the country before 1970 (White House Statement 1977). The White House proposal galvanized opposition from all sides in Congress. Lawmakers with ties to growers and other business interests argued that sanctions were unfair to employers; those aligned with the National Council of La Raza (NCLR) and the Mexican-American Legal Defense and Education Fund (MALDEF) saw the measure as detrimental to civil rights; and law and order conservatives complained that the plan rewarded lawbreakers with amnesty (Memorandum to Interested Parties from the Mexican-American Legal Defense and Education Fund: Statement of Position Regarding the Administration's Undocumented Alien Legislation Proposal 1977). With immigration reform mired in conflict, Congress formed a bipartisan Select Commission on Immigration and Refugee Policy (SCIRP) to study the "illegal immigration problem" and all other facets of US immigration and refugee policy and to issue recommendations for future reform.

The SCIRP completed a sweeping final report in 1981 that portrayed "lawful immigration" as "a positive force in American life," serving the national interest in terms of economic growth and productivity, reuniting families, and advancing key foreign policy imperatives (SCIRP Meeting 1980, p. 34). But it also concluded that illegal immigration was an urgent problem that needed to be controlled before legal immigration could be expanded. The SCIRP noted that unauthorized entries

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[2] See, for example, Farber, M.A. "Battle Expected on Tighter Laws to Curb Illegal Aliens," *The New York Times,* December 31, 1974. http://select.nytimes.com/gst/abstract.html?res=FB0815F93 45C1A7A93C3AA1789D95F408785F9.

created a vulnerable shadow population that had few incentives to report crimes, health problems, or exploitation by employers (Fuchs 1990, p. 252). It also asserted that unrestrained illegal immigration encouraged a perilous disregard for the rule of law: "illegality erodes confidence in the law generally, and immigration law specifically" (SCIRP Meeting 1980, p. 34). To address the problem, the SCIRP endorsed the familiar scheme of enhanced Border Patrol resources and employer sanctions. But it also underscored the notion that the efficacy of sanctions hinged upon faithful enforcement and the development of a tamper-resistant national identification card as the linchpin of a security and universal system of employee eligibility. All 16 commissioners also agreed on a generous legalization program for undocumented aliens already residing in the country (United Press International 1981).

Two young lawmakers—Senator Alan Simpson (R-WY), who served on the SCIRP, and Representative Romano Mazzoli, a moderate Kentucky Democrat with ties to the SCIRP chair Father Theodore Hesburgh—took the lead in pressing for immigration reform. Early in 1982, the pair introduced omnibus legislation on illegal and legal immigration. The measure met fierce resistance from a broad coalition of business interests (the US Chamber of Commerce, National Association of Manufacturers, agribusinesses, the Business Roundtable), ethnic and civil rights groups such as NCLR and MALDEF, the ACLU, religious lobbies, and a new immigrant rights organization, the National Immigration Forum. Left–Right opposition to the Simpson-Mazzoli initiative was reflected in the resistance of both the administration of President Ronald Reagan, which saw employer sanctions and national identification cards working at cross-purposes with its regulatory relief agenda, and House Democrats led by the Hispanic and black caucuses, which raised familiar concerns about discriminatory impacts of sanctions and other provisions. Gridlock was overcome only after three more years of wrangling, and the resulting Immigration Reform and Control Act of 1986 (IRCA) depended upon a compromise package, watered-down employer sanctions provisions, legalization for undocumented aliens living in the country since 1982, and a new Seasonal Agricultural Worker program to appease grower interests.

The measure proved highly successful in granting legal status to nearly 3 million undocumented aliens, but employer sanctions proved to be a "toothless tiger." This was largely by design; in the absence of a reliable identification system for verifying employee eligibility that the SCIRP described as a linchpin for effective enforcement, the employer sanctions provisions lacked teeth. By the late 1980s, it was clear to national policymakers that the IRCA had done virtually nothing to discourage illegal immigration. But legislators were eager to shift their attention to the politically painless task of expanding legal immigration. The Immigration Act of 1990 unified cosmopolitans and free market expansionists behind a 40 % increase in annual visa allocations that benefited both family-based and employment-based immigration.[3] The "grand bargains" of the 1980s, like their forebears, left key dilemmas posed by unauthorized immigration for future Congresses to resolve.

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[3] The arduous path to the Simpson-Mazzoli legislation in 1986 is discussed in depth in Tichenor, *Dividing Lines*, Chap. 9.

Expanding the Scope of Conflict: Huddled Elites and Popular Mobilization

A little more than a decade ago, Gary Freeman used frameworks developed by James Q. Wilson and Theodore Lowi to argue that immigration policymaking produced "concentrated distributive policies and client politics" (Freeman 1995). By this, he meant that political elites advanced immigration policies that rewarded organized groups with concentrated benefits over unorganized bearers of diffused costs. In this fashion, the IRCA of 1986 was the product of huddled Washington elites who distributed benefits to organized agribusinesses and immigrant advocates, limited sanctions on organized business groups, and did little to please unorganized mass publics. However, anti-immigrant populism, immigrant enfranchisement, and competitive democratic elections have altered this equation. That is, one of the most crucial dynamics of congressional immigration policymaking since the 1990s has been a transition from relatively insulated client politics to more popular engagement via stronger grassroots pressure and greater "electoral connections" for lawmakers. The scope of conflict in American politics over immigration reform is greater now than it has been for generations.

Signs of popular restiveness on unauthorized immigration emerged early in the 1990s. Beyond the Washington Beltway, organizations dedicated to immigration restriction began to mobilize grassroots support in key receiving states such as California, Texas, and Florida.[4] Activists in California formed a group called Save Our State (SOS) to promote Proposition 187, a measure designed to deny undocumented immigrants and their children welfare benefits, nonemergency health care, and public education.[5] California governor Pete Wilson (R) threw his support behind SOS during his 1994 reelection campaign, calling for wholesale restrictions on immigrant access to public benefits. His staunch support and an endorsement from the state GOP tied Proposition 187 to the Republican brand (Stall and Wallace 1994).

Popular support for restricting immigration also seemed to intensify across the country by 1994. Immigration restriction not only gained in popularity in 1994 (roughly 65% favored major reductions in legal admissions), but its salience for the general public also appeared to surge (Gallup/Chicago 1994).[6] When ordinary citizens were asked which issues mattered most to them in the 1994 election, 20% placed illegal immigration at the top of their lists; the most common answers were crime at 33% and welfare reform at 28% (NBC News/*Wall Street Journal* 1994). Another poll conducted just before the election found that 72% of respondents saw mass immigration as a "critical threat" to the "vital interests of the United States" (Gallup/Chicago Council of Foreign Relations Poll 1994). Jack Citrin and his colleagues found that voters were increasingly connecting immigration to negative

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[4] FAIR staff, California Save our State movement leaders, and local activists, personal interview.

[5] Ezell, Harold (anonymous SOS staffer), personal interview.

[6] One can track the steady increase in restrictionist sentiment in Gallup Poll, *Public Opinion* (Wilmington, DE: Scholarly Resources, 1994), 250–251, and the American National Election Studies (Ann Arbor, MI: University of Michigan Press, 1994).

economic experiences and economic uncertainty in the two elections after 1992 (Citrin et al. 1997, pp. 858–881). Events like the 1994 bombing of the World Trade Center in New York City by Islamic terrorists, who had gained entry into the country with relative ease, heightened public anxieties over international migration.

When the dust settled on a contentious California race in November 1994, Wilson won reelection and Proposition 187 carried the state with 59 % of the vote. However, the measure was stopped cold by a federal court that held that its denial of public education to the children of undocumented aliens was unconstitutional. If judicial intervention blunted popular assaults on immigrant rights at the state level, a dramatic changing of the guard in Congress seemed to offer new opportunities for restrictionist policy innovations supported by large majorities of the public. For the first time since 1952, Republicans gained control of both houses of Congress. GOP leaders in Congress, conscious of the success of Proposition 187 and opinion poll trends, weighed the potential of restrictive immigration reform as a "wedge" issue to win crucial blue-collar Democratic votes (especially in key battleground states like California and Florida; Carney 1999, p. 1127).[7] House Speaker Newt Gingrich responded to intraparty pressures by creating a special task force on immigration reform chaired by Edward Gallegly (R-CA), known for his hard line on illegal immigration and legal immigrant welfare eligibility. Senate Majority Leader Robert Dole (R-KS) joined many fellow partisans in supporting immigration curbs, appearing on television to decry the unfair immigration costs imposed on California, Florida, and Texas, and to denounce policymakers "not willing to protect our borders" (Reimers 1999, p. 134).

At the same time, other congressional conservatives saw robust immigration as consistent with business demands for foreign labor, entrepreneurship, refugee relief for those fleeing communist regimes, and a pro-family agenda (Washington Times 1996). Dick Armey (R-TX) was one of several prominent figures of the House Republican leadership team who vigorously defended expansive legal immigration. Republican lawmakers faced especially strong lobbying from various businesses that relied on skilled and unskilled immigrant labor. As Microsoft lobbyists chastised restrictionists for missing "the point that to succeed in foreign markets, you need foreign personnel," Jeff Joseph, a vice president at the US Chamber of Commerce, warned that "this country is not producing the workers we need to be globally competitive" (*Wall Street Journal* 1995; Idelson 1995). Employers of unskilled workers also made their presence felt on Capitol Hill. During a meeting with lobbyists for the National Restaurant Association, an organization whose large membership relied heavily on unskilled alien workers, House leaders offered assurances that they had no intention of cutting their supply to immigrant labor (*Wall Street Journal*1995; Idelson 1995). "Immigration yes, welfare no!" was the rallying cry of pro-immigration conservatives in Congress. As Gingrich proclaimed on the House floor, "Come to America for opportunity. Do not come to America to live off the law-abiding American taxpayer" (Idelson 1996, p. 798).

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[7] Author's interviews with Republican House members.

In keeping with their fealty to civil rights, most Democrats on Capitol Hill defended both legal immigration and the rights of noncitizens to receive public benefits. But fighting unauthorized immigration had become a valence issue that attracted strong bipartisan support. Not to be outflanked on illegal immigration, the Clinton White House repeatedly denounced unauthorized immigration and issued an executive order early in 1996 that denied federal contracts to businesses that knowingly hired undocumented immigrants (Administration of William J. Clinton 1996). The decoupling of legal and illegal immigration, combined with popular restiveness on unauthorized flows, made all the difference for legislative action. The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 passed with large bipartisan majorities: 333 to 87 in the House and 97 to 3 in the Senate. IIRIRA enhanced the federal border controls, tightened asylum procedures, limited immigrant access to public benefits, required US financial sponsors for newcomers, and established stringent provisions for criminal and undocumented immigrants (Tichenor 2002, pp. 247–285). Getting tough on unauthorized immigration, then, was a bipartisan cause in the 1990s.

Strikingly, if the IIRIRA totaled the extent of congressional action affecting immigrants, the differences between the major parties would have been negligible. Yet Republicans in Congress joined against Democrats to establish new bars on welfare benefits for immigrants, both legal and undocumented. The Personal Responsibility and Work Opportunity Act of 1996 (PRWOA) denied a broad set of federal benefits programs to noncitizens. President Clinton told the press that he and Democratic lawmakers were offended by the legislation's harshness toward legal immigrants. Republican congressional leaders expressed optimism behind closed doors that the immigration issue would help them shore up additional working-class votes (Carney 1999, p. 1127).[8] At the start of the 1996 election, Pete Wilson made immigration control a signature feature of his short-lived presidential campaign; Pat Buchanan assailed Third World immigration as a source of economic and cultural insecurity at home; and Bob Dole, the eventual GOP standard bearer, associated himself with the stringent immigration enforcement measures then working their way through Congress (Carney 1999, p. 1127). The 1996 Republican platform pledged support for national legislation barring children of undocumented aliens from public schools. What these politicians did not anticipate was a formidable Latino and Asian backlash against what were perceived as anti-immigrant reforms.

The first sign of political mobilization among immigrants and kindred ethnic groups came in the form of soaring naturalization rates: more than one million immigrants became citizens in 1996 alone. The Clinton White House also instructed the INS to implement the so-called Citizenship US initiative. In the words of the agency, the initiative "was designed to streamline the naturalization process and greatly increase naturalizations during 1996" (Immigration and Naturalization Service 1999, p. 24). Voter registrations among Latinos grew by 1.3 million, or 28.7 %, between 1992 and 1996; the percentage of Latinos on the voter rolls rose from 59 %

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[8] Author's interviews with congressional members; see also 1996 Republican views of immigration as a "wedge" issue in *Congressional Quarterly Weekly Reports,* May 15, 1999, pp. 1127–1129.

of those eligible in 1992 to 65 % in 1996 (Carney 1997, p. 1132). Late in the 1996 campaign, Dole and other Republican candidates took heed of new reports that immigrants and kindred ethnic groups had become energized by anti-immigration politics. But it was too late for backpedaling. The results of the 1996 election left little doubt about two crucial developments: immigrants comprised the nation's fastest growing voting bloc, and Democrats were the immediate beneficiaries of their emergent electoral clout. The electoral dividends for Clinton were particularly strong: He won 72 % of the Latino vote in 1996 (up from 60 % in 1992). Asian voters, a smaller yet important swing bloc, increased their support for the Democratic ticket in the same years from 29 to 43 % (Schneider 1996, p. 2622). Dole registered an all-time GOP low of 21 % of the Latino vote in 1996, and he became the first Republican presidential candidate to lose Florida since Gerald Ford in 1976.

Between 1990 and 2000, more immigrants arrived in the US than during any previous period in American history; the foreign-born population rose from 19.8 to 31.1 million people (Grieco et al. 2012, p. 19). Immigration reform was not among the ten items that Gingrich and House Republicans promised to address in their "Contract with America." Yet Gingrich and many of his lieutenants calculated that making immigrants ineligible for welfare, new crackdowns on illegal immigration, and the Gallegly amendment would pay electoral dividends among agitated native-born voters in states from California to Florida, especially working-class Americans. Dole accepted the same bet in his presidential bid. In the end, it cost them dearly among naturalized voters and kindred Latino and Asian constituencies who associated the GOP with measures—from Proposition 187 to PRWOA—that they saw as draconian and anti-immigrant.

By the 2000 election, Republican national and state organizations drew up plans to attract new Asian and Latino voters. They were emboldened by party strategists who warned that "if we're only getting 25 % of the Hispanic vote, you wait three, four presidential elections, and we'll be out of business" (Laidlaw 1999). Then Texas governor George W. Bush was hailed by many party leaders as the ideal candidate to court new immigrant voters in 2000, and he reminded Latinos throughout the campaign that early on he had "rejected the spirit of Prop 187," opposed "English-only" proposals, and refused "to bash immigrants" when it was popular (Laidlaw 1999). Vice President Al Gore in turn reminded Latino and Asian constituencies that Republicans led the way in stripping welfare benefits and other rights for noncitizens, and assured them that Democrats would continue to defend expansive legal immigration. Yet Bush dramatically outspent Democrats in his appeal to Latino voters in 2000, devoting millions of campaign dollars to Spanish-language advertising and direct mail appeals. He also gave television interviews in Spanish, and had his bilingual nephew George P. Bush stump for him extensively among Latino constituencies.[9] Bush's "compassionate conservatism" on immigration policy and his direct campaigning had clear electoral ramifications. An estimated 7.8 million Latino voters, or 6 % of all voters (up from 4 % in 1996), cast ballots in the

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[9] See *Hispanic Magazine*, January-February 2001; on earlier Republican adjustments, see Dick Kirschten, "Trying a Little Tenderness," *National Journal*, (1998), p. 54.

2000 election. Gore maintained the Democrats' traditional edge in Latino voting, but Bush gained an estimated 34 % among Latinos—13 points higher than Dole's 1996 total and only 3 points off the previous GOP record of 37 % attained by Ronald Reagan in the 1984 election (Suro et al. 2005). The Bush team clearly was focused on adding more Latinos, the fastest growing sector of the electorate and a crucial swing constituency in battleground states, to the GOP base.

Bush and Mexico's president Vicente Fox took office within a few months of each other, and they soon began bilateral talks about a new temporary worker program and ways to legalize several million undocumented Mexicans living in the US. Fox and Bush portrayed themselves as "common-sense ranchers" who wanted to make the flow of persons across their shared border "safe, orderly, and legal." During a September 6, 2001, visit to Washington, Fox called for a joint agreement on a guest worker program and legalization "by the end of the year" and Bush replied that he intended to "accommodate my friend" and hailed Mexico as the US's most important ally (Allen 2003). But discussions ended abruptly after the terrorist attacks 5 days later.

In the wake of the 9/11 attacks and its transformation of the immigration policy environment, the Bush administration felt it had little choice but to set aside comprehensive reform. Border hawks like Representative Thomas Tancredo (R-CO) made headlines in December 2001 by underscoring how porous borders presented an appalling national security problem. Organized interests favoring immigration restriction and strict border control ran ads around the country blaming lax immigration policies for the September 11 terrorist attacks. Plans for a guest worker program and legalization fell off the agenda. Relations with Mexico's Fox also cooled as Bush postponed any relaxation of immigration laws and Fox vigorously opposed the US-led invasion of Iraq.

In the fall of 2003, the AFL-CIO supported hotel workers when they took the lead in organizing the Immigrant Workers Freedom Ride, a national mobilization intended to evoke the civil rights movement's 1961 Freedom Rides. Organized labor became a strong champion of legalizing undocumented workers in the late 1990s when it became clear that foreign-born union membership was growing sharply while native-born membership was dropping (Immigrant Union Members Numbers and Trends 2004; Fine and Tichenor 2009). During the Democratic presidential primaries several months later, leading candidates endorsed "earned legalization" programs that would provide green cards for undocumented immigrants. As Democrats in debates described immigration reform as "another broken promise" by Bush, word leaked to reporters that "the White House feels it's got to get its irons in the fire now" or risk losing ground with Latino voters in November (Allen 2003, p. 1). Wasting little time as he kicked off his reelection year, Bush unveiled a major immigration reform plan in the first week of January 2004 that made a new guest worker program its centerpiece. "The president has long talked about the importance of having an immigration policy that matches willing workers with willing employers," White House Press Secretary Scott McClellan explained. "It's important for America to be a welcoming society" (Lakely and Curl 2004).

Tellingly, the harshest criticism of Bush's reform blueprints came from conservative members of his own party in Congress. Tancredo made cracking down on unauthorized immigration his signature issue, and he chided Bush for rewarding people who break the law. Ed Gallegly (R-CA) mocked the White House for becoming "the Mexican Department of Social Services" (Washington 2004). At a Republican retreat in Philadelphia later in the month, senior Bush adviser Karl Rove got an earful from outraged members of Congress who claimed that their constituents were overwhelmingly opposed to the Bush proposal and that "Hispandering" for votes would create a voter backlash within the party's base (Hallow and Lakely 2004). Yet the president's closest advisers were convinced that his immigration proposal would help with Latino voters without sacrificing support from his conservative base. "It's more conservative pundits than conservatives," one adviser observed of conservative radio, television, and print commentators versus rank-and-file voters (Hallow and Lakely 2004). Grover Norquist, president of the conservative Americans for Tax Reform and a key pro-business advocate of the president's guest worker program, agreed that immigration reform was a safe strategy to win Latino votes without threatening the Republican base. "It's not a vote-moving issue for any bloc of the center-right coalition," he asserted. "People vote on guns. They vote on taxes. They vote on being pro-life" (Washington 2004, p. 1). By March 2004, a truce was called on immigration battles within the Republican Party and Bush quietly put his immigration proposal aside for the rest of the campaign (Hallow 2004).

The 2004 election returns validated Rove's calculation that courting Latino voters with pro-immigrant rhetoric and a relatively expansive reform proposal could be done without losing ground among voters in the Republican base. Bush's reelection bid produced unprecedented mobilization and support from his partisan base, and it also yielded a GOP record 40 % of the Latino vote (Suro et al. 2005; National Immigration Forum 2005).

Soon after the election, Bush met privately with pro-immigration House and Senate Republicans on a new guest worker program that would grant legal status to millions of undocumented immigrants. Immigration reform became the key post-election talking point of Secretary of State Colin Powell, Department of Homeland Security Secretary Tom Ridge, and chief strategist Karl Rove, the latter telling reporters that it was striking that Bush did not lose votes among his conservative base in the election (Sammon 2004; Briscoe 2004). Press secretary McClellan added that immigration reform was "a high priority," and that the president "intends to work with members on to get moving again in the second term." Border hawks were aghast. One lobbyist for the immigration restriction movement doubted that Republican lawmakers would follow the administration "over a cliff" on the issue (Briscoe 2004). He was right. In late November, House Republicans blocked an intelligence overhaul bill to signal Bush that his immigration initiative would split the party and stall action in his second term (Dinan 2004). Tancredo scorched the White House as abandoning conservative law-and-order values, proclaiming that "their amnesty plan was dead on arrival…in January, and if they send the same pig with lipstick back to Congress next January, it will suffer the same fate" (Sammon 2004). Many Republicans leaving a House Republican Conference the same month echoed his

views. One Republican leader anonymously observed that it was "highly unusual for the administration to use their political capital that was given by the base against the base" (Dinan 2004).

Polls indeed found that most conservative Republicans disapproved of plans for granting legal status to undocumented immigrants. In truth, however, the business base of the Republican Party was a strong and unwavering supporter of the president's guest worker plans throughout his two terms in office. The most active business lobbyists favoring the Bush initiatives formed the Essential Worker Immigration Coalition (EWIC), an alliance of immigrant-dependent industry associations headed by the US Chamber of Commerce. The coalition would bring together powerful associations like the American Health Care Association, the American Hotel and Lodging Association, National Council of Chain Restaurants, the National Retail Federation, and the Associated Builders and Contractors. EWIC was initially formed by meatpacking conglomerates to advocate for expansion of guest worker programs, and counts many of the nation's largest employers as members, including Wal-Mart, Tyson Foods, and Marriott (Bacon 2007).

Nevertheless, porous borders and unauthorized immigration were hot-button issues for many grassroots Republicans, and their disquietude, were fueled by local and national talk radio, television commentators like Lou Dobbs and Pat Buchanan, and restrictive politicians such as Tancredo and his House Immigration Reform Caucus. New citizen patrols also popped up along the US–Mexican border. In 2004, an accountant and decorated former Marine, James Gilchrist, founded the all-volunteer Minuteman Project to patrol the Arizona border armed with binoculars and cell phones. Former California schoolteacher Chris Simcox established the separate Minutemen Civil Defense Corps as an extension of this citizen patrol movement (Gilchrist and Corsi 2006). Described as "vigilantes" by Bush, surveys showed that Republican voters strongly approved of the Minuteman movement (Rasmussen Reports 2006c).

In the winter of 2005, HB 4437, a punitive bill focused on border enforcement, narrowly passed the Republican-controlled House. It proposed for the first time to make unauthorized presence in the US a felony, and made it a crime to lend support to undocumented immigrants. From March through May 2006, demonstrations against the bill by largely Latino immigrants and their supporters, unprecedented in number and size, took place in a wide array of cities and towns across the US (Narro et al. 2007, pp. 49–56; Hing and Johnson 2007, p. 42). These nationwide rallies, protests, and boycotts drew negative reactions from most Americans: just 24 % offered a favorable view of the immigrant rights protests and protestors, while 52 % expressed disapproval (Rasmussen Reports 2006a). Overall, however, public opinion remained open to varied policy solutions: majorities favored legal status and earned citizenship for undocumented immigrants, stricter employer penalties, and tougher enforcement (Rasmussen Reports 2006d). Strikingly, 60 % of Republicans backed Bush's plan, a number that would dwindle steadily in coming months (Rasmussen Reports 2006b). By the fall of 2006, Bush sought to appease enforcement-minded conservatives by endorsing the Secure Fence Act of 2006, which authorized the construction of a 700-mile fence along the 2100-mile US border with Mexico.

Signed just 12 days before the midterm elections, Bush used the occasion to urge moderation to assembled House and Senate Republicans. "There is a rational middle ground between granting an automatic path to citizenship for every illegal immigrant and a program of mass deportation," he observed, "and I look forward to working with Congress to find that middle ground" (CNN News 2006).

The midterm elections gave Democrats control of the House and Senate, but their ranks now included new moderate Democrats from culturally conservative swing districts that favored enforcement first. In the summer of 2007, a bipartisan Senate coalition led by Edward Kennedy (D-MA) and John McCain (R-AZ), old hands at immigration reform, negotiated with the White House on a new compromise bill. The result was the Border Security and Immigration Act of 2007, a "grand bargain" that had the support of President Bush and became the focus of all meaningful subsequent discussion (Pear and Rutenberg 2007). The bargain included a new Z visa for undocumented immigrants that covered "a principal or employed alien, the spouse or elderly parent of that alien and the minor children of that alien" currently living in the US, provided they pay fees and penalties that could total as much as US $ 8000, and a "touchback provision" requiring the leader of the household to return home before applying for legal permanent residency status. It also contained a temporary Y worker program of about 200,000 that would allow workers to be admitted for a 2-year period, which could be renewed twice, as long as the worker spent a period of 1 year outside of the US between each admission (which eventually had a 5-year sunset provision). Incorporating the White House proposal, the bill contained triggers to be met before the Z or Y visas could begin. These triggers included: 18,000 border patrol hired, construction of 200 miles of vehicle barriers and 370 miles of fencing, resources to detain up to 27,500 persons per day on an annual basis, and the use of secure and effective identification tools to prevent unauthorized work.

Subject to intense media scrutiny and commentary, the public response to the compromise Senate immigration plan ranged from hostile to tepid. Many members of Congress were deluged with angry phone calls, emails, and letters from constituents and other activists. Surveys indicated that a majority of Republicans, Democrats, and independents opposed the legislation, with only 23 % in favor. Significantly, most Americans opposed the initiative not because they opposed "amnesty" or other proposals for legalizing millions of undocumented immigrants in the country (roughly two-thirds supported earned citizenship options over deportation), but rather because they had little trust that it would provide genuine border security. More than 80 % in surveys said they did not believe that the Kennedy–McCain bill would reduce illegal immigration or enhance border control (Rasmussen Reports 2007a, b).

This profound cynicism born of past implementation failures was a powerful theme for many lawmakers of both parties who lined up against the "grand bargain." Senator Byron Dorgan (D-ND) recalled believing the promises of the Simpson-Mazzoli Act when he was in Congress in 1986, and later discovered that "none of them were true, and 3 million people got amnesty. There was no border security to speak of, no employer sanctions to speak of, and there was no enforcement."

Robert Byrd (D-WV) vowed "not to make the same mistake twice" (Pear 2007), while Charles Grassley said, "I was fooled once, and history has taught me a valuable lesson" (Dinan 2007). Dorgan and Grassley would be among dozens of senators proposing amendments designed to derail the bill.

The Kennedy–McCain compromise had the makings of vintage client politics. As Freeman's theory predicts, organized interests likely to receive concentrated benefits from the reform formed a familiar strange bedfellow alliance. The bill was the result of careful negotiations that ultimately won the support of EWIC and other business lobbies; the NCLR and various ethnic and civil rights groups; the American Civil Liberties Union (ACLU); and labor unions like the Service Employees International Union (SEIU), Hotel Employees and Restaurant Employees Union (HERE), and the United Farm Workers. Yet the scope of conflict had exploded, and a repeat of the behind-the-scenes congressional deals that produced IRCA in 1986 was not in the offing two decades later. In late June, angry constituents, organized interests from the AFL-CIO to restrictionist lobbies, and both conservative and liberal lawmakers successfully blocked cloture on the Senate bill and thereby dashed hopes of avoiding killer amendments.[10] Fox News polling reaffirmed that conservatives were bitterly opposed to the bill and disenchanted with Bush, while Democratic poll conducted by Stan Greenburg showed Democratic identifiers to be split 47 % for and 47 % against the bill (Lochhead 2007; Reid 2007).

With the measure close to death, the White House and a small bipartisan group of Senators worked quietly on a last ditch effort to save the compromise plan. Their private negotiations drew fire from all sides in the summer of 2007. "The process has been orchestrated by a handful of people behind closed doors," Senator Bob Corker (R-TN) observed, "and they are paying a price for that" (Chaddock 2007). In truth, closed-door negotiations represented the primary means by which an unpalatable compromise could be brokered among disparate interests. Yet the forces arrayed against this last ditch effort were overwhelming, from the grassroots to the halls of Congress. Ultimately, the "grand bargain" developed by Bush, Kennedy, and McCain fell 14 votes short of the 60 needed to force a final vote. Fifteen Democrats were among those who helped kill the bill, including freshman senators from swing states such as Claire McCaskill (Missouri), Jon Tester (Montana), and Jim Webb (Virginia).[11]

Bush had pursued comprehensive immigration reform out of a strong personal conviction that the best solution to the bedeviling problems associated with unauthorized flows was an expansive guest worker program that matched willing employers and willing laborers. He also believed that stricter enforcement of employer sanctions, improved efforts at the border, and earned citizenship for undocumented immigrants were necessary features of an effective compromise package. Finally, he and his advisers also were convinced that public opinion could be swayed on the issue, that his conservative base would hold and not rebel, and that his compassionate

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[10] On June 8th (34 Y:61 N) in which a majority comprised of conservative Republicans and liberal Democrats opposed the bill.

[11] The actual vote was on invoking cloture, and it was 46 Y: 53 N.

pragmatism on immigration reform would draw large numbers of Latino voters into the Republican fold. Tellingly, whatever inroads made with Latinos and other new immigrant voters in 2000 and 2004 were forgotten by 2008, when the Republican Party again became the standard-bearer of an enforcement-first approach to reform. Consistent with trends that began in 2005 when Latinos soured on Bush's immigration plan and on House Republicans viewed as anti-immigrant, Barack Obama and Democrats dominated the Latino vote in 2008 with more than two-thirds support in crucial battleground states from Florida to the Southwest. Equally troubling to Republicans was the fact that Latino turnout increased to 11 million voters (9 % of the total) in 2008, double the turnout in 2000 (Latino Vote Fueling Introspection for Republicans 2008).

Undaunted by Bush's quixotic struggles for comprehensive immigration reform only a few years before, Obama ran for president pledging to win a bipartisan compromise package would enhance border control while extending legal status to roughly 12 million undocumented immigrants. In the two previous presidential elections, both major party candidates touted strong pro-immigration credentials as they courted immigrant and co-ethnic Latino and Asian voters. During the 2008 campaign, however, Obama's position on immigration distinguished him from his Republican opponent, John McCain, who assumed a tough enforcement stance. McCain, once committed to comprehensive reform and guest worker programs, became an 11th-hour border hawk during the primaries to appease a partisan base adamantly opposed to extending legal status to unauthorized immigrants no matter how long they lived in the country. When the dust settled, Obama's pro-immigration appeals helped him garner 67 % of the Latino and 64 % of the Asian vote in 2008. Yet neither this support nor his broader popularity upon entering office, the new president believed, was sufficient to propel major policy innovation. Even in an era of partisan polarization, few issues rivaled illegal immigration for how great the divide was between the Democratic and Republican base—ideological distance replicated in Congress (McCarty et al. 2006b). Moreover, conflicts within each party on how to govern immigration remained profound. Obama's promise to secure sweeping immigration reform in his first year won cheers from the Democratic base on the campaign trail, but it loomed as a tall order for an untested administration.

Soon after entering office, the Obama White House announced that an immigration initiative would have to come after more looming priorities such as health care, energy, and financial regulatory reform (Thompson and Herszenhorn 2009; Farrell 2009). Its determination to push the issue off its action agenda was influenced by two crucial coalitional realities. First, the Obama team could not find more than one Republican senator and a handful of Republican House members willing to work across the aisle on immigration reform. Major immigration policy innovation long has hinged upon uneasy bipartisan compromises, but Republican lawmakers were in no mood to contradict hard-liners in the conservative media or to antagonize fervent anti-immigrant activists in their base. Second, the administration understood well that the issue politically exposed congressional Democrats from swing states and districts, with many publicly opposing any deal that included a "path to earned citizenship" for undocumented immigrants. These daunting impediments

to building a majority coalition only compounded the bedeviling practical policy choices and broader public cynicism about comprehensive immigration reform. It is within this context that the Obama administration decided that the subject was too politically explosive to tackle at the outset. Instead, Obama reassured restive Latino and immigrant rights groups that he was ready to lead a "difficult" fight for reform when the time was right.

However, the administration learned that it was not so easy to change the subject. Claims that undocumented immigrants would benefit from health-care reform became a prominent feature of vituperative town hall meetings during the summer of 2009. They elicited a strong rebuke from Obama in his health-care speech to a joint session of Congress the following fall, serving as the impetus for Representative Joe Wilson's infamous outburst, "You lie!" At the first national Tea Party Convention in Nashville, Tennessee, during the winter of 2010, immigrants and immigration reform were major topics of speeches heard by assembled delegates of the grassroots movement. In one of the most prominent keynote addresses, Tom Tancredo—the failed 2008 GOP presidential candidate and former congressman—was cheered when he fulminated that Obama was elected by naturalized immigrants and other people "who can't even spell the word 'vote' or speak English." Warning rapt delegates that "our culture is at stake," he then made headlines by lamenting "we do not have a civics, literacy test before people can vote" (Kates 2010). The next day, Tancredo joined Roy Beck, executive director of the restrictionist Numbers US, to argue that cracking down on illegal immigration, discouraging "chain migration" from developing countries by cutting family preferences in legal admissions, and denying birthright citizenship (jus soli) to the children of undocumented mothers were keys to solving the nation's deep social and economic woes (Kates 2010). In the months that followed, the lone Republican senator who had been willing to work with Obama on immigration reform, Lindsay Graham of South Carolina, responded to pressure from his conservative base by announcing that he would seek to amend the Constitution to deny birthright citizenship to the children of undocumented immigrants. "People come here to have babies," Graham told Fox News. "They come here to drop a child. It's called, 'drop and leave.' To have a child in America, they cross the border, they go to the emergency room, have a child, and that child's automatically an American citizen. That shouldn't be the case" (Dionne 2010). A bipartisan congressional deal on immigration reform was impossible.

During the heat of the 2010 election, illegal immigration was again center stage. In races across the country, Republican candidates railed against "illegal aliens who take our jobs" and increase taxes by placing strains on "health care, criminal justice, and the educational system" (Coburn 2010; Kraushaar 2010). During the hotly contested Nevada senate campaign, Republican challenger Sharron Angle ran negative ads blaming incumbent Senator Harry Reid for "millions of illegal aliens, swarming across our border, joining violent gangs, forcing families to live in fear." By contrast, Obama sought to rally Latino voter support during the waning stages of the election by renewing his pledge to secure comprehensive immigration reform. Obama reminded Univision audiences that his efforts were opposed at every turn by "anti-immigration" Republican lawmakers "who are supportive of the Arizona law,

who talk only about border security…who are out there engaging in rhetoric that is divisive and damaging." Even as Democratic control of the House slipped away, Obama said of comprehensive immigration that he was "committed to making it happen. We're going to get it done" (Univision Transcript 2010).

In contrast to its predecessor, the Obama administration proved unwilling to pursue comprehensive immigration reform before lining up its congressional ducks. The 2012 election returns underscored for GOP leaders and key business constituencies who employ newcomers that affixing the Republican brand to perceived anti-immigrant causes poses grave long-term electoral and economic consequences. Today a fresh strange bedfellow coalition led by bipartisan reformers in both houses of Congress has emerged to advance a grand bargain with familiar elements—legalization, a guest worker program, enhanced enforcement and border control, and employer sanctions. Significantly, the engine of comprehensive immigration reform in Congress now is not insulated client politics but the demonstrated electoral clout of new immigrants and their kindred ethnic groups. In the contemporary politics of immigration reform, lawmakers now balance the demands of well-organized lobbies and advocacy groups with grassroots constituency pressures and electoral calculations.

Today, both Congress and the president have fewer degrees of freedom on immigration reform than their predecessors. "If a fight starts, watch the crowd," political scientist E.E. Schattschneider advised us nearly 50 years ago. He was reflecting on how political conflicts are profoundly shaped by their scope, and by bystanders who may enter the fray and alter the power dynamics among those politically engaged on an issue (Schattschneider 1960). The scope of conflict in American politics over illegal immigration and the future of undocumented aliens is greater now than it has been for decades, if not ever. As we have seen, the distinctive partisan and intraparty conflicts generated by immigration policy struggles are equally important. Indeed, these unique political fissures typically mean that congressional action on immigration reform requires the formation of "strange bedfellow" alliances that are unstable and demand "grand bargains" addressing disparate goals. How Congress and Obama navigate this political minefield will have lasting social, economic, and political implications as American democracy adapts to new demography.

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Latino Issue Priorities and Political Behavior Across US Contexts

Ali A. Valenzuela and Sarah K. Stein

Introduction

In 2008, as a first-time presidential candidate, then-senator Barack Obama famously promised to pass comprehensive immigration reform during his first year in office (James 2012). Once elected, President Obama instead spent the next 4 years dealing with a troubled economy, passing health insurance and finance reform laws, and dramatically increasing federal enforcement of existing laws that helped identify, apprehend, and deport more undocumented immigrants than ever before (Simanski and Sapp 2012). Other than increased enforcement, immigration reform largely fell off the presidential agenda until mid-2012, when the Department of Homeland Security (DHS) issued an administrative directive deferring prosecutorial action for 2 years against qualified DREAMers—otherwise law-abiding immigrants who came to the US illegally when they were under the age of 16 (Foley 2012). For some, deferred action during a presidential election year was too little, too late. Later that year at a presidential candidate forum hosted by Spanish-language television network *Univision,* President Obama was pointedly asked about his broken promise to Latino[1] voters (James 2012). The president argued that he underestimated Republican opposition to immigration reform, articulated his own continued commitment to comprehensive policy change, and contrasted his approach with that of his opponent, Governor Mitt Romney, who had argued for "self-deportation," or the idea that life in the US could be made sufficiently difficult for undocumented immigrants that they would willingly leave the country.

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[1] In this essay, we use the terms Latino and Hispanic interchangeably to refer to current US residents who trace their ancestry to the Spanish-speaking nations of Latin America or Spain.

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President Obama won reelection by a comfortable margin nationally, and by record margins among Latino voters specifically (Preston and Santos 2012). In several important swing states, Latino voter turnout and support for the Democratic candidate helped ensure President Obama's reelection (Segura 2013). The ensuing narrative about Latino voters, and the Democrats' advantage among them, prompted renewed attention from Republicans about the importance of winning a larger share of the Latino electorate in future elections, in part by supporting immigration reform (Wolgin and Fitz 2013). In a similar vein, President Obama telegraphed the importance of immigration reform by discussing it in his second inauguration speech and detailing his preferred policy approach about a week later.[2] Political pressure from Latino interests and the imperative of electoral self-preservation may, in President Obama's second term, finally be sufficiently aligned to produce legislative action in the House of Representatives, a major source of gridlock during Obama's first term. Yet, despite a more favorable electoral context, it remains unclear where, precisely, the immigration issue is most salient and relevant to national politics among Latino and other voters in the American polity.

For example, while existing research shows that majorities of Latinos view immigrants positively and tend to support more liberal immigration policies (Espenshade and Calhoun 1993; Sanchez 2006), there is no systematic evidence about how changes in political and demographic contexts are associated with the salience of immigration and its connection to Latino party identification, candidate approval, and vote choice. In other words, while we know that Latinos are largely supportive of immigration reform, we do not know to what extent or in which contexts this issue may have significant links to national electoral politics. In this study, we furnish evidence about this process in two steps. First, we merge four national surveys of Latino opinion collected in 2009, 2010, 2011, and 2012 with US census demographics from 2000 and 2010, and election results from 2008, in order to assess how Latino issue priorities vary by year and local context. In particular, we ask how the rate of growth and size of local Latino populations interact with electoral competition to shape Latino voter issue priorities on immigration. We argue that the process linking demographics to immigration issue salience is conditioned by the degree of two-party competition because of the way in which competition shapes the nature and frequency of campaign appeals on this issue.

Second, we examine linkages between immigration issue salience among Latino voters and their identification with and support for the two major parties. We conduct these analyses across time and space to assess the impact of demographic context, population change, and electoral competition on the salience of the immigration issue, and then subsequently link issue salience to Latino party identification and vote choice. Our findings indicate that immigration issue salience declines with increasing Latino population proportions, controlling for a number of individual characteristics. In addition, immigration issue salience is predictive of Democratic Party identification and voting preference for President Obama over Governor

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[2] Transcript of the speech may be found here: http://www.nytimes.com/2013/01/21/us/politics/obamas-second-inaugural-speech.html. Accessed 10 February 2013.

Romney. These analyses generate insight about the impact of demographic context, population change, and electoral competition on the salience of immigration among Latino voters, as well as how the political environment works to politicize (or not) the issue of immigration and its connection to Latino political preferences and voting behavior.

In the next section, we review existing work on immigration attitudes, both among whites and Latinos, and characterize how scholars have assessed the relationship between geographic context, variously measured, and public attitudes on immigration and immigration policy. We extend this area of inquiry by discussing the likely role of electoral context in shaping relationships between population characteristics and issue salience among Latino voters by arguing that electoral context helps link the salience of the immigration issue to political outcomes such as party identification and candidate choices. After outlining our expectations, we discuss the data that we assembled for this analysis, including our definitions of key variables, and the primary methods that we use to analyze them. We then report results of our analyses, discuss their implications for politics and policy, and conclude in the final section.

Previous Research on Immigration, Latino Attitudes, and Local Context

Although much previous research in political science acknowledges the centrality of race and ethnicity in the history and contemporary dynamics of American politics, the bulk of this research focuses on differences in public attitudes between black and white Americans, as well as these group members' views of each other.[3] This historical focus has often meant that other ethnic and racial groups in the US, especially immigrant groups, are understudied relative to their share of the population. However, as immigrant groups have grown in size, visibility, and electoral influence (Barreto et al. 2010; Segura 2012), scholars have sought to understand their impact on American political behavior in three primary ways. One is to examine non-Hispanic white attitudes about immigrants and immigration policy, with work in this line of inquiry often seeking to adjudicate between economic and cultural explanations for generally negative attitudes towards immigrants and broad support for restrictive immigration policies (Brader et al. 2008; Espenshade and Calhoun 1993; Citrin et al. 1997; Pantoja 2006). On the whole, cultural explanations that derive from white Americans' concerns about national identity and perceptions of limited immigrant assimilation typically find greater support than explanations centered on concerns about the economic costs of immigration (Citrin and Sears 2009; Citrin and Wright 2009; Hainmueller and Hiscox 2010; Hopkins et al. 2011; Wright and Citrin 2011; Burns and Gimpel 2000; Espenshade and Hempstead 1996; Espenshade and Calhoun 1993).

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[3] For a review of this literature, see Hutchings and Valentino (2004).

A second approach in political behavior research examines the opinions of immigrant group members themselves, with works that ask how individual characteristics influence support for immigration policies and attitudes towards immigrants (Branton 2007; de la Garza et al. 1991; Knoll 2012; Miller et al. 1984; Newton 2000; Rouse et al. 2010; Polinard et al. 1984; Sanchez 2006). Research that investigates specifically Hispanic attitudes about immigration is the most relevant to the current study. Early work in this area tested labor market competition and cultural affinity explanations using bivariate correlations and basic regression analyses of the relationships between Hispanic immigration attitudes and income, education, generational status, and cultural attachments to Hispanic (Mexican) culture (de la Garza et al. 1991; Miller et al. 1984; Polinard et al. 1984). Findings in this line of work also indicate that greater income and education, later generational status, and weaker attachments to Hispanic culture are associated with an increased likelihood of identifying immigration as a major problem. On this evidence, labor market competition theory, which predicts worse attitudes among lower-status and more recent immigrants (those who are the most in competition with new immigrants), does not explain Latino attitudes, while cultural explanations find greater support.

Later work on Hispanic attitudes expands the scope of previous inquiries to include respondents from multiple countries-of-origin, more robust measures of acculturation or assimilation, and additional indicators of cultural affinity such as ethnic group consciousness, religious affiliation, and church attendance (Branton 2007; Knoll 2012; Rouse et al. 2010; Sanchez 2006). Findings largely sustain previous research: Economic measures do not predict Hispanic attitudes about immigration, but measures of acculturation into American society (greater education, acquisition of or preference for English, and later generational status) are predictive of less support for immigration or public policies that benefit immigrants. On the other hand, ethnic attachments such as group consciousness, or the perception that discrimination against Hispanics is a major problem, are associated with greater support for immigrants and pro-immigration policies. In addition, although Hispanics are overall more supportive of immigration than whites (Espenshade and Calhoun 1993), works that examine Hispanic attitudes in greater detail provide evidence of heterogeneity in attitudes by national origin. Specifically, Mexican-origin Hispanics are more supportive of immigration and pro-immigration policies than Puerto Ricans, Cubans, or other Hispanic national origin subgroups (Branton 2007; Knoll 2012; Rouse et al. 2010).

Research characterizing individual determinants of immigration attitudes provides an important foundation for understanding the politics of immigration, but it begs the question: what role does immigration *context,* independent of individual attributes, play in the process of attitude formation? A third line of research has taken up this question by focusing on the effects of demographic context on immigration attitudes of both whites and Latinos (Ha 2010; Hood III and Morris 1997; Hood III and Morris 1998; Hood III et al. 1997; Hopkins 2010; Hopkins et al. 2011; Knoll 2012; Rouse et al. 2010; Stein et al. 2000; Rocha and Espino 2010; Rocha et al. 2011). Several methodological approaches have been taken in this research, with the most basic using multiple regression models to predict individual attitudes with

measures of a respondent's surrounding context (e.g., Knoll 2012). These works operationalize context with the proportion of a respondent's county population that is Hispanic or foreign-born and Hispanic. The findings indicate that as the percent of a respondent's county that is Hispanic increases, Latinos report more negative immigration attitudes. These results for Latino attitudes largely parallel findings for attitudes among whites, where increasing Hispanic county populations are associated with more negative immigration attitudes (Ha 2010; Hood III and Morris 1997; Hood III and Morris 1998; Hopkins 2010).

Some scholars have complicated this basic approach by examining how other characteristics of a local area condition the observed relationship between population demographics and immigration attitudes. For example, scholars have shown that white-Latino residential segregation (Rocha and Espino 2009; Rocha et al. 2011; Rocha and Espino 2010), media attention on the issue of immigration (Dunaway et al. 2010; Hopkins 2010), and residence in border and non-border states (Dunaway et al. 2010) interact with demographics to shape attitudes about immigrants and immigration policy. This later work suggests that, while Hispanic population proportions may have direct effects on individual attitudes through social interactions and the transmission of particular norms that are facilitated in such environments (Huckfeldt and Sprague 1987; Huckfeldt 1983), context also has important consequences for the political and informational environment of a local area. For example, Regina P. Branton and her coauthors show that greater proximity to the US–Mexico border generates more news media coverage, including an increase in negative news media coverage, on the issue of immigration (Branton and Dunaway 2009). These authors also show that media coverage of immigration is greater in border than in non-border states, and that media coverage of immigration is significantly related to immigration issue salience, controlling for a variety of individual- and contextual-level characteristics (Dunaway et al. 2010). Similarly, Daniel J. Hopkins (2010) shows that negative immigration attitudes are correlated with increasing Latino population proportions, but only when the issue of immigration is a prominent media topic. Recent increases in national media attention to the issue of immigration may indicate a corresponding increase in immigration issue salience among the Latino electorate.

Theory and Expectations

In part because of the close connection between immigration policy and notions of national identity and group membership (Sniderman and Hagendoorn 2007; Citrin and Wright 2009; Citrin and Sears 2009), attitudes about immigration are shaped both by individual predispositions and the social environment in which these attitudes are formed. For Latino voters, heterogeneity within the group leads us to expect differences in the salience of immigration by nativity, national origin, and party identification. Latinos born in the US, and those further from the immigration experience, temporally and generationally, are expected to register less attention

to immigration than foreign-born Latinos and those who have been in the US for a shorter period of time. Similarly, because Puerto Ricans are already US citizens, we expect them to register lower levels of attention to immigration compared to Mexican-origin and other Latino national origin groups. Cuban Latinos may also be distinct in their attention to immigration because of their unique position as the only majority-Republican Latino national origin group.

In recent years, the Republican Party has espoused restrictive immigration policy positions that emphasize border control and other enforcement strategies, while rejecting proposals that include a pathway to citizenship for current undocumented immigrants. During President Obama's first term, the Republican Party helped to stymie legislative action on this issue. We expect, therefore, Republican Latinos to report lower levels of attention to immigration than Democratic and unaffiliated Latinos.

Previous research shows that local context is an important determinant of individual attitudes and political behavior, and this seems particularly true for attitudes about immigration that turn on perceptions of and exposure to the local immigrant population. But, whereas previously reviewed work has examined links between Latino population contexts and immigration attitudes, no previous study considers how the *electoral* environment might politicize the issue of immigration in particular demographic contexts. On one hand, we may believe that immigration policy, because it is under federal purview, is a national issue that generates national media coverage and little local variation in attention among the Latino electorate. If this is true, we would expect to see little or no geographic variation in the attention that Latino voters devote to the issue. There may be changes over time, but across demographic and electoral contexts, Latino issue priorities would be fairly stable under this scenario. Work by Regina P. Branton and her coauthors on immigration media coverage in border and non-border states (Branton and Dunaway 2009; Dunaway et al. 2010), as well as Daniel J. Hopkins' work (2010; Hopkins et al. 2011) on white American's attitudes towards immigration, however, cast doubt on this perspective by showing that local attitudes about and attention to immigration vary with media coverage of the issue and the local demographic context.

If white attitudes about immigration vary with local contextual conditions, does Latino attention to immigration also vary by context? We expect that it does, although the form of this relationship for Latinos is likely to be more complicated than it is for whites because of the previously discussed heterogeneity within the Latino population. We consider three specific complications of context in our analysis below: the local electoral environment; measurements of the Latino population; and the geographic unit of analysis. First, we focus on presidential two-party competitiveness as our measure of the electoral environment. We expect competitiveness to moderate relationships between Latino population contexts and immigration issue salience because of the nature of campaign activity in competitive areas (Valenzuela 2011). In areas with competitive elections and sizable Latino populations, we expect messages about immigration to be more frequent, helping to increase the salience of immigration compared to its salience in uncompetitive areas with similar-sized Latino populations. Spanish language advertising and coverage

of elections are also expected to be greater in competitive areas (Abrajano 2010), and research shows that Spanish language coverage of immigration is more favorable than English language coverage (Branton and Dunaway 2008). Thus, we expect any effects of population demographics on immigration issue salience to be conditioned by electoral competitiveness, with any relationships accentuated in competitive areas and muted in safe ones.

Previous research has also shown that whites and Latinos react similarly when population context is measured as the overall Latino population (Hood III and Morris 1997). Later work, however, shows that Latinos are more discerning and react differently when population context is examined separately as native- and foreign-born Latino population sizes (Rocha and Espino 2010; Rocha et al. 2011). We also expect Latino voters to place a different emphasis on immigration depending on how population context is measured. Given our expectations about national origin differences in Latino voter attention to the issue of immigration, we believe that differences in national origin population contexts will also have variable effects on attention to immigration among Latinos. Specifically, larger Mexican-origin populations will be associated with greater attention to immigration among Latinos who live in these contexts, while larger Puerto Rican- and Cuban-origin populations will generate less attention, all else equal.

In terms of the geographic unit of analysis, previous research suggests that neighborhood is the most relevant for measuring one's social environment and, particularly, one's exposure to immigrants and other group members. On the other hand, if concerns about immigration cue notions of national membership and group identity, larger geographic units such as counties or states may be more relevant. For example, one might identify more strongly as a member of one's state of residence, metropolitan area, or city, before one identifies as a resident of a particular neighborhood. Under this latter scenario, direct contact or exposure to Latinos or the immigrant population is not necessary; instead, mere perceptions of the city or metropolitan demographic context may be sufficient to activate the salience of immigration as a political issue. Another consideration is one of mathematics: neighborhoods are more numerous, and represent greater across-unit heterogeneity, than counties or states (which represent greater within-unit heterogeneity), so there is more statistical power to detect an effect of neighborhood context. As such, we expect neighborhoods, defined here as US census tracts, to be the geographic contexts most relevant to immigration issue salience among Latino voters.

Finally, our expectations about individual- and contextual-level determinants of immigration issue salience among Latino voters does not tell us anything about how identifying this issue as a top concern may be related to important political outcomes such as party identification and vote choice. To assess this link, we use a multiple regression framework that allows us to assess the impact of issue salience while simultaneously controlling for other factors that previous research has shown are related to party identification and vote choice. We expect Latino voters who identify immigration as a top issue will be positively and significantly more likely to identify with the Democratic Party and to express a vote preference for President Obama over Governor Romney, compared to Latinos who identify another issue as their top concern.

Data and Methods

To assess our expectations, we rely on four cross-sectional surveys of Latino voter opinion collected in each of the 4 years of President Obama's first term in office (2009–2012).[4] All four surveys interviewed a nationally representative sample of Latino registered voters who were contacted by telephone using fully bilingual professional callers. The states included in each sample vary somewhat from survey to survey, but all surveys include states with the largest Latino populations, and the 2012 survey includes respondents from all 50 states.[5] Strictly speaking, the four surveys are not a time series because each sample was independently drawn and respondents were not reinterviewed in subsequent surveys. Any apparent temporal changes in issue salience, party identification, or other attitudes, therefore, should not be interpreted as conclusive evidence of overall shifts in Latino attitudes because some of the shift could be due to changes in the composition of the Latino electorate. Nonetheless, all surveys were conducted using the same polling firm and survey mode and similar sampling frames over a relatively short period of time, providing some confidence that observed shifts over time represent meaningful changes in opinion. Further, differences across Latino subgroups within each survey are the main quantities of interest that we compare, and these comparisons are not sensitive to compositional changes.

The surveys only include Latino registered voters, so the sample characteristics are somewhat skewed from the general population of Latinos in the US (see Appendix Table 7). Particularly, the Latino registered voter samples examined here are somewhat older, later in generational status, wealthier, and more educated than the general Latino population. However, since the main goal of the current study is to investigate sources of immigration issue salience and its relationship to political outcomes such as party identification and voting behavior, relying on Latino registered voter samples is appropriate. In addition, because the samples are drawn from registered voter lists, complete address information on each respondent allows us to locate respondents at their precise residential location using Geographic Information Systems (GIS). Using this respondent location information, we merge US Census and electoral contest results data for each respondent in order to characterize and measure their surrounding contexts.

We use Census data from 2000 and 2010 to create demographic and socioeconomic indicators of each respondent's context at multiple levels: state, county, and neighborhood. We define neighborhoods using Census-designated tracts, which are designed to be homogenous with respect to population characteristics, economic status, and living conditions.[6] Such homogeneity is a close approximation to neighborhood characteristics and ensures that tract-level measures of context are reflective of the demographic environment in which respondents live. Counties are sub-

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[4] The 2009 survey data were collected in May; 2010 and 2011 data were collected in October; and 2012 data were collected in November just before the presidential election.

[5] Please see the Appendix (Table 7) for sample characteristics.

[6] US Census Bureau, http://www.census.gov/geo/www/cen_tract.html.

stantially larger geographic units that typically include hundreds of Census tracts; counties may thus be useful for characterizing the limits of an individual's surrounding demographic and electoral environment. We use county-level presidential results from the 2008 election as a measure of the electoral environment, calculating the percentage-point vote margin between the top two candidates (President Obama and Senator McCain) such that smaller values indicate a more competitive contest. We use this measure to define competitive counties as those with a vote margin of less than 10 percentage points, and safe counties as those with a vote margin of 10 percentage points or greater.

To measure immigration issue salience, we use questions that ask respondents about their issue priorities, which capture the salience of immigration compared to other policy areas. Unfortunately, variation in the question wording across the four surveys limits possible comparisons. Nonetheless, while year-to-year comparisons are somewhat tenuous, within-year comparisons across issues are reliable. Additionally, in three of the four surveys (2009, 2010, 2011), the question wording is similar, while in the last two (2011 and 2012) there is an alternative wording of the issue priority question. For 3 years, we can characterize changes in responses over time, and again for the past 2 years.[7] In what follows, we pool data from 2009 to 2011 and again for 2011 and 2012 in order to conduct separate analyses for the two periods with different question wordings.

Each of the surveys also contains relevant information about a respondent's age, gender, nativity (born in the US, Puerto Rico or elsewhere), country of origin (we code respondents into those originating from Mexico, Puerto Rico, Cuba, Spain, and all others), generational status (we code first, second, and third-generation Latinos), partisanship (Democratic, Republican, and unaffiliated), education, income, survey language preference (English or Spanish), and region in the US. We also create a variable for residence in non-border and border states (the latter including California, Arizona, New Mexico, Texas, Louisiana, Mississippi, and Florida).[8] All of these variables serve as controls in our multiple regression analyses and some (nativity, national origin, partisanship, and border state residence) are likely to be important for distinguishing attention to the immigration issue and its relationship to key political outcomes.

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[7] In 2009, the issue priority question asked Latino voters what they "think is the most important issue that President Obama and the new Congress should address during 2009," while in 2010 the question asked, "if the election for US Congress were being held today, what general issues would be most important to you in deciding who to vote for?" The change in wording shifted the emphasis of the question from general concerns to specific concerns about vote choice. In 2011, the issue priority question again focused attention on voter behavior: "when it comes to deciding if you will vote, and who to vote for, what issues are the most important in how you evaluate the candidates and your decision to vote?" Also in 2011, the survey asked a second issue priority question that focused attention on issues of concern to Latinos: "Generally speaking, what are the most important issues facing the Latino community that you think Congress and the President should address?" Similarly in 2012: "Thinking about the 2012 election, what are the most important issues facing the Hispanic/Latino community that our politicians should address?"

[8] We test alternative definitions of border states in the Robustness Checks section and find substantively similar results.

We report the results of our analyses starting with bivariate relationships between individual characteristics of Latino voters and their immigration issue salience—that is, the proportion who identify immigration as a top issue concern—across survey years. We then proceed to bivariate correlations between immigration issue salience and contextual characteristics of respondent counties and neighborhoods, examining these relationships among all Latinos in our samples and then by party identification because of expected differences in how context works to politicize immigration for Democratic, Republican, and unaffiliated Latinos. Contexts that demonstrate a significant correlation with immigration issue salience indicate that Latino voters in these environments are substantially more or less likely (depending on the sign of the correlation) to identify this issue as a top concern *as values on the contextual measure increase.* Since the salience of immigration is likely to vary significantly by individual attributes, we also pursue multiple regression analysis of the probability of identifying immigration as a top issue, which allows us to account for potential confounders simultaneously.

Finally, we examine how the issue of immigration, compared to other issues, is related to Latino party identification and vote choice in 2012. To do this, we regress indicator variables for Democratic Party identification and preference for President Obama over Governor Romney separately on issue priorities, individual attributes, and contextual characteristics of Latino voters. Estimates from these regressions reveal the probability that comparably situated Latino voters, who select immigration reform as a top issue, identify as Democrats and support President Obama in self-reported vote choice. In other words, the models allow us to examine the relationship between these key political outcomes and issue priorities while simultaneously controlling for socioeconomic and other factors such as national origin and nativity that we hypothesize are systematically related to which issues Latino voters select as their top concern.[9]

Results

The first thing to note from Figs. 1 and 2 is that the change in wording of the issue priority question, from one about the most important issue for a respondent's vote (Fig. 1) to one about the most important issue facing the Latino community (Fig. 2), substantially increased the proportion of Latino voters who identify immigration as their top concern.

The "top issue for vote" question asked in 2009–2011 generated between 11 and 16 % of Latino respondents identifying immigration as a top concern (Fig. 1), while the "top issue facing the Latino community" question asked in 2011–2012 generated between 24 and 31 % of Latinos identifying immigration as a top concern (Fig. 2). We can be confident that it was the change in wording that caused some of

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[9] All models use logit regression functions and are run with national probability weights and robust standard errors.

Fig. 1 Latino immigration issue salience in 2009–2011
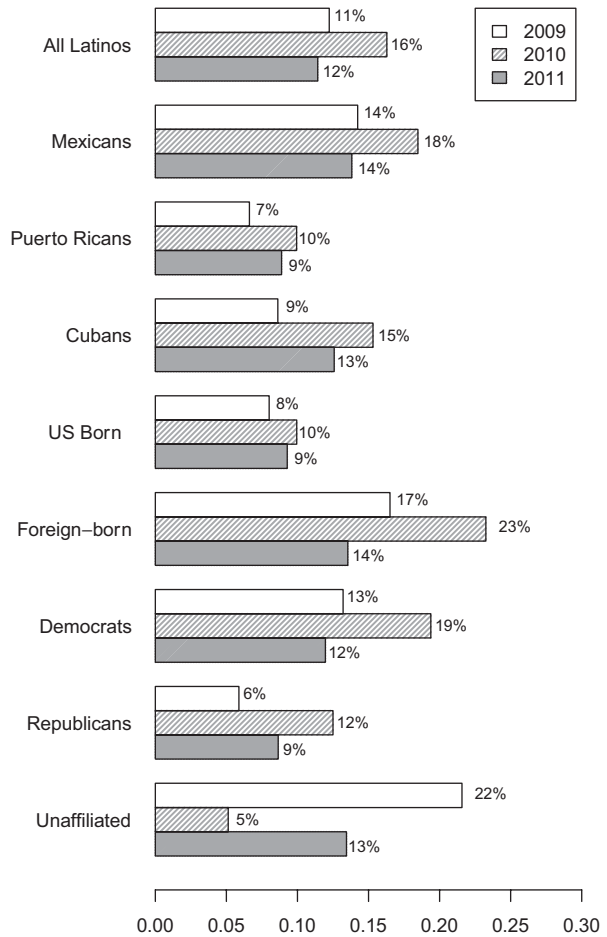
the increases apparent in Fig. 2 because the 2011 survey included both questions, and there is a 19 percentage-point difference from one question wording to the other in that year (compare 12 % of all Latinos in 2011 in Fig. 1 to 31 % of all Latinos in 2011 in Fig. 2). Similar comparisons between Figs. 1 and 2, focusing on the 2011 survey year, can be made for various Latino subgroups, and in every instance, the salience of immigration is greater among Latino voters responding to the question regarding the top issue facing the Latino community. The average response difference is about 17 percentage points, with the smallest differences between the two question wordings among Puerto Ricans and Cubans. For many Latino voters, asking about the most important issue facing the Latino community serves as a cue about immigration policy. These results suggest that Latino voters recognize immigration as an issue of special concern for the Latino community.

Nonetheless, and as expected, Puerto Rican and Cuban Latinos register among the lowest attention to immigration when asked about their top issue for voting,
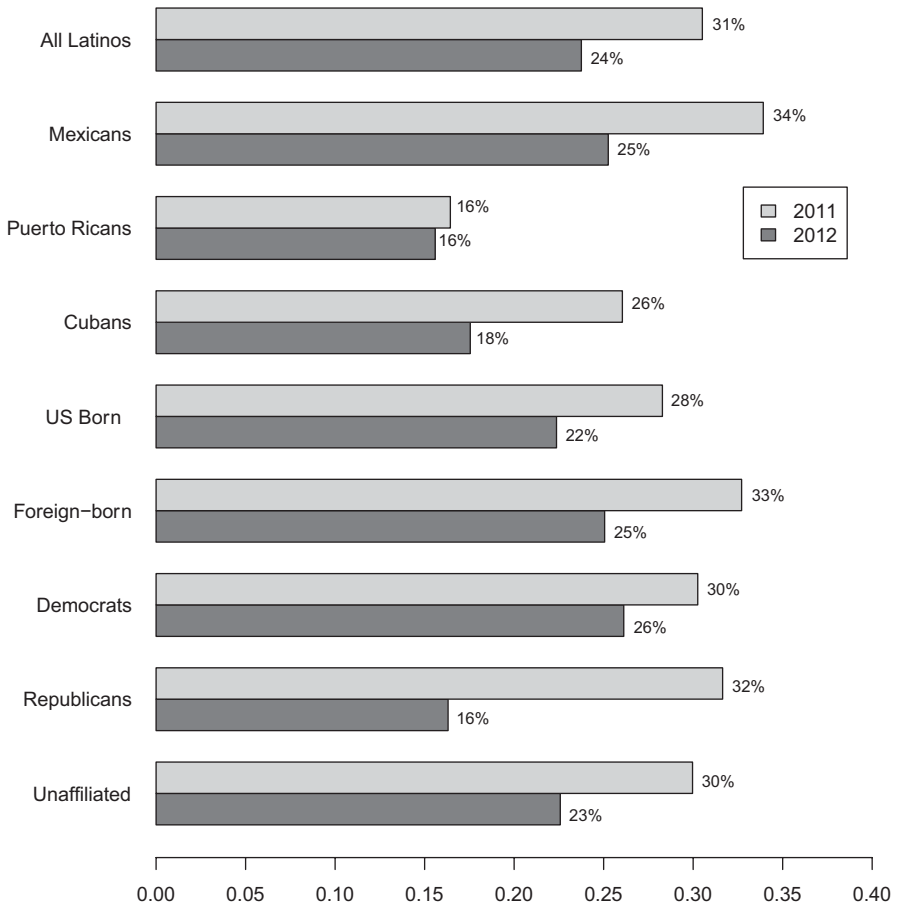
Fig. 2 Latino immigration issue salience in 2011–2012

with both groups maxing out in 2010 at 10 % and 15 %, respectively (Fig. 1). In fact, Puerto Ricans report among the lowest levels of attention to immigration regardless of how the issue priority question is worded (7–10 % in 2009–2011 and only 16 % in 2011–2012 for the Latino community version of the question). This is in contrast to Cuban Latinos, who register higher levels of attention to immigration when asked about their top concern for the Latino community in 2011 (26 %), although this drops again in 2012 to 18 % .

US-born and Republican Latinos are also less likely than other Latinos to say immigration is the top issue for their vote, maxing out in 2010 at 10 % and 12 %, respectively. Interestingly, the proportion of these two groups identifying immigration as a top issue for the Latino community in 2011 (28 % and 32 %, respectively) is high and not meaningfully different from the overall Latino community. It appears that in a non-election year, US-born and Republican Latinos look much like

the rest of the Latino population in terms of their attention to the immigration issue. By 2012, however, US-born and Republican Latinos revert to lower levels of attention to immigration (22 % and 16 %, respectively), figures that are similar to Puerto Ricans in that year (16 %) and lower than the overall Latino population (24 %). This decline in how important immigration is among native-born and Republican Latinos may be driven by the 2012 presidential campaign and the increased salience of other policy issues.

As expected, Mexican-origin and foreign-born Latinos are among the most likely to identify immigration as a top issue, both for their vote and for the Latino community. This is particularly the case when comparing foreign-born to US-born Latinos in 2009 and again in 2010, with smaller differences between foreign-born and US-born Latinos in 2011 for both versions of the issue priority question. There are no meaningful differences in immigration issue salience between foreign- and US-born Latinos by 2012. Again, the presidential election may have politicized the issue of immigration sufficiently to increase its salience among both US- and foreign-born Latinos, making these two subgroups indistinguishable in their attention to the issue. On the other hand, Mexican-origin Latinos, compared to Puerto Ricans, were consistently more likely to identify immigration as a top issue, demonstrating the greater attention that Mexican-origin Latinos devote to this issue regardless of the broader electoral environment.

Considering next the relationship between immigration issue salience among Latino voters and the geographic contexts in which these voters live, Table 1 shows Pearson's r correlation coefficients for identifying immigration as a top issue separately for the two question wordings in 2009–2011 (panel A) and in 2011–2012 (panel B). Both county- and neighborhood-level measures of context are pairwise correlated with identifying immigration as the top issue, first for all Latinos in the samples and then separately for Democratic, Republican, and unaffiliated Latino voters. Although several measures of context are significantly correlated with immigration issue salience ($p < 0.05$), most are quite modest associations.

Nonetheless, not all measures of context correlate with identifying immigration as a top issue, and those that do show stronger associations for Republican and unaffiliated Latinos, but not for Democratic Latinos. Among Democratic Latinos, there are no significant correlations between context and immigration issue salience in 2009–2011 (panel A), and virtually no differences in the size of the associations in 2011–2012 (panel B) compared to the full sample. These patterns of results suggest two inferences. First, Republican and unaffiliated Latino voters are more likely than Democratic Latinos to be influenced by their surrounding contexts in terms of attention to the issue of immigration. Second, measures of context examined here are much more consistently related to immigration issue salience when Latino voters are asked about the most important issue facing the Latino community (see panel B in Table 1), rather than when asked about their most important issue more generally or for their vote (see panel A in Table 1).

Substantively, the results in Table 1 show some intriguing relationships. First, examining only results in 2009–2011 (panel A), the size of the Mexican-origin Latino population at either level of geography (county or neighborhood) is positively

Table 1 Correlations between immigration issue salience and geographic contexts

	All	Democrats	Republicans	Unaffiliated
(A) Immigration most important issue to address / for vote (2009, 2010 and 2011, pooled)				
% Latino pop (county)	0.00	−0.03	0.06	0.14
% Δ Latino pop (county)	0.03	0.01	0.06	0.10
% Mex.-origin pop (county)	0.04*	0.01	0.10*	0.15*
% P.R.-origin pop (county)	−0.04	−0.01	−0.09*	0.17*
% Cuban-origin pop (county)	−0.02	0.00	−0.01	−0.06
% White pop (county)	−0.03	0.00	−0.04	−0.14
% Δ White pop (county)	−0.01	−0.03	−0.01	0.14
US$ Median income (county)	0.01	0.03	−0.02	−0.03
% Electoral margin (county)	0.03	0.01	0.03	0.06
% Latino pop (neighborhood)	0.04*	0.02	0.05	0.12
% Δ Latino pop (neighborhood)	0.01	0.00	0.01	−0.01
% Mexican origin (neighborhood)	0.06*	0.02	0.10*	0.18*
% P.R. origin (neighborhood)	−0.05*	−0.02	−0.10*	−0.16*
% Cuban origin (neighborhood)	−0.04*	−0.02	−0.04	−0.11
% White (neighborhood)	−0.05*	−0.03	−0.03	−0.14
% Δ in White pop (neighborhood)	0.02	0.02	0.00	0.10
(B) Immigration most important issue facing Latino community (2011 and 2012, pooled)				
% Latino pop (county)	−0.07*	−0.08*	−0.06*	−0.02
% Δ in Latino pop (county)	−0.07*	−0.10*	−0.02	−0.02
% Mex.-origin pop (county)	0.03*	−0.02	0.12*	0.06
% P.R.-origin pop (county)	−0.03*	−0.03*	−0.04	−0.09*
% Cuban-origin pop (county)	−0.03*	0.04*	−0.09*	−0.06
% White pop (county)	0.05*	0.04*	0.06*	0.02
% Δ in White pop (county)	−0.02	0.01	−0.06*	−0.03

Table 1 (continued)

	All	Democrats	Republicans	Unaffiliated
US$ Median income (county)	0.06*	0.08*	0.00	0.06
% Electoral margin (county)	−0.01	−0.02	0.00	0.00
% Latino pop (neighborhood)	−0.06*	−0.07*	−0.05	−0.03
% Δ in Latino pop (neighborhood)	−0.02	−0.03*	−0.03	0.03
% Mexican origin (neighborhood)	0.03*	−0.02	0.12*	0.05
% P.R. origin (neighborhood)	−0.03*	−0.04*	−0.02	−0.09*
% Cuban origin (neighborhood)	−0.04*	0.04*	−0.10*	−0.04
% White (neighborhood)	0.04*	0.05*	0.04	0.01
% Δ in White pop (neighborhood)	0.00	0.01	−0.01	0.01

*$p<0.05$

associated with immigration issue salience, particularly among Republican and un-affiliated Latinos (but not among Democratic Latinos). Puerto Rican-origin Latino population proportions are negatively related to immigration issue salience among the full sample, and especially so among Republican Latinos, the latter finding consistent at both county- and neighborhood-levels. For unaffiliated Latinos, however, results for the size of the Puerto Rican-origin Latino population diverge across geographic levels: increasing Puerto Rican county populations appear to increase attention to immigration, while larger Puerto Rican neighborhood populations depress attention to immigration among Latino independents.

Fast forward to 2011–2012, looking at results in panel B of Table 1, the size of the overall Latino population is negatively related to attention to immigration. This negative correlation between increasing Latino population size and immigration issue salience is present among the full sample and separately among Democrats and Republicans. The similarly negative correlation between percentage-point *change* in the overall Latino population (between 2000 and 2010) and immigration issue salience suggests that the importance of immigration will decline with larger Latino populations in either counties or neighborhoods, at least among Democratic Latino voters who are asked about the most important issue facing the Latino community. It may be the case that Democratic Latino voters perceive other issues to be more important for the Latino community as their demographic surroundings become increasingly Latino.

Although providing suggestive evidence of the relevance of local context for understanding the salience of immigration among Latino voters, the bivariate correlations reported in Table 1 should be interpreted with caution because changes in one contextual characteristic may simultaneously change the value of another related

Table 2 Individual determinants of immigration issue salience

	(1) 2009–2011		(2) 2011–2012	
Variable	*Coeff.*	*Std. Err.*	*Coeff.*	*Std. Err.*
Republican	−0.349	(0.214)	−0.410	(0.142)***
Independent	−0.022	(0.340)	−0.299	(0.240)
Non-partisan	−0.529	(0.523)	0.132	(0.273)
Foreign born	1.074	(0.329)***	0.437	(0.176)**
Second generation	1.196	(0.305)***	0.312	(0.170)*
Nat origin: P.R.	−0.541	(0.314)*	−0.510	(0.241)**
Nat origin: Cuba	−0.419	(0.417)	−0.308	(0.269)
Nat origin: Spain	0.024	(0.393)	−0.568	(0.270)**
Nat origin: other	−0.290	(0.191)	0.093	(0.127)
Educ: high school grad	−0.075	(0.228)	−0.085	(0.182)
Educ: some college	−0.171	(0.236)	0.054	(0.193)
Educ: B.A. or postgrad	0.001	(0.265)	0.157	(0.192)
Educ: refused/NA	0.849	(0.526)	−0.623	(0.498)
Income: US$ 20–40k	−0.137	(0.200)	0.078	(0.170)
Income: US$ 40–80k	−0.680	(0.244)***	0.108	(0.173)
Income: above US$ 80k	−0.694	(0.290)**	0.045	(0.195)
Income: refused/NA	−0.484	(0.228)**	−0.079	(0.176)
Age (years)	0.000	(0.000)	−0.014	(0.003)***
Gender (female)	−0.022	(0.153)	−0.054	(0.106)
Survey language: English	−0.745	(0.223)***	−0.187	(0.138)
Region: Midwest	0.486	(0.305)	−0.154	(0.235)
Region: Northeast	−0.270	(0.250)	−0.413	(0.212)*
Region: South	−0.292	(0.180)	0.096	(0.121)
Years Obama president	0.021	(0.096)	−0.444	(0.115)***
(Intercept)	−1.773	(0.382)***	0.692	(0.478)
N	2058		6135	
Pseudo R^2	0.085		0.037	

*$p<0.1$; **$p<0.05$; ***$p<0.01$

characteristic. For example, while the size of the Puerto Rican population in one's county appears positively related to greater Latino voter attention to immigration, real-world increases in the Puerto Rican population may correspondingly decrease the size of the Mexican-origin population and possibly exert a countervailing effect on the salience of immigration. Moreover, increases in the Puerto Rican population also increase the likelihood that a respondent taken from this context is also Puerto Rican, again possibly changing the overall impact on immigration salience. To determine whether individual- or contextual-level characteristics are more predictive of immigration issue salience, while simultaneously controlling for the impact of each type of factor, we use multiple regression models to predict immigration issue salience for individual Latino voters. We regress immigration issue salience on individual characteristics in Table 2, add county measures of context to the individual-level models in Table 3, and then separately add neighborhood measures of context to the individual-level models in Table 4.

Table 3 County contextual determinants of immigration issue salience

Variable	(1) 2009–2011 Coeff. (Std. Err.)	(2) 2009–2011 Coeff. (Std. Err.)	(3) 2011–2012 Coeff. (Std. Err.)	(4) 2011–2012 Coeff. (Std. Err.)
Years Obama president	0.020	0.018	−0.454	−0.446
	(0.098)	(0.098)	(0.117)***	(0.118)***
Population 2010	−0.000	−0.000	0.000	0.000
	(0.000)	(0.000)	(0.000)	(0.000)
% Latino 2010	−2.707	−2.708	−1.531	−1.547
	(0.992)***	(0.998)***	(0.699)**	(0.691)**
% Δ Latino 2000–2010	1.214	1.212	0.851	0.903
	(1.413)	(1.437)	(0.885)	(0.874)
% Mexican 2010	0.131	0.103	−0.459	−0.425
	(0.805)	(0.804)	(0.462)	(0.464)
% Puerto Rican 2010	−0.444	−0.481	−1.307	−1.319
	(1.089)	(1.086)	(0.716)*	(0.718)*
% Cuban 2010	0.868	0.901	−0.218	−0.299
	(1.476)	(1.477)	(0.813)	(0.812)
% white 2010	−1.085	−0.929	0.117	−0.020
	(1.182)	(1.236)	(0.860)	(0.855)
% Δ white 2000–2010	0.428	0.473	0.247	0.293
	(1.428)	(1.456)	(1.156)	(1.129)
Log median household income 2010	−0.344	−0.371	−0.209	−0.212
	(0.485)	(0.487)	(0.337)	(0.335)
Border state	0.309	0.299	0.072	0.095
	(0.340)	(0.340)	(0.177)	(0.177)
Competitive	0.247	−0.018	−0.024	0.337
	(0.192)	(0.425)	(0.130)	(0.273)
% Latino 2010 × Comp.		0.723		−1.023
		(1.046)		(0.698)
(Intercept)	1.671	1.847	2.849	2.798
	(5.399)	(5.423)	(3.714)	(3.696)
Individual controls	Y	Y	Y	Y
N	2058	2058	6135	6135
Pseudo R^2	0.094	0.094	0.045	0.046

*$p<0.1$; **$p<0.05$; ***$p<0.01$

Several expected results are apparent in Table 2, which presents two models that pool data from (1) 2009–2011 and then from (2) 2011–2012.[10] First, in 2009–2011, foreign-born (compared to US-born) and second-generation (compared to third- and later-generation) Latino voters are significantly more likely to identify immigration as their top issue, findings that remain largely the same in 2011–2012 except for a decline in the size of the coefficients for nativity and generation. Second, Puerto Rican (compared to Mexican)-origin Latinos are somewhat less likely to report at-

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[10] Model 1 shows results of the "most important issue for vote" question asked in 2009–2011, while model 2 shows results of the "most important issue for the Latino community" question asked in 2011–2012. See note 7 for details about exact question wording.

tention to immigration in both time periods. Third, in 2009–2011, income is a significant determinant of immigration issue salience, with greater income associated with declining attention to the issue, a relationship that disappears in 2011–2012. Preference for completing the survey interview in English is significantly related to lower attention to immigration in 2009–2011 but not in 2011–2012. Conversely, increasing age is associated with more attention to immigration in 2011–2012 but not in 2009–2011. These models also include a count for the number of years that Obama was president in order to capture temporal changes in issue salience, and this measure shows that immigration issue salience declined in 2012 compared to 2011 (see Table 2).

Table 3 presents results of four models that include county-level contextual measures and all of the measures of individual characteristics from the previous analysis as control variables.[11] Models 1 and 2 show partial results from 2009–2011 pooled data, and models 3 and 4 show partial results from 2011–2012 pooled data. Results here confirm two findings from the bivariate correlations in Table 1. First, greater Latino population density in US counties is significantly related to a *decline* in immigration issue salience among Latino voters, and this is true for both time periods (and thus for both versions of the issue priorities question). Across the range of county-level percent Latino population, the probability of identifying immigration as a top issue declines by about 22 percentage points in 2009–2011 and in 2011–2012. The size of these relationships is large, slightly larger than the combined decline in the probability of identifying immigration as a top issue associated with individual Republican (vs. Democratic), US-born (vs. foreign-born), and Puerto Rican (vs. Mexican) national origin (see Table 3).

Figure 3 graphically depicts the change in probability of identifying immigration as a top issue across the range of percent Latino population in US counties. The predicted probabilities are derived from the full models (2 and 4) in Table 3, with all other variables held constant at their mean values. Panels A and B in Fig. 3 show declines in probability of identifying immigration as a top issue across county percent Latino in 2009–2011 and 2011–2012, respectively. Panels C and D show changes in the probability of identifying the economy or jobs as the top issue in these periods using the same model specifications as those for the issue of immigration. As can be seen by comparing A to C, and B to D, increasing county Hispanic population proportions are associated with a decline in immigration issue salience and a concomitant rise in salience of the economy or jobs issue. For Latino voters, immigration and the economy or jobs were the two most important issue areas, but the relationships between their salience and the size of the Hispanic population run in opposite directions (see Fig. 3).

Second, Table 3 confirms that an increasing share of the county's population originating from Puerto Rico is associated with declining attention that Latino voters in these counties paid to the issue of immigration in 2011–2012, controlling for

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[11] Results for individual characteristics in Table 3 are substantively identical to those reported in Table 2 but not shown for space consideration; they are available upon request.
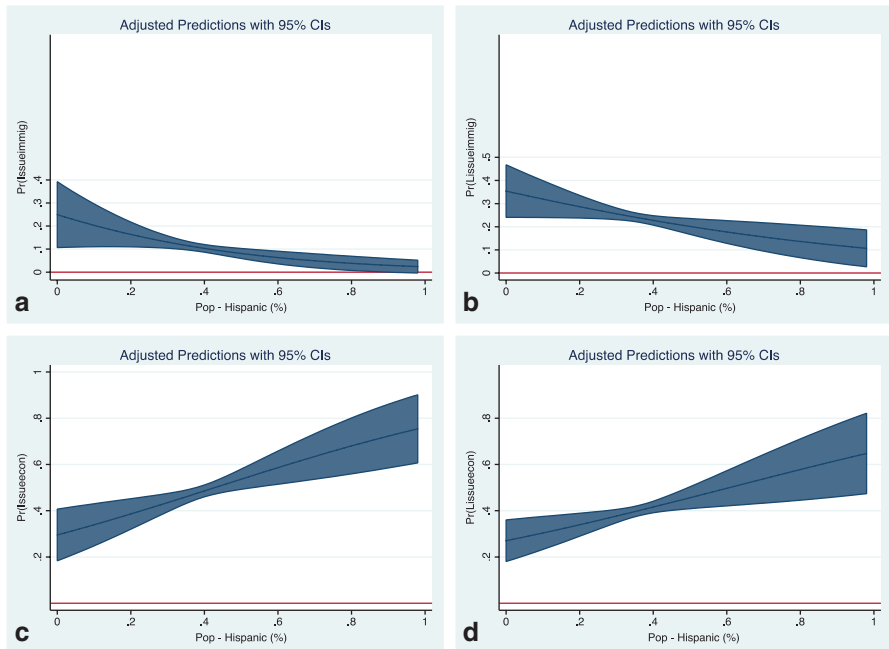
Fig. 3 Predicted probabilities of issue salience by county % Latino population: **a** 2009–2011 Immigration Salience, **b** 2011–2012 immigration salience, **c** 2009–2011 economy/jobs salience, **d** 2011–2012 economy/jobs salience

individual nation-of-origin and other characteristics (models 3 and 4).[12] In these same models, Puerto Ricans—that is, individuals whose national ancestry is from Puerto Rico—are also significantly less likely to identify immigration as a top issue for the Latino community ($\beta = -0.53$, $p < 0.05$; results not shown). Comparing the size of these individual- and county-level relationships in the same model (model 4 of Table 3), Puerto Ricans are about 8 percentage points less likely than Mexican-origin Latinos to identify immigration as a top issue. By contrast, moving from the least-Puerto Rican to the most-Puerto Rican county population contexts decreases by about 15 percentage points the likelihood of an average Latino voter living in such contexts identifying immigration as a top issue. A Latino voter's country-of-origin matters for understanding the importance that she attaches to the issue of immigration, but her county population context plays almost twice as large a role.

Contrary to expectations as well as the bivariate results in Table 1, neighborhood-level measures of context are either weakly or not at all predictive of immigration issue salience when controlling for other factors (Table 4). The divergence of these

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[12] In addition, there is a consistently negative but not significant relationship between % Puerto Rican county population and immigration issue salience in 2009–2011 (models 1 and 2 of Table 3). The significant and negative coefficients for % Puerto Rican county population in models 3 and 4 of Table 3 are driven entirely by respondents in 2012 (results not shown).

Table 4 Neighborhood contextual determinants of immigration issue salience

Variable	(1) 2009–2011 Coeff. (Std. Err.)	(2) 2009–2011 Coeff. (Std. Err.)	(3) 2011–2012 Coeff. (Std. Err.)	(4) 2011–2012 Coeff. (Std. Err.)
Years Obama president	0.017	0.023	−0.483	−0.477
	(0.097)	(0.098)	(0.115)***	(0.115)***
Population 2010	−0.000	−0.000	0.000	0.000
	(0.000)	(0.000)	(0.000)	(0.000)
% Latino 2010	−0.533	−0.719	−0.808	−0.706
	(0.528)	(0.530)	(0.413)*	(0.420)*
% Δ Latino 2000–2010	−0.225	−0.254	−0.372	−0.382
	(0.364)	(0.360)	(0.244)	(0.242)
% Mexican 2010	−0.239	−0.229	−0.357	−0.361
	(0.555)	(0.557)	(0.375)	(0.374)
% Puerto Rican 2010	−0.973	−1.019	−1.022	−1.036
	(0.721)	(0.723)	(0.620)*	(0.621)*
% Cuban 2010	−0.368	−0.265	−0.143	−0.201
	(1.019)	(1.020)	(0.609)	(0.610)
% white 2010	−0.182	−0.093	−0.397	−0.425
	(0.526)	(0.528)	(0.414)	(0.412)
% Δ white 2000–2010	−0.003	0.001	0.023	0.017
	(0.148)	(0.150)	(0.114)	(0.114)
Log median house hold income 2010	0.094	0.004	0.156	0.178
	(0.398)	(0.401)	(0.278)	(0.277)
Border state	0.278	0.289	0.073	0.075
	(0.338)	(0.340)	(0.166)	(0.167)
Competitive	0.206	−0.418	−0.097	0.161
	(0.185)	(0.358)	(0.127)	(0.225)
% Latino 2010 × Comp.		1.263		−0.632
		(0.634)**		(0.475)
(Intercept)	−2.147	−1.109	0.326	0.067
	(4.398)	(4.439)	(3.200)	(3.196)
Individual controls	Y	Y	Y	Y
N	2056	2056	6129	6129
Pseudo R^2	0.090	0.093	0.044	0.045

*$p<0.1$; **$p<0.05$; ***$p<0.01$

results from Table 1 suggests the importance of taking into account individual- and county-level characteristics that are likely to be systematically related to living in a particular neighborhood context; without these additional controls, bivariate estimates of any relationship between neighborhood context and immigration issue salience are likely to be biased. From Table 4, we also learn that percent Latino population in a respondent's neighborhood (tract) is consistently negative but only marginally significant in 2011–2012 (models 3 and 4). This is in contrast to the percent Latino population in a respondent's *county* (Table 3), which is consistently significant and negatively related to immigration issue salience. As in the county-level models, however, percent Puerto Rican in one's neighborhood is negative and significant in 2011–2012 using a directional hypothesis test (one-tailed, $p<0.05$),
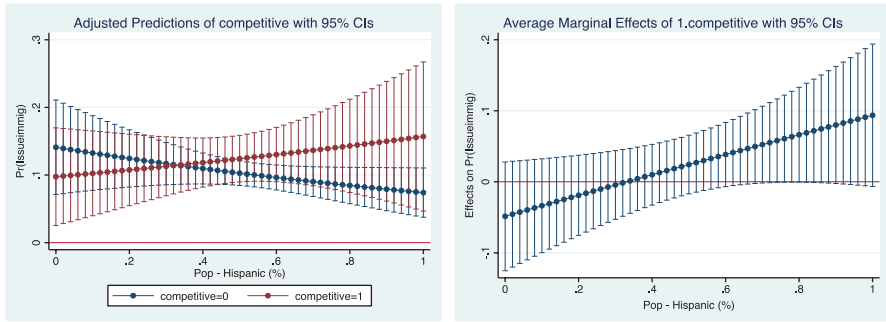
Fig. 4 Predicted probabilities and changes in probability of immigration issue salience by neighborhood % Latino population and competitive or safe counties

producing a decline of about 14 percentage points in the probability of identifying immigration as a top issue across the range of neighborhood-level Puerto Rican population proportions (see Table 4).

There is one important exception to the weak results for neighborhood-level measures shown in Table 4, and that is the interaction term for percent Latino population and competitive counties in 2009–2011. The positive and significant relationship of this interaction variable indicates that in electorally competitive counties, where the margin of victory between President Obama and Senator McCain in 2008 was less than 10 percentage points, increasing Latino population share in one's neighborhood is associated with greater attention to the issue of immigration. Specifically, Latino voters in competitive counties, across the range of neighborhood Latino population proportions, are 8.3 percentage points more likely to identify immigration as a top issue. This finding partially confirms our hypothesis that the salience of immigration among Latino voters is conditioned by the degree of two-party competition *and* the size of the local Latino population. It may be the case that in such contexts, greater political competition over Latino voters leads to increased discussion of and appeals about immigration.

Figure 4 depicts graphically the changes in probability in immigration issue salience derived from the interaction term in model 2 of Table 4. The left panel shows probability plots for competitive (lighter shaded points with a positive slope) and uncompetitive or safe (darker shaded points with a negative slope) counties separately, while the right panel shows differences in probabilities between competitive and safe counties across the range of neighborhood Latino population percentage. At about 38–40 % Latino in local neighborhoods, the issue of immigration is equally salient in competitive or safe counties; above this Latino population threshold, immigration is more salient with greater electoral competition, while below this population threshold, immigration is more salient where elections are safe (see Fig. 4).

Ultimately, identifying individual- and contextual-level determinants of immigration issue salience does not tell us whether and to what extent this issue is related to key political outcomes such as party identification and candidate choice among the Latino electorate. Previous analyses of immigration issue salience, using the same data from 2009–2011 as those analyzed here, provide evidence of a

Table 5 Predicting Latino party identification and vote choice with issue salience

	DV=Democratic PID			DV=Vote for BO vs. MR		
	All	Border	Non-border	All	Border	Non-border
Variable	*Coeff.* *(Std. Err.)*	*Coeff.* *(Std. Err.)*	*Coeff.* *(Std. Err.)*	*Coeff.* *(Std. Err.)*	*Coeff.* *(Std. Err.)*	*Coeff.* *(Std. Err.)*
Issue: immigration	0.559 (0.155)***	0.695 (0.178)***	0.312 (0.305)	0.417 (0.140)***	0.529 (0.161)***	0.109 (0.279)
Issue: education	1.262 (0.220)***	1.421 (0.248)***	0.908 (0.488)*	1.140 (0.188)***	1.206 (0.212)***	0.898 (0.414)**
Issue: health	1.209 (0.252)***	1.206 (0.289)***	1.198 (0.483)**	0.933 (0.212)***	0.801 (0.243)***	1.172 (0.439)***
Issue: economy	0.008 (0.135)	−0.009 (0.153)	0.116 (0.269)	0.117 (0.125)	0.092 (0.144)	0.183 (0.242)
(Intercept)	−5.006 (3.584)	−2.320 (4.901)	−15.812 (7.292)**	−0.177 (3.357)	−5.382 (4.752)	2.104 (7.276)
Individual controls	Y	Y	Y	Y	Y	Y
Contextual controls	Y	Y	Y	Y	Y	Y
N	6131	3272	2859	6131	3272	2859
Pseudo R^2	0.113	0.116	0.149	0.082	0.077	0.123

*$p<0.1$; **$p<0.05$; ***$p<0.01$

relationship between identifying immigration as a top issue and temporal changes in Congressional approval and the likelihood of turning out to vote among Latino voters (Valenzuela 2012). These previous findings demonstrate that Latinos who identify immigration as a top issue (compared to Latinos identifying other issues as their top concern) are significantly *less* likely to approve of the job Congress is doing and *more* likely to say that they are certain to cast a ballot. These previous results before the 2012 election also suggest a weakening of an otherwise positive relationship between Latino immigration issue salience and Democratic Party identification and presidential approval. The question now is whether the issue of immigration was sufficiently salient among Latino voters to be predictive of party identification and vote choice in the 2012 presidential contest, over and above other factors.

To provide evidence for this proposition, Table 5 shows partial results from models of Democratic Party identification and support for President Obama regressed on each of the issue salience variables ("other issues" is the excluded comparison category) as well as the full set of individual- and contextual-level variables analyzed previously.[13] This provides a test of whether the issue of immigration, compared to other issues, is predictive of Democratic Party identification and preference for President Obama over Governor Romney among Latino voters in 2012. Table 5 also shows results separately for Latino voters who reside in border and non-border states since the issue of immigration has elsewhere been shown to be more salient in border states (Dunaway et al. 2010).[14]

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[13] Party identification is not included in either set of models.

[14] In addition to models subset by border and non-border state residence, we also ran a model with an interaction term for border state and immigration issue salience with substantively identical

Table 6 Changes in predicted probabilities of Latino party identification and vote choice

	$\Delta\,Pr(y = 1)$	Std. Err.
DV = Democratic PID		
All Latinos	0.117	(0.034)**
Border state	0.154	(0.042)**
Non-border	0.053	(0.055)
DV=Obama vote choice		
All Latinos	0.100	(0.034)**
Border state	0.129	(0.040)**
Non-border	0.024	(0.063)

*$p<0.05$; **$p<0.01$

Although this analysis cannot rule out reverse causality, whereby Democratic Party identification and support for President Obama increases the salience of immigration, the results indicate that immigration salience is significantly and substantially related to both political outcomes, and this is only true for Latino voters who reside in border states. Substantively, Table 6 shows that identifying immigration as a top issue for the Latino community increased the probability of Democratic Party identification by about 12 percentage points and increased the probability of voting for Obama by 10 percentage points; these figures increase to 15 percentage points and 13 percentage points, respectively, for Latino voters residing in border states. In non-border states, there is no apparent relationship between identifying immigration as a top issue and either Democratic Party identification or presidential voting preference.[15]

Robustness Checks

In order to validate the results of our analysis, we performed several robustness checks. First, we tested the validity of our measurement of competitiveness by using three alternative definitions. In the original analysis, degree of electoral competitiveness was defined as a binary variable, based on the 2008 presidential vote margin. Counties with a vote margin of less than 10 percentage points were defined as competitive, while those with larger margins were defined as uncompetitive or safe counties. Using these definitions, we found a significant and positive relationship between immigration issue salience and the interaction term for neighborhood percent Latino and competitive counties in 2009–2011. We subjected this finding to additional scrutiny using three alterative definitions of competitiveness: (1) a

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results; the interaction term is positive and significant, one-tailed ($\beta=0.46$, $p<0.05$).

[15] The models in Table 5 analyze pooled data from 2011 to 2012; we re-specified each model separately for 2011 and 2012 and found that the results for the entire sample and for border states are driven by respondents in 2012. This may be due in part to the larger sample size for 2012, but it may also reflect effects of a hard-fought presidential campaign in which immigration reform was an important campaign issue.

vote margin less than 5 percentage points; (2) a vote margin less than 15 percentage points; and (3) a continuous variable set to the actual vote margin.

In the early part of President Obama's administration, greater Latino population size—whether measured at the neighborhood or county levels—appears to interact dynamically with two-party competition to produce increased issue salience among Latino voters. The other relationships identified in the original analysis remain largely unchanged under all definitions of the competitiveness variable. Specifically, for all three alternative definitions of competitiveness, the interaction term for neighborhood percent Latino and competitive counties in 2009–2011 remains at least marginally significant (at the 10% level), confirming the robustness of this result. In addition, the continuous measure of competitiveness interacted with neighborhood percent Latino population generates a larger positive coefficient (significant at the 5% level) than in the original analysis. In addition, the continuous measure of competitiveness is itself a marginally significant predictor of immigration issue salience, suggestive evidence that increasing two-party competition works to make the issue of immigration salient in any demographic context. At the county level, the interaction of competitiveness (measured continuously) and Latino population share is again a positive and significant predictor of immigration issue salience for 2009–2011.

Second, we assessed whether our definition of border states, which included states bordering Mexico and states bordering the Gulf of Mexico, was too broad. Our two alternative definitions are more restrictive; the first consists of Florida plus all states that physically share a border with Mexico, while the second consists of only those that share a physical border with Mexico. Using these alternative definitions, we find our results to be largely unchanged. At the county level, the relationship between percent Latino and immigration issue salience remains negative and significant for all definitions of border states. Similarly, percent Puerto Rican population remains marginally significant in 2011–2012. At the neighborhood level, percent Latino population remains consistently negative and is marginally significant in 2011–2012. Further, the interaction term of percent Latino population and county competitiveness remains positive and significant in 2009–2011. There is one point of difference, however: the relationship between percent Puerto Rican population and immigration issue salience loses significance in 2011–2012 for the border state definition that includes only states with a physical border with Mexico. This result may be explained by the relatively high concentration of Puerto Rican Latinos who live in Florida.

Discussion of Results

We have shown that the issue of immigration is *not* equally important for all segments of the Latino electorate. For predictable Latino subgroups, this issue is simply less salient for garnering their vote than other issues such as the economy or education. Puerto Rican, Cuban, native-born, and later-generation Latinos all tend

to report less attention to the issue of immigration throughout President Obama's first term. Somewhat surprisingly, increasing income is related to a decline in attention to immigration, suggestive that poor Latino voters are paying the most attention to this issue. English-speaking Latinos are also less likely to say immigration is their top concern, compared to Spanish speakers, an expected result that confirms Spanish-speaking Latinos' personal interest in this issue.

We also provide compelling evidence that local contextual characteristics are significantly related to immigration issue salience. Against our expectations and somewhat counter-intuitively, Latino voters who live in areas with increasingly large Latino population proportions report *less* attention to the issue of immigration. Conversely, these same Latino voters report *more* attention to the economy or jobs. It appears that as Latino voters' county population becomes increasingly comprised of other Latinos, there is less concern that immigration, over other issues, is the most important area for politicians to address. This may stem from feelings of greater comfort or social acceptance in high Latino population contexts, or perhaps due to friendlier local immigration policies or more positive attitudes towards immigrants in such contexts. We cannot test these propositions with the current data but leave these hypotheses for future research.

In addition to assessing determinants of immigration issue salience among Latino voters, we also assessed how this issue, compared to other issues, is related to Latino voters' Democratic Party identification and vote preference in the 2012 election. We provide evidence that the salience of immigration is a significant and positive predictor of Democratic Party affiliation and voting for Obama, relationships that are robust to controls for a wide variety of individual- and contextual-level characteristics. Interestingly, these relationships are only significant and of meaningful size among Latino voters who reside in border states, where the issue of immigration is more germane to daily life than it is in other states. Appeals to Latino voters in border states, on the issue of immigration, may be particularly effective at increasing the salience of immigration and connecting it to key political outcomes.

Policy Implications

Results from the foregoing analyses strongly suggest that local contextual conditions interact with individual attributes to shape the attention that Latino voters devote to immigration and, in turn, how this issue is related to Latino party affiliation and vote preferences. At a basic level, the results here belie the claim of a unified Latino voting bloc on this issue. On the contrary, there are important and predictable differences in attention to immigration across a number of relevant subgroups within the Latino community. Higher income, non-Mexican, and later-generation Latinos all report less attention to immigration. These differences suggest that appeals about the importance of immigration reform should be sensitive to these potentially diverging interests within the broader Latino community.

Moreover, contrary to our own a priori expectations, immigration as a political issue is not more relevant in counties and neighborhoods with larger Latino populations. In fact, the data indicate that the opposite is true: Latino attention to immigration *declines* with the size of the Latino population, while attention to the economy and jobs increases. These results hold despite controlling for median household income, so it is not simply that heavily Latino contexts are also more economically distressed and therefore more in need of jobs than less heavily Latino contexts. Immigration reform is certainly important to the Latino community, but so is economic development and job creation, issues over which Latino voters were more likely to support Governor Romney than President Obama in 2012. If part of the rationale for immigration reform is its potential positive impact on jobs and the economy, such appeals should be communicated loudly and repeatedly to the broader Latino electorate. Candidates who hope to win the support of local Latino communities should vigorously pursue and communicate any potential aspects of immigration reform policy that could have a positive economic impact on these communities. This would help bring attention to immigration in places where Latinos have their attention tuned to other issues, in addition to solidifying support across the heterogeneous Latino community.

Finally, the analysis of Latino party identification and vote choice strongly suggests that the relevance of immigration salience for these two key political outcomes is driven primarily by Latinos who reside in border states, variously defined. Immigration as a political issue is not more salient in border states compared to non-border states, but among Latino voters in border states who identify this issue as the most important, immigration is significantly related to Democratic Party affiliation and support for President Obama. This is perhaps an unsurprising result, but it again suggests the importance of tailored messaging on the issue of immigration and the recognition that pursuit of reform will have differential impacts depending on Latino voters' place of residence. Immigration reform has the potential to have its largest impact on Latino voters who reside in border states, both because of their greater personal connection to undocumented immigrations and, as we have shown, because of the relationships between this issue and party affiliation and vote choice.

Appendix

Table 7 Sample characteristics

	May 2009	October 2010	October 2011	November 2012
Age (mean)	52 years	54 years	46 years	46 years
Education (mode)	Some college	Some college	Some college	Some college
Income (mode)	US$ 20–40,000	US$ 20–40,000	US$ 40–80,000	US$ 40–80,000
Female gender	51%	51%	52%	52%
Foreign born	50%	48%	50%	52%
Second generation	26%	28%	30%	28%
Third + generation	24%	22%	19%	20%
Mexican nat origin	52%	56%	54%	55%
Puerto Rican nat origin	9%	11%	9%	9%
Cuban nat origin	6%	6%	4%	6%
Democrat	71%	66%	69%	71%
Voted/will vote	86%	77%	82%	100%
Presidential approval	81%	65%	66%	69%[a]
Congressional approval	68%	40%	27%	N/A
Avg. % Latino (county)	39%	38%	39%	36%
Avg. % White non-Hispanic (county)	42%	42%	42%	45%
Avg. % Mexican origin (county)	62%	61%	60%	61%
Avg. % P.R. origin (county)	10%	11%	10%	10%
Avg. % Cuban origin (county)	4%	4%	5%	4%
Avg. % Latino (tract)	51%	50%	49%	45%
Avg. % White non-Hispanic (tract)	34%	34%	34%	38%
Avg. % Mexican origin (tract)	62%	61%	59%	60%
Avg. % P.R. origin (tract)	11%	11%	11%	10%
Avg. % Cuban origin (tract)	4%	5%	5%	5%
Avg. US$ median income (county)	US$ 49,970	US$ 50,307	US$ 51,167	US$ 50,989
Avg. % electoral margin (county)	27%	28%	27%	24%
Observations	595	593	982	5592

Table 7 (continued)

	May 2009	October 2010	October 2011	November 2012
States (N)	AZ (25), CA (170), CO (16), CT (6), FL (63), IL (23), MA (3), MD (9), MI (4), MN (2), NC (3), NJ (19), NM (14), NV (14), NY (48), OH (6), PA (14), TX (148), VA (2), WA (5), WI (1)	AZ (33), CA (204), CO (10), CT (5), FL (68), GA (3), IL (2), MA (9), MD (2), MI (8), NC (4), NJ (14), NM (32), NV (7), NY (50), OH (7), PA (12), TX (108), WA (10), WI (5)	AZ (35), CA (299), CO (37), CT (21), FL (163), GA (2), IL (49), MA (12), MD (4), MI (10), NC (6), NJ (20), NM (54), NV (21), NY (53), OH (3), PA (7), TX (140), VA (16), WA (16), WI (14)	AL (5), AR (3), AZ (401), CA (800), CO (401), CT (11), FL (801), GA (14), IA (6), ID (6), IL (41), IN (10), KS (10), KY (3), LA (16), MA (400), MD (1), MI (15), MN (1), MO (3), MS (2), NC (404), NE (4), NH (1), NJ (52), NM (394), NV (400), NY (111), OH (400), OK (3), OR (7), PA (16), RI (5), SC (5), TN (3), TX (401), UT (11), VA (400), WA (14), WI (11)

[a] Approximation based on % planning to vote for Barack Obama

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Immigration Policy Versus Immigration Politics: Latinos and the Reform Debate

David L. Leal

Introduction

The prospects for immigration reform have lurched from one direction to another since the 2012 presidential election. After the victory of Barack Obama, which was unexpected in some conservative circles, an important narrative was the strong and growing Latino support for Democratic candidates. Many Republicans began to discuss the importance of courting the Latino vote, and the US Congress appeared to be on track to pass some form of comprehensive immigration reform (CIR). Before the election, such legislation was thought to be nearly impossible. In fact, the momentum had been moving in another direction, as the conversation included "anchor babies," "terror babies," and ending birthright citizenship.[1] Proponents of reform also faced the context of economic uncertainty, unclear public support, and a US legislative system that makes it easier to play policy defense than policy offense (Leal 2010).

When Congress last considered immigration reform, the only item to reach the president's desk was the Secure Fence Act, which authorized 700 miles of border wall. Despite numerous efforts to advance CIR and the willingness of President George W. Bush to sign such a bill, proponents could not overcome the Republican House majority in the 109th Congress or the Senate filibuster in the 110th Congress.[2]

The key issue in those years was the status of the approximately 12 million unauthorized immigrants. According to Leal (2009, p. 14), "In the end, many risk-averse members of Congress were unwilling to support what was pejoratively labeled as 'amnesty,' especially as no adequately compensating policy was on the

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[1] A bill was introduced as late as 2013, the "Birthright Citizenship Act of 2013." http://www.usato-day.com/story/news/politics/2013/03/30/birthright-citizenship-constitution/2036095/.

[2] For instance, the final vote on the Kyl-Graham-Martinez bill on June 28, 2007, was 46–53, which reflected 2/3 Republican and 1/3 Democratic opposition.

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table. Arguments in favor of comprehensive reform were not sufficiently compelling in this difficult political environment." President Bush was also suffering from low approval ratings, which reduced his influence over Congress. The recession would further damage the prospects for immigration reform, and although President Barack Obama indicated his support for comprehensive reform, he focused on other issues during his first term.

Nevertheless, my above-cited essay concluded with an optimistic observation: "While some might be discouraged by almost 3 years of immigration reform efforts that led to little change, one lesson of IRCA is that patience may be rewarded. Former Senator Alan Simpson (R-WY) and his colleagues spent 6 years before finding the right compromise and the right moment." Indeed, events are so fast moving that one can construct a reasonable scenario for the passage of CIR before the publication of this volume.

This chapter will discuss the changes since the election of Barack Obama that have worked to favor proponents of CIR and constrained proponents of restrictionist reform. Some of these dynamics directly involved Latinos, while others did not but nevertheless worked to the benefit of the Latino community generally, and immigrant advocates specifically. They speak of the importance of elections, the changing demographics of America, the nature of intraparty debates, and the complexity and uncertainty inherent in this policy arena. They also illustrate the sometimes dynamic nature of American politics. Who could have predicted that the reelection of a president who oversaw the largest deportation in American history, in combination with the rebound of libertarian ideas and the influence of evangelical Christians, might combine to enhance the prospects of legal status for millions of unauthorized immigrants—primarily from Mexico and likely future Democratic voters?[3]

While many obstacles remain, such as the deep skepticism within the Grand Old Party (GOP) base (and particularly the Tea Party faction), the above factors may work together to push CIR across the finish line. In addition, a strong argument can be made that CIR is in the best electoral interests of the Republican Party—in both the short and long term. In addition, some have argued that legislation such as the 2013 Senate immigration reform bill (S. 744) would advance other conservative policy priorities (see Bolick and Bush 2013).

The Larger Context: Other Policy Changes

Why are the prospects for immigration reform better today than in 2007? To answer this question, we should consider the wider political and policy context, as dynamics across several policy fields may be related. By doing so, a number of important political and public opinion developments become evident, and the result is new laws and court decisions that would have been seen as highly improbable not long ago.

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[3] Although there is some debate about the partisan effect of legalization; for instance, see Schultheis (2012) and Fabian (2013).

One of the major turnarounds in the policy environment involves same-sex policy issues such as marriage and military service. In the Bill Clinton administration, the president worried that an executive order overturning the ban on gay and lesbian service in the armed forces might itself be overturned by Congress (Frank 2009, p. 108). The resulting 1993 compromise, "Don't Ask, Don't Tell," was repealed by Congress in 2012, and with minimal controversy. In addition, recent decisions by the US Supreme Court and other federal and state courts show new judicial skepticism of "Defense of Marriage" legislation and constitutional amendments. Nate Silver wrote that "So many senators are declaring their support for same-sex marriage that I've regularly had to check my Twitter feed while working on this article, lest I miss any announcements. As Dylan Matthews of *The Washington Post* has detailed, 50 senators have now stated their backing for same-sex marriage, up from only 16 in 2010 and 8 in 2008."[4]

As Silver also notes, public opposition to same-sex marriage has slowly but steadily deteriorated, with polling data now showing net positive attitudes.[5] This may be reflected in the support for same-sex marriage in four state ballot measures in 2012. While ballot initiatives favoring traditional marriage were a standard conservative wedge issue for years, their day may have passed.

A parallel dynamic appears to be taking place for marijuana legalization. According to survey data from the Pew Research Center, attitudes have become more tolerant over time.[6] Although we see more ups and downs than for marriage equality, the trend is the same—a steady decline rather than a sudden recent change. As with same-sex marriage, the positive and negative lines recently crossed, and the result is net support. Evidence of this might also be found at the state level; voters in Colorado and Washington recently approved ballot initiatives that allowed small amounts of personal marijuana use.

These policy arenas, in combination with changing immigration politics, might represent what some have called a new "Libertarian moment" in American politics (although this phrase has been used since at least 2008). At this time, we can only have a limited understanding of the trend, and it will take future research to better understand our own political culture. Nevertheless, low trust in government may play out in ways that do not entirely map onto existing Democratic-Republican Party lines. A principled position of limited government could lead to new thinking about immigration policy, same-sex equality, and drug control policies.

More theoretically, Rogers Smith (1993) discussed the "multiple traditions" in American politics, whereby liberal, republican, and ascriptive influences vie for power. Contrary to accounts that saw liberalism, or liberal progress, as the American story, Smith saw the unfolding of history as more dynamic. Over the decades, traditions would gain and lose influence, and these developments are relevant to the

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[4] Nate Silver. April 4, 2013. "Explaining the senate's surge in support for same-sex marriage." http://fivethirtyeight.blogs.nytimes.com/2013/04/04/explaining-the-senates-surge-in-support-for-same-sex-marriage/.

[5] Nate Silver. March 26, 2013. "How opinion on same-sex marriage is changing, and what it means."http://fivethirtyeight.blogs.nytimes.com/2013/03/26/how-opinion-on-same-sex-marriage-is-changing-and-what-it-means/.

[6] Pew Research Center. April 4, 2013. "Majority Now Supports Legalizing Marijuana." http://www.people-press.org/2013/04/04/majority-now-supports-legalizing-marijuana/.

understanding of American immigration policies. In the twenty-first century, is the US experiencing a related shift? It might not be transpiring in precisely his terms, but neither does it reflect the liberal-conservative or Democratic-Republican cycles that are so familiar. Perhaps our "libertarian moment," if it is a moment, includes strands from multiple traditions and is creating a dynamic that has the potential to move policymaking in new directions.

The Larger Context: The Evangelical Dimension

In recent years, we have seen a change in the attitudes of religious groups, including elements of the "religious right," toward immigrants. It will come as no surprise to learn that traditionally liberal religious groups support more generous forms of immigration reform. The Catholic Church, although difficult to classify as liberal or conservative, continues to play a key role in immigrant advocacy. The change reflects the efforts of a growing number of evangelical leaders and pastors, generally seen as conservative, who are advocating more compassionate approaches to immigration reform (see Hesson 2013; Huey-Burns and Cannon 2013; Roebuck 2013).

This represents two new dynamics in evangelical communities. The first is a focus on how the Bible discusses the stranger and the immigrant. According to Huey-Burns and Cannon (2013), "'Evangelicals take seriously the many texts in Scripture regarding welcoming the stranger, the outcast, the sojourner, and the neglected,' says Michael Cromartie, vice president of the Ethics & Public Policy Center, a Washington think tank. 'This sensibility makes them far more open to immigration than many would imagine.'" This trend could also be seen as part of an emerging focus on the actual words in the Bible, particularly those of Jesus, rather than the political interpretation of those words. Sometimes called the "red-letter movement," it reflects the concern of some Christians that politicians have tried to hijack the Bible for partisan gain.

The second dynamic reflects changing demographics; just as the Latino share of the electorate is growing, so is the Latino share of evangelical and Pentecostal churches. The April 15, 2013 edition of *Time* calls this "The Latino Reformation," which represents both a quantitative and qualitative change. In terms of numbers, up to a third of Latinos may now identify as evangelicals or Pentecostals. The story also pointed out that

> the evangélico boom is inextricably linked to the immigrant experience. Evangélicos are socially more conservative than Hispanics generally, but they are quicker to fight for social justice than their white brethren are. They are eager to believe in the miraculous but also much more willing to bend ecclesiastical rules to include women in church duties and invite other ethnic groups into their pews. The new churches are in many cases a deliberate departure from the countries and the faith their members left behind—but they don't look or sound anything like the megachurches of the US[7]

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[7] National Hispanic Christian Leadership Conference. http://www.nhclc.org/en/news/time-latino-reformation.

This shift in constituencies, in combination with a rethinking of key Biblical passages, means that evangelical leaders and denominations are increasingly active in advocating for comprehensive reform. Whether their rank and file will follow is a separate question, but this is an important change nevertheless. In addition, Latino religious leaders themselves, such as the Reverend Samuel Rodriguez of the National Hispanic Christian Leadership Conference, are vocal and influential participants in the national debate as well as within evangelical circles.

Latino Population Growth: Past the Electoral Threshold?

In terms of immigration, the US population has diversified considerably since the 1965 Hart-Cellar Immigration Act. At the time, President Lyndon Johnson stated—although it is less clear if he believed—that the law would not lead to substantial changes.[8] Nevertheless, the law set into motion a demographic transformation unseen since the nineteenth century. In 1970, the foreign born constituted 4.7% of the US, a figure that became 12.9% by 2010. In terms of numbers, the net increase was over 30 million individuals.[9] In addition, immigrants came to America from all regions of the globe, and the European share of these immigrants declined considerably.

While many focus on immigration as the driver of Latino population growth, demographers understand the increasingly important role of "natural increase" (births minus deaths). As Cardenas et al. (2013, p. 14) noted, the US Census Bureau found that from 2000 to 2009, 62% of Latino population growth reflected natural increase. This number alone, a net of over 8 million individuals, was much larger than all white population growth (about 4.2 million from both migration and natural increase). Even without new migration, the Latino share of the US population will continue to increase. In addition, a parallel dynamic is taking place for individuals who are neither white nor Latino—a net natural increase of over 5.2 million people (in addition to another 2.8 million immigrants). In sum, whites constituted only 32% of total population growth during these 9 years.

According to the US Census Bureau, the Latino population continues to steadily increase. From 2000 to 2010, the number of Latinos grew by over 15 million. The total Latino population increased to almost 50.5 million and the Latino population share became 16.3%. The Mexican share grew by almost 10 million people, or approximately two-thirds of the change, although Central American and South American groups grew by over 100% on average.[10]

We also see considerable growth in states with little historic Latino presence. Continuing a trend from 1990 to 2000, many southern and midwestern states saw

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[8] President Johnson stated at the signing ceremony that "This bill … is not a revolutionary bill. It does not affect the lives of millions. It will not reshape the structure of our daily lives."

[9] US Census Bureau. "How do we know? America's foreign born in the last 50 years." http://www.census.gov/how/infographics/foreign_born.html.

[10] US Census. 2011. "The Hispanic population: 2010." http://www.census.gov/prod/cen2010/briefs/c2010br-04.pdf.

substantial percentage increases. In the South, the Latino regional growth average was 57.3 % and some of the fastest rates were found in Arkansas (114 %), Kentucky (121.6 %), Mississippi (105.9 %), and South Carolina (147.9 %). In the Midwest, the overall regional increase was 49.2 % and rates were particularly high in South Dakota (102.9 %), Indiana (81.7 %), and Nebraska (77.3 %.). Such changes were an important part of the immigration debate in the 2000s, as conservative regions suddenly saw relatively large numbers of new Latino residents. For many, these were not welcome developments.

While the data indicate rapid growth in the Latino population, it is also possible that many politicians overestimate the number of Latinos in the US. Surveys have shown that the general public overestimates the number of racial–ethnic minorities and immigrants in the country, and some elected officials, party officials, and campaign consultants may also imagine America as more diverse than it has become. While this dynamic may have worked against liberal immigration reform in the past, it may now spur the political process to find a compromise.

In addition, Latino population dispersal across the nation means that relatively small numbers can wield influence in larger Electoral College "swing states." For many years, it was Cuban-Americans—small in number, but located in strategically important Florida—who arguably had the most national influence. Mexican Americans and Puerto Ricans were located in "red" and "blue" states like California, New York, and Texas. While almost half of all Latinos still live in California and Texas, Latinos have proven influential in recent presidential elections in places like Colorado, Indiana, Iowa, Nevada, and Virginia.

The Latino community has long heard that population numbers would equal power. Rodolfo de la Garza (1996) referred to this as *el cuento de los numeros*, or the fable of numbers. This pattern began in the 1980s and continued into the 2000s; each decade would be predicted as the "decade of the Latino," and each presidential election season would see new predictions about growing Latino political power. However, time and again, political realities disappointed, and Latinos would be forgotten until the next election. As Espinosa et al. (2003, p. 23) noted, "These myths would lead us to conclude that Latinos are the decisive swing vote that will determine future elections and enable Latino politicians to overcome their Anglo counterparts because the census figures show 'dramatic increases' in the Latino population. The problem with these myths is that they tend to overlook low Latino voter registration and turnout, as well as the impact that variables such as country of origin, generation, class, education, and religion have on political participation and choice."

If Latinos now hold actual—or its near equivalent, perceived—political power, this will be a reversal from the usual pattern. For decades, scholars have tried to educate the mainstream about the realities of Latino politics, but to little avail. Contrary to the cycle of optimistic predictions that never materialized, scholars such as Rodolfo de la Garza have been making more nuanced arguments about Latino influence. For instance, in his edited volume *Ignored Voices* (1987), de la Garza found that Latinos were not sufficiently sampled in most public opinion surveys, which he found "tantamount to partial disenfranchisement"(4). In *Ethnic Ironies,* de

la Garza and DeSipio (1996) observed that Latino influence in presidential elections was independent of candidate outreach to Latinos. They had more influence on the outcomes in 1992 than in 1988, but the campaigns in 1992 made fewer efforts to mobilize them. In *Muted Voices,* de la Garza and DeSipio (2005) found that Latinos played very little role in the 2000 presidential election. Only in more recent years have they tracked an uptick in observable Latino influence. In *Beyond the Barrio,* de la Garza et al. (2010) were for the first time cautiously optimistic about the Latino role in a presidential election (2004). In *Can You Hear Us Now?,* the volume that will cover the 2008 election, they found that Latinos did not decide the outcome but were an important part of Obama's winning coalition.

Today, Latino population growth may be too large—and too well positioned—for an anti-immigration politics that is not self-defeating. While the growing Latino population may have animated concerns about immigration in some quarters, perhaps the US has reached a demographic and electoral tipping point. Fears of a growing Latino and immigration population may give way to fears of alienating an already-grown Latino and immigrant population.

For many, the example of California looms large in political calculations. Governor Pete Wilson and the Republican Party championed ballot initiatives in the 1990s that would have prevented unauthorized immigrants from accessing public services, including public schools and non-emergency public health care (Proposition 187—the Save our State Initiative, Proposition 209 affirmative action, and Proposition 227 bilingual education). While this proved a short-term political success, it would prove to save only the Democrats. The popular story of the aftermath is that Latinos mobilized in unprecedented numbers to vote Democratic, in the process turning the state from "red" to "blue." Political science research suggests that voter mobilization may have been limited to the foreign-born Latino population (Pantoja et al. 2001), and additional research suggests a unique Latino voter mobilization effect in California in the late 1990s (Leal 2003).

Nevertheless, the political lesson is that offending Latinos through immigration politics can be risky. Substitute "America" for "California," and substitute "national GOP" for "California Republican Party," and the problem is clear. If Republicans tarnish their brand as nativist, then they can expect to lose the Latino vote for many years. This may be particularly the case for those Latinos entering the political system for the first time—young and other first-time voters who see stark contrasts between the parties. In light of political science theory about the nature of partisan attachments, this will not be easy for Republicans to counteract.

Political events of the past decade may have gradually convinced many in Washington that immigration was not an effective wedge issue. Members of Congress have sought, since 2006, to use the immigration issue for political gain. Ayón (2006, p. 2) noted that after Brian Bilbray (a former FAIR lobbyist) won a special House election, he "returned to Washington touting the immigration issue as a counter to voter concerns about corruption and unease over the war in Iraq." However, analysis suggests that very few victories could be attributed to such a strategy, and contrary cases can be found of immigration restrictionists losing to immigration advocates. Dorval and LaRue (2006) observed that "very few toss up races were

won by Republican candidates who attempted to exploit immigration as a voter motivator."[11] Immigration did not play any clear role in the 2008 contest between John McCain and Barack Obama, and it almost certainly hurt the GOP in 2012 among Latino and Asian-American voters.

As the previous sentence indicates, we should not forget the Asian-American electorate, which displays some parallel characteristics with Latinos. Their share of the immigrant population has increased substantially since the 1965 immigration reform. Before 1960, only 5% of the foreign-born population was from Asia. By 2010, that figure had increased to 28%.[12] As a share of the overall population and in total numbers, Asian-Americans have consequently become a large—albeit not always well-recognized—component of the US population.[13] In 2010, the census calculated that the category "Asian alone or in combination" accounted for 5.6% of the US population. This constituted a 45.6% increase from 2000, as the total number of individuals increased from almost 12 million to over 17 million. As with Latinos, we see substantial growth in all parts of the nation. The percent of Asian-Americans in the South increased by 80% over the decade, and the corresponding increase in the Midwest was 66%.

Asian voters are also highly likely—three-quarters of the population—to have been born abroad (Nhan 2012). While Latinos and Asians have different immigration histories, paths, and receptions, it is no stretch to argue that a population with so many immigrants and children of immigrants will be sensitive to heated immigration politics.[14]

While the relatively low level of Latino support for Romney was a key storyline of the 2012 election, less often noted is the growing Asian-American support for Democratic candidates. According to a Pew report, the Latino vote for Obama was 67% in 2008 and 71% in 2012. For Asian-Americans, the vote was 62% in 2008 and 73% in 2012. Although additional research is necessary, immigration politics seems a likely explanation for this 11%-point jump. While the Asian-American share of the electorate is relatively low, about 2% in 2008 and 3% in 2012 (Taylor 2012), it is another growing constituency the GOP may not want to estrange. From a longer perspective, Asian-American voters have moved from a Republican to a Democratic constituency. In 1992, only about 30% of Asian-Americans voted for Bill Clinton, but support rose steadily thereafter.[15]

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[11] Cited in Leal et al. (2008).

[12] US Census Bureau. "How do we know? America's foreign born in the last 50 years." http://www.census.gov/how/infographics/foreign_born.html.

[13] US Census. 2011. "The Hispanic population: 2010." http://www.census.gov/prod/cen2010/briefs/c2010br-04.pdf.

[14] Although this does not imply that Asian Americans necessarily share a unitary group identification, as the population consists of individuals from many national-origin groups, who speak different languages, and who have experienced different immigration receptions.

[15] Voeten E (2012) "Asian Americans voted democrat: we should not be surprised." The Monkey Cage, November 29. http://themonkeycage.org/2012/11/29/asian-americans-voted-democrat-we-should-not-be-surprised/.

The Public Religion Research Institute (PRRI)/Brookings Institution 2013 immigration survey also provides some intriguing evidence of how the immigration issue has affected the parties. When asked, "Do you think the Republican Party's position on immigration has helped or hurt the party in recent elections, or do you think it has not made a difference?," very few chose the "helped" option. Only 5 % of Anglos (non-Hispanic whites), 7 % of African-Americans, and 14 % of Latinos believed it helped the GOP. By contrast, 48, 45, and 39 %, respectively, believed that it hurt. The remainder believed it had not made a difference. While this may reflect the postelection media commentary about the Latino vote, it indicates that much of the public believes the GOP has an immigration problem.

Lastly, the respondents were asked which party they trusted to better handle the immigration issue.[16] Anglos gave almost equal marks to the Republicans (36 %) and Democrats (34 %). Minority groups were less trusting of the GOP: African-Americans favored the Democrats 70–14 %, while Latinos were 56–17 %. Latinos were the most likely to provide a "neither" response, which suggests some possible (but limited) skepticism about both parties.

The New Immigration Debate: Politics Versus Policies

The defeat of Mitt Romney in 2012—and his campaign criticized by Democrats as offering only "self-deportation" to Latino immigrant communities—appears to have caused some rethinking within the GOP. Commentators noted that the racial–ethnic voting patterns on election night would have meant a Romney victory in past elections. Today, the demographic transformations noted above indicate that more inclusive electoral approaches might be necessary. Otherwise, said the punditry, the GOP risks consignment to history.

An important question is how the immigration issue helps to shape the Latino vote. While some have examined public opinion data about immigration policy (see Freeman et al. 2013), the exact policy preferences of various racial–ethnic groups may not be at the core of the debate. Instead, the politics may have taken on a negative tone that moved it beyond abstract debates about policymaking. The key to understanding Latino opinion may involve a variation of Tichenor's (2002, p. 35) contrast of *immigration policy* versus *immigrant policies*. Immigration policy, or the laws that regulate the number and nature of immigrants, can only be changed at the national level. However, the federal system does provide some policy room for states and localities to enact laws that affect unauthorized immigrants themselves. Many of these immigrant policies have received considerable news coverage, and some of the more prominent were noted above.

From the Latino perspective, we might characterize the difference as *immigration policy* versus *immigration politics*. Research has long revealed that Latino attitudes toward immigration policy are not as liberal as widely assumed. Latinos

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[16] The question was split sampled, but I estimated the combined responses.

hold diverse opinions, including some that might be considered conservative. While many Latinos do not favor an open border policy and do agree about upholding the rule of law, they do not want a political debate that demonizes immigrants and indicts all Latinos. When the debate moves from good-faith discussions about what policies are best to a nativist sentiment that questions the place of Latinos in America, it is no surprise to find results like 2012. The Democratic claim that Republicans want to "deport Grandma" captured, for many Latinos, the nature of the stakes. Even for Latinos not paying close attention to politics, the difference between the two parties was clear—even with a Democratic president presiding over an unprecedented deportation of largely Latino immigrants.

Some argue that a legalization program will hurt Republicans in the long run because Latino immigrants will largely register and vote as Democrats. Surveys show that Republicans are on the losing side of most issues important to the majority of Latinos. As Leal (2007, p. 41) noted, Latinos "are generally supportive of 'big government'…and they express a high level of trust in government and look to Washington to solve problems." Even the relatively small Cuban-American population, which is the Republican exception, is not particularly conservative about domestic policy issues. It also seems unlikely that Republicans can gain more votes through social–moral issue appeals, which surveys show are low-priority political issues for Latinos. In the landmark Latino National Survey of 2005–2006, which included over 8624 Latino respondents, only 11 individuals said that abortion was the most important issue facing America.

On the other hand, the status quo may also be self-defeating for Republicans. If Democratic candidates continue to receive a Latino vote in the low 70 % range, this will prove problematic to Republican Electoral College calculations. The Democrats could consolidate a "solid Southwest," secure Florida, and receive enough Latino votes to tip states like Indiana, Iowa, Virginia, and North Carolina. In the longer term, a successful Democratic effort to turn Texas "blue" based on Latino mobilization could well end the GOP's national hopes for the foreseeable future.

Some Republicans may therefore see a more favorable electoral future if immigration is removed from the table. Republicans, on average, win about a third of Latino presidential votes. This is very different than the African-American Republican vote, which is typically in the single digits. While Republicans may not believe they can win a majority of the Latino vote, they might aspire to return to the 40 % of George W. Bush in 2004 or the 35 % of Ronald Reagan in 1984. This might help them to piece together a "winning coalition" in enough states to remain competitive in presidential elections—even as American demographic shifts continue to favor Democrats. If the immigration politics of the past decade continue, 35 and 40 % figures may move out of reach, and the new generations of Latino voters could become even more Democratic.

In addition, even a mass legalization program may not benefit any party for decades, if ever. Observers have noted that after the enactment of the Immigration Reform and Control Act (IRCA) in 1986, fewer than half of eligible beneficiaries became citizens (Siegal 2013). Today, the path to citizenship under CIR could be long, costly, and replete with obstacles. Even for those who reach the citizenship

finish line, many may not vote, as is currently the case for many of the naturalized. For example, an analysis by Bruno (2013) concluded that "On the whole, the electoral effects are small and a weak excuse for Republicans to oppose comprehensive immigration reform with a pathway to citizenship."

One parallel to what the Republican Party is now facing might be President Clinton and welfare reform (PRWORA) in the 1990s. He wanted to remove this issue from the political agenda because he believed it worked to the disadvantage of Democrats. Many in the party, albeit reluctantly and far from unanimously, gave on substance in an attempt to adjust to the political environment and remove a wedge issue.

Part of today's calculations might be the comparatively deep Republican bench of potential Latino presidential and vice presidential candidates. George P. Bush is running for his first Texas statewide office in 2014, Ted Cruz was elected in 2012 to the US Senate to replace Kay Bailey Hutchison, and US Senator Marco Rubio is widely seen as a future candidate. There are also two Republican Latino governors—Susana Martinez of New Mexico and Brian Sandoval of Nevada.[17]

However, these candidates might find a path to the White House more challenging without a change in the immigration debate. If the GOP is perceived as antiimmigrant, can they as effectively appeal to Latino and other minority voters and thereby help the GOP to compete in an increasingly diverse America?

Relatedly, could a non-Latino Republican candidate recreate George W. Bush's level of success with Latino voters? Bush's early upbringing in Texas, positive relationship with Latino constituencies as governor of Texas, and the contrasts with the policies of Pete Wilson might not be easy to replicate. Further, some argued that Bush's outreach to Latinos also allowed him to win the votes of many non-Latinos. Termed the "ricochet pander," it meant that some potential Republican voters were wary of supporting a candidate seen as playing racial politics. By his public embrace of Latinos, Bush removed that concern from the minds of many voters and paved the way for greater Latino as well as Anglo electoral support. Perhaps a candidate like Jeb Bush could reassemble the Bush winning coalition, and perhaps other non-Latino candidates might emerge who have long-standing, positive relationships with Latino communities. To do so, however, might be challenging if the immigration issue is still active.

Another possibility is that the new immigration debate reflects factional disagreements within the Republican Party. As I previously observed (Leal 2011), "Among Republicans, the more established, business-oriented wing of the party is at odds with an increasingly active and immigration-skeptic grass roots base." While generalizations are always difficult, perhaps moderate "establishment" Republicans would like to move the GOP more toward the ideological center, and they see the immigration issue as a good place to start. By emphasizing the fact of a diversifying electorate, they are changing the discussion from ideology to practicality. The impact of the Romney defeat—and its apparent surprise to many in the

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[17] Carlos H (2 February 2012) "Who could be the first Latino president of the United States?" Huffington Post. http://www.huffingtonpost.com/2012/02/20/first-latino-president-us_n_1284429.html.

party[18]—may have opened a window (to use John Kingdon's terminology) for such a discussion. Immigration policy is therefore a potential way to enhance the party's broader competitiveness in the future.

Illustrative of conservative and Republican worries about the immigration issue is the claim that President Obama does not want immigration reform to pass for political reasons. As Charles Krauthammer (2013) recently argued, "Obama seems to want an issue, not a solution—a potent political issue for Democrats to demagogue in 2014 and 2016 and forever." Similarly, Bill O'Reilly said, "I think he wants to destroy the Republican Party, particularly in the eyes of Hispanic American voters."[19]

If so, the president may have a strong hand, even if the politics of reform mean that he might distance himself from everyday negotiations in order to minimize Republican congressional opposition. As Charlie Cook (2013) noted, "Every time Obama takes a public stand on immigration, he makes it that much more difficult for Republican members of Congress to support it." Nevertheless, the Republican worry is that by rejecting a path to citizenship, they risk Democratic consolidation of the growing Latino (and Asian-American) vote at a rate higher than historical averages.

One reply is that Latinos might also blame the Obama administration for the defeat of immigration reform, but the evidence for this is not strong. The first indication that Latinos likely do not blame the Obama administration for the lack of reform progress is the 2012 election results. Despite mixed evaluations of his immigration record by Latino and immigrant leaders—he has even been called the "Deporter-in-Chief" (Nowrasteh 2012)—Obama won over 70% of the Latino vote. In addition, Public Religion Research Institute (PRRI) 2013 polling data found that Latinos were much more likely to trust Democrats than Republicans on immigration policy. While they were also the group most likely to not differentiate between the parties, immigration is an issue that works to the benefit of Democrats. To the degree that immigration politics causes moderate and Republican-leaning Latinos to vote Democratic, it functions as a classic wedge issue.

Lastly, even if Republicans in Congress ultimately support a path to legalization, it does not mean they will automatically receive more Latino voters. Would the immigration politics of recent years fade from memory, or can it still be used as a Democratic wedge issue? Is the Republican "brand" now sufficiently problematic for many Latinos, or could the candidacy of someone like Jeb Bush change perceptions?

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[18] Dickerson J (9 November 2012) "Why Romney never saw it coming." Slate. http://www.slate.com/articles/news_and_politics/politics/2012/11/why_romney_was_surprised_to_lose_his_campaign_had_the_wrong_numbers_bad.html; Trinko K (9 November 2012) "Why was Romney so surprised that he lost?" National Review Online. http://www.nationalreview.com/corner/333086/why-was-romney-so-surprised-he-lost-katrina-trinko.

[19] Frumin A (1 January 2013) "Does Obama really want immigration reform?" MSNBC. http://tv.msnbc.com/2013/01/30/does-obama-really-want-immigration-reform/.

Conclusions

This chapter examined the Latino dimension to the new, postelection immigration debate. Before the 2012 elections, the prospects for immigration reform were widely considered poor. Conservatives had successfully blocked a path to legalization in the 109th and 110th Congresses, and opposition to "amnesty" seemed unlikely to fade. The older crosscutting cleavages of immigration politics were shifting to a new partisan divide, despite the efforts of George W. Bush and John McCain. Immigration reform was rarely mentioned during the 2008 or 2012 presidential campaigns, and almost 400,000 individuals were deported every year. Some in Congress wanted to end "birthright citizenship" and complained about "anchor babies." In addition, unauthorized immigrants were seen as future Democratic Party voters, which added an additional partisan obstacle.

Since Election Day, the prospects for reform have grown hot and cold. When Barack Obama won over 70% of the Latino vote on his way to reelection, many in the Republican Party were surprised by both results. By connecting the dots, a new conversation began in the GOP—can we win elections without taking into account the growing diversity of the nation and the electorate? While Latinos for decades were forecast to gain political power, the future finally appeared to have arrived. This worry instantly changed the immigration debate, and discussions about "deporting Grandma" were replaced with a renewed openness to a pathway to citizenship.

In addition, other features of American politics may have helped to smooth this shift in the conversations. Taken as a whole, the immigration climate of the 2000s saw unprecedented levels of immigration enforcement and deportations, but other signs suggest that the political environment could not be simply characterized as nativist (see Leal 2011 for discussion). While some localities and states sought to enforce immigration laws and make life more difficult for the unauthorized, other jurisdictions sought to expand immigrant rights. This suggests that the policy environment may have been less homogenous than was commonly seen. There is also evidence of ambiguity and uncertainty in public opinion, so the policy environment may have been riper for change than was often thought.

In addition, we should not study immigration policy in isolation from other policy developments. Although we will need the perspective of the future to better understand current trends, a libertarian dimension may be emerging in politics, and this dimension is influencing several policy debates. The most often noted are same-sex marriage and marijuana legalization, but we might also include immigration reform.

We also see a change in the religious dynamics that are helping to promote CIR. Many evangelical leaders and organizations are now advocating a path to legalization. This change reflects a new focus on Biblical teachings about the stranger as well as the growing Latino presence in evangelical and Pentecostal churches. While Latinos are still predominantly Catholic, *Time* magazine noted a "Latino Reformation" that is quantitatively and qualitatively changing American Protestantism.

Another dimension is that the Latino, Asian-American, and immigrant populations may have passed a "tipping point" beyond which anti-immigration politics is self-defeating. Not only have Latinos steadily gained in numbers for decades, they have moved to states and localities across the nation. They are therefore increasingly found in "battleground" states—and their votes can make a difference (and have). Latino political power has been predicted for decades, but for the first time it may be a reality.

For many in the Republican Party, the fear is that California in the 1990s may be a harbinger of national politics tomorrow. In that state, ballot initiatives designed to deny public services to the unauthorized, including non-emergency public health care and public education, created a Latino backlash, particularly among immigrants, against the GOP. The Democratic Party, which had been declining in power in the state legislature and statewide offices, was able to regain control. Today, California is a solidly "blue" state with little prospect of reversal.

Tentative evidence also suggests that immigration politics has failed as a national wedge issue. While some in the mid-2000 thought that immigration politics might work for the GOP, there are few instances where candidates have been able to ride immigration-skeptic politics to victory. In some cases, as previously noted, they may have rode it to defeat. Republican political strategists may believe that the time has come to jettison a losing tactic, although short-term worries about being "primaried" by a conservative base may prevent a vote on CIR.

The chapter also tentatively described some possible ways to think about Latinos and immigration debates. One important question is how immigration influences the Latino vote. One key distinction may be immigration policy versus immigration politics, a variant of Tichenor's (2002, p. 35) contrast of immigration policy versus immigrant policies. The exact nature of Latino public opinion about possible policy reforms may be less important than their understanding that the politics of immigration has become very negative. Latino views are more diverse than is often understood, but if they feel under attack as a community, we might not be surprised by results like the 2012 election.

Republicans therefore face a status quo with no easy options. A legalization plan may alienate some parts of the conservative base, and many GOP members of Congress worry that a "yea" vote will lead to primary defeats. In addition, party leaders are concerned that legalization will create millions of new Democratic voters—although the details of the legislation, not to mention the low naturalization rates of contemporary eligible immigrants, may delay this day until far into the future, if it occurs at all. In addition, Latinos have generally favorable views of big government and do not politically prioritize social issues such as abortion. Despite the GOP claim that Latinos are natural Republicans, strategists familiar with the data may worry that substantial GOP recruitment is unlikely.

Yet the status quo may also be self-defeating for Republicans. If Democratic candidates continue to receive a Latino vote in the low 70 % range, this will prove problematic to Republican Electoral College calculations. The Democrats could consolidate a "solid Southwest," regularly win Florida, and tip swing states. Republicans do not need to win the Latino vote to be competitive nationally—they just

need to avoid 73–27 results, win on average no less than one-third, and occasionally reach between the 35 % of Ronald Reagan in 1984 and the 40 % of George W. Bush in 2004.

Some Republicans may therefore conclude that taking the immigration issue off the table will enhance their long-term electoral future. This might help them to piece together a "winning coalition" in enough states to remain competitive in presidential elections—even as American demography continues to change. It might also enhance the prospects of their deep bench of Latino Republicans, including the emerging George P. Bush, as well as US Senators Marco Rubio (FL) and Ted Cruz (TX), and Governors Susana Martinez (NM) and Brian Sandoval (NV).

One policy parallel might be welfare reform (PRWORA) in the 1990s. To remove this wedge issue from the political agenda, President Clinton argued that the Democratic Party needed to give on substance in order to adjust to the political environment. While the policy merits of this decision are still debated, the welfare issue did not appear to directly affect subsequent elections. Today, if Republicans reject CIR, they risk giving Democrats a wedge issue for many elections to come. However, this does not mean that comprehensive legislation will automatically direct more Latino votes to GOP candidates. Will Latino leaders, organizations, and voters forget about recent immigrant politics? Is the Republican "brand" problematic for many Latinos, especially for new voters? In addition, Latinos generally support government social service programs and higher levels of taxation, and a post-CIR political environment will showcase the clear party divisions on these issues. Nevertheless, dropping immigration reform from the policy agenda would provide the GOP an opportunity to better compete for Latino votes—which would be an improvement for Republicans and Latinos alike.

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Part II
Local Responses to Federal Paralysis

Immigration Policy and Partisan Politics in the State Legislatures: 2010–2012

Mark P. Jones and Benjamin Chou

Immigration Policy and Partisan Politics in the State Legislatures: 2010–2012

In 2010, the Arizona state legislature debated, and ultimately passed, a restrictive omnibus state-level immigration reform, widely referred to by the bill's Arizona Senate number, SB-1070. This legislation originated with the growing frustration within the Republican Party with the country's broken immigration system, in particular the large number of undocumented immigrants residing in the country, and with the stalemate on the issue that existed in Washington, DC. The introduction and passage of SB-1070 inspired a wave of similar legislation in a host of other states throughout the country. Primarily, Republican legislative leaders and legislators utilized the legislation to burnish their conservative credentials on the hot-button issue of immigration, while simultaneously sending a message to President Barack Obama and congressional Democrats (as well as to congressional Republicans) that they considered the current immigration status quo to be unacceptable.

The public debate surrounding, and media coverage of, SB-1070 and its offspring in other states highlighted the Republican Party's increasing shift to the right on immigration policy. This shift led, for instance, to the 2012 Republican presidential nominee (Mitt Romney) embracing, at least during the primary stage of the election process, the "attrition through enforcement" logic that undergirds SB-1070.[1] While

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[1] Highlighting the shift to the right in the Republican Party was the near-unanimous criticism received by Texas governor, and conservative stalwart, Rick Perry, during a September 22, 2011 Republican presidential debate for his signing of legislation a decade earlier which allowed undocumented immigrants to pay in-state tuition at Texas colleges and universities. The 2001 legislation

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Romney's advocacy of "self-deportation" during a Republican presidential debate may very well have helped him in his effort to obtain the party's presidential nomination, it certainly did him no favors with Hispanic voters, who cast ballots for his Democratic opponent at a higher rate than in recent presidential elections.[2]

The poor performance of the Republican Party in the November 2012 elections resulted in a collective realization that if the party continued to lose support among Hispanics, its days as a relevant national political party capable of winning the presidency were numbered. This in turn resulted in renewed efforts by Republicans in Congress to pass comprehensive immigration reform. And, while the prospects for reform are now quite possibly brighter than at any time since 2007, there still exists the possibility that reasonably comprehensive reform legislation could be derailed by either Republican intransigence or Democratic hubris.

In this chapter, we examine the dynamics surrounding the debate over restrictive omnibus immigration reform legislation in the state legislatures between 2010 and 2012. We pay particular attention to the partisan dynamics surrounding the legislation, underscoring the extent to which the debate over restrictive immigration reform at the state level was first and foremost a partisan issue, with Republicans promoting the legislation and Democrats, on average, opposing it. This stark partisan divide at the state-level went a great way towards creating a nationwide image, especially in the eyes of many Hispanic voters, of a Republican Party that was anti-immigrant, and therefore more anti-Hispanic, and a Democratic Party that was pro-immigrant, and therefore more pro-Hispanic.

Here, we first provide details on the restrictive omnibus immigration reform legislation in 11 states on which either a legislative chamber or committee held a roll call vote. Some of these bills were eventually signed into law (i.e., in Alabama, Arizona, Georgia, Indiana, South Carolina, and Utah). Other bills, however, never even made it to the legislative floor (i.e., in Florida and Maryland), and some made it to the floor of only one of the state's two legislative chambers (i.e., in Kentucky and Mississippi). Another bill in Oklahoma made it to the floor of both chambers only to have an intercameral disagreement scuttle the legislation. We utilize the roll call vote data for these bills to analyze interparty and intraparty differences in support for the legislation.

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had been supported by all but two Republicans in the Texas House and three in the Texas Senate. A total of 64 Republican representatives and 12 Republican senators voted for the legislation, including Representative Leo Berman, who 10 years later in 2011 would be one of the most prolific authors of restrictive immigration legislation filed in the state (Jones 2011).

[2] According to the *Latino Decisions Election Eve Poll* (2012), Mitt Romney won only 23 % of the Hispanic vote compared to 75 % for President Barack Obama. National Exit Poll data conclude that Romney won 27% of the Hispanic vote nationally, 4 % less than John McCain in 2008 and 13 % less than George W. Bush in 2004. The 4 % gap is only magnified by the fact that Romney won a greater share of the popular vote than McCain (47.1–45.6%; Lopez and Taylor 2012).

Table 1 Omnibus reform legislation

State	Law enforce	IDs	Employ	Edu	Public benefits	Harbor/ transport/ rental	Other
Alabama	X	X	X	X	X	X	X
Arizona	X	X	X			X	
Florida	X		X				X
Georgia	X		X		X	X	
Indiana	X	X	X		X	X	X
Kentucky	X					X	
Maryland	X						
Mississippi	X	X	X	X	X		X
Oklahoma	X	X	X				
South Carolina	X	X	X		X	X	
Utah	X				X		X

The Omnibus Immigration Legislation

The latter half of the first decade of the twenty-first century saw a noteworthy in-
crease in efforts by state-level and national activists within the Republican Party
to adopt restrictive immigration policy at the state level (Krane 2007; Reich and
Barth 2012). In many states, the moderate approach to immigration policy favored
by the Republican establishment, especially that linked to the business commu-
nity, was overwhelmed during this time period by conservative state-level party
activists working in concert with like-minded national organizations. The result
was a substantial movement to the right within the Republican Party in the policy
area of immigration. At the same time, an issue upon which there exists divergent
opinions and positions within the Republican and Democratic parties (with, for in-
stance, many moderate Republicans opposing restrictive immigration policies and
many conservative and prolabor Democrats supporting them) became increasingly
polarized, with Republicans united in favor of restrictive omnibus immigration leg-
islation and Democrats united, albeit to a slightly lesser degree, against it.

   This section examines the details and components of each particular restrictive
immigration omnibus bill as introduced and debated in the respective chambers
of state governments. The term "omnibus" follows the definition provided by the
National Conference of State Legislatures (NCSL) which requires that a bill include
several topics such as law enforcement, ID requirements, employment verification,
access to public benefits, etc. Table 1 highlights the different thematic areas covered
by each state's respective omnibus immigration bill.

   The apogee for the discussion and debate of this immigration reform legislation
was in late 2010 and 2011. It is noteworthy that only one bill was introduced during
2012 (in Mississippi in February), and while it was approved in the House, it ended
up dying in committee in the Mississippi Senate.

   While this omnibus legislation varied across the states, one common thread
that united it was its focus on law enforcement, in particular the goal, explicit or

implicit, of creating conditions under which undocumented immigrants would feel pressure to leave the state. Along this same line of making life sufficiently difficult and unpleasant that undocumented immigrants in the state would leave and those outside the state would not migrate to the state, some legislation also included new personal identification requirements, made the employment of undocumented immigrants more difficult, made travel and apartment rentals more onerous and complex, and restricted access by undocumented immigrants to public benefits. While many, though not all, of these provisions were at least temporarily blocked by the federal courts, the legislation often was successful in its primordial goal of signaling to undocumented immigrants that they were unwelcome in the state, which in turn caused many to leave and others to choose to not migrate in the first place. A detailed review of the legislation summarized in Table 1 is located in Appendix 1.

Statistical Analysis

A. Analysis Population

The analysis population for the second stage of this study consists of the final-passage vote, or its closest approximation, which took place in a legislative chamber or committee on legislation classified by the NCSL as omnibus immigration legislation. A host of other votes in many of the legislative bodies, which took place during the debate over the omnibus legislation, were also examined, with results that do not differ substantively in most instances from the specific vote examined here for each legislative body. In all, a total of 18 votes from 18 legislative bodies (eight houses, eight senates, two house committees) which took place between 2010 and 2012 were examined, representing the totality of bodies where a recorded vote was held on restrictive omnibus immigration reform legislation in the US state legislatures during this time frame.

B. Partisanship and Support for/Opposition to the Omnibus Legislation

Table 2 provides a summary of the vote results in these 18 legislative bodies, indicating the proportion of the members of the Republican and Democratic delegations (and, in three instances, a single independent) who cast a vote for or against restrictive omnibus reform legislation, along with those who were present for the vote but abstained. Two principal conclusions can be drawn from Table 2.

First, the legislation was almost universally supported by Republican legislators, with a mean of 96% voting in favor, 2% against, and 2% abstaining. In seven of the 18 bodies, every single Republican voted for the legislation, while only in two bodies (the Arizona Senate and the Indiana Senate) did the proportion in favor drop

Table 2 Partisan support for omnibus immigration reform legislation

State	Body	Party (members)	In favor (%)	Against (%)	Abstain (%)
Alabama	House	Republican (66)	96	2	3
		Democrat (38)	11	74	16
Alabama	Senate	Republican (22)	91	5	5
		Democrat (11)	46	55	0
		Independent (1)	0	0	100
Arizona	House	Republican (35)	94	0	6
		Democrat (25)	4	84	12
Arizona	Senate	Republican (18)	89	0	11
		Democrat (12)	0	92	8
Florida	House[a]	Republican (24)	92	8	0
		Democrat (12)	8	92	0
Georgia	House	Republican (115)	91	4	4
		Democrat (61)	10	89	2
		Independent (1)	100	0	0
Georgia	Senate	Republican (36)	97	3	0
		Democrat (20)	10	90	0
Indiana	House	Republican (60)	97	3	0
		Democrat (39)	26	74	0
Indiana	Senate	Republican (37)	89	11	0
		Democrat (13)	15	85	0
Kentucky	Senate	Republican (22)	100	0	0
		Democrat (15)	7	93	0
		Independent (1)	100	0	0
Maryland	House[b]	Republican (6)	100	0	0
		Democrat (12)	8	92	0
Mississippi	House	Republican (61)	100	0	0
		Democrat (57)	16	84	0
Oklahoma	House	Republican (69)	100	0	0
		Democrat (23)	70	30	0
Oklahoma	Senate	Republican (32)	97	3	0
		Democrat (13)	46	54	0
South Carolina	House	Republican (64)	100	0	0
		Democrat (40)	3	97	0
South Carolina	Senate	Republican (26)	100	0	0
		Democrat (17)	47	53	0
Utah	House	Republican (58)	98	0	2
		Democrat (17)	12	88	0
Utah	Senate	Republican (20)	100	0	0
		Democrat (7)	29	71	0
Republican mean			96	2	2
Republican median			97	0	0
Democrat mean			20	78	2
Democrat median			10	84	0

[a] Florida: House Economic Affairs and Judiciary Committees
[b] Maryland: House Judiciary Committee

below 90%, and in one of these cases, the Arizona Senate, the sole two Republican dissenters did not vote against the bill but rather abstained.

Second, while an overwhelming majority of Democrats opposed the legislation, a not insignificant number broke with the majority of the party to cast a vote in favor of the restrictive omnibus legislation along with their Republican colleagues. On average, 20% of Democrats voted for the legislation across the 18 bodies, ranging from a low of 0% in the Arizona House to a high of 70% in the Oklahoma House (the only body where an absolute majority of Democrats supported the restrictive omnibus legislation).

C. Intraparty Dynamics and Support for/Opposition to the Omnibus Legislation

As Table 2 makes clear, there exists scant intraparty variance among the Republican legislators in terms of their support for the restrictive omnibus immigration reform legislation. In contrast, the table reveals a notable level of variance among the Democratic Party legislators. In this section, therefore, we examine differences in legislator support within the Democratic Party in regard to two crucial dimensions: race/ethnicity and geography.

Table 3 provides the racial/ethnic distribution of the legislators who cast a vote on the omnibus legislation. While the Republican Party in these bodies is almost monolithically Anglo, the Democratic Party is noticeably more diverse. In these 18 legislative bodies, an average of 98% of the Republican legislators are Anglo, with a median of 100%. In contrast, an average of 57% of the Democratic legislators are Anglo, followed in prominence by African Americans with a mean of 31% and Hispanics with a mean of 8%.

In order to better understand the combined impact of race/ethnicity and geography on the support by Democratic legislators for the omnibus immigration reform legislation, analysis was conducted to determine the relationship between those factors and a favorable vote by the Democratic legislators. The dependent variable was coded 1 (in favor) if either the Democrat voted for the bill or else abstained while a majority of his/her copartisans voted against it (Jones and Hwang 2005).[3]

In the analysis, separate dummy variables were created for Anglos from urban areas, Anglos from rural areas, African Americans from urban areas, and African Americans from rural areas. The small number of Hispanic, Asian American, and Native American legislators prevented splitting them into separate urban and rural groupings. Furthermore, in the analysis, the Democratic Asian American legislators (three total) and Native American legislators (13 total) are grouped into an "Others" category. The geographic location of the legislator's district was coded employing the six-point classification scheme of the US Department of Health and Human

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[3] Simply deleting the small number of abstentions instead of coding them as yea votes does not affect the substantive findings.

Table 3 Ethnic/racial distribution of legislators by party

State	Body	Party (members)	Anglo (%)	Hispanic (%)	African American (%)	Asian American (%)	Native American (%)
Alabama	House	Republican (66)	100	0	0	0	0
		Democrat (38)	32	0	68	0	0
Alabama	Senate	Republican (22)	100	0	0	0	0
		Democrat (11)	55	0	45	0	0
		Independent (1)	100	0	0	0	0
Arizona	House	Republican (35)	97	3	0	0	0
		Democrat (25)	64	28	4	0	4
Arizona	Senate	Republican (18)	100	0	0	0	0
		Democrat (12)	33	50	8	0	8
Florida	House[a]	Republican (24)	92	8	0	0	0
		Democrat (12)	67	8	25	0	0
Georgia	House	Republican (115)	97	1	1	1	0
		Democrat (61)	34	2	64	0	0
		Independent (1)	100	0	0	0	0
Georgia	Senate	Republican (36)	100	0	0	0	0
		Democrat (20)	35	0	65	0	0
Indiana	House	Republican (60)	100	0	0	0	0
		Democrat (39)	77	3	21	0	0
Indiana	Senate	Republican (37)	100	0	0	0	0
		Democrat (13)	69	0	31	0	0
Kentucky	Senate	Republican (22)	100	0	0	0	0
		Democrat (15)	93	0	7	0	0
		Independent (1)	100	0	0	0	0

Table 3 (continued)

State	Body	Party (members)	Anglo (%)	Hispanic (%)	African American (%)	Asian American (%)	Native American (%)
Maryland	House[b]	Republican (6)	100	0	0	0	0
		Democrat (12)	50	0	25	25	0
Mississippi	House	Republican (61)	98	0	0	0	2
		Democrat (57)	39	0	61	0	0
Oklahoma	House	Republican (69)	86	0	0	0	15
		Democrat (23)	61	0	9	0	30
Oklahoma	Senate	Republican (32)	97	0	0	0	3
		Democrat (13)	62	0	8	0	31
South Carolina	House	Republican (64)	100	0	0	0	0
		Democrat (40)	40	0	60	0	0
South Carolina	Senate	Republican (26)	100	0	0	0	0
		Democrat (17)	53	0	47	0	0
Utah	House	Republican (58)	95	2	0	4	0
		Democrat (17)	88	12	0	0	0
Utah	Senate	Republican (20)	100	0	0	0	0
		Democrat (7)	71	29	0	0	0
Republican mean			98	1	0	0	1
Republican median			100	0	0	0	0
Democrat mean			57	8	31	2	3
Democrat median			59	0	28	0	0

[a] Florida: House Economic Affairs and Judiciary Committees
[b] Maryland: House Judiciary Committee

Table 4 Democratic support for omnibus legislation

Independent variables	Estimated coefficient	Standard error	Expected value	90% Conf. Int.	Number of legislators
Urban Anglo	–	–	0.235	0.170–0.311	138
Rural Anglo	0.858	0.369	0.418	0.312–0.529	82
Urban African American	−1.547	0.459	0.038	0.010–0.088	121
Rural African American	−0.686	0.568	0.064	0.033–0.109	58
Hispanic	−0.450	0.782	0.189	0.053–0.404	20
Others	0.602	0.756	0.372	0.142–0.665	16
Constant	−1.591	0.583			
Observations	435				
Pseudo R^2	0.232				
Wald Chi Square (15)	65.45				

Urban Anglo is the excluded legislator category
State dummy variables are included in the analysis but not above
Robust standard errors are employed

Services (Ingram and Franco 2012). All instances where the lead county in a legislator's electoral district had a population of 250,000 or greater are considered as urban, while those with a population < 250,000 are considered rural. Modifying this definition by lowering the threshold to qualify as urban to 50,000 does not affect the substantive findings of the analysis.

Given the distinct content of and dynamics surrounding the legislation being voted on in the states, a binary "fixed effects" variable for each state is included in the econometric analysis, albeit not shown in Table 4 for reasons of space. The binary logit analysis and post-estimation analysis displayed in Table 4 reveal several important findings. First and foremost, there exist significant and substantive differences in Democratic legislator support for the omnibus legislation depending on the ethnic/racial and the urban/rural status of an individual legislator. The legislators most likely to vote in favor of the bills were Rural Anglos, with an expected value of 0.418. After the Rural Anglos, the Urban Anglos were the most likely to cast a Yea vote, with an expected value of 0.235. Each of these values is significantly higher than those for the African American legislators, both urban (0.038) and rural (0.064).

Second, the 90 % confidence intervals in Table 4 indicate that the Rural Anglos were significantly more likely to vote in favor of the legislation than their fellow Anglos in urban areas, with the two groups' respective confidence intervals not overlapping. Similarly, both Rural Anglos and Urban Anglos were significantly more likely to favor the bills than both Rural African Americans and Urban African Americans, with a wide gap between the lower and upper bounds of their respective 90 % confidence intervals. In contrast, there does not appear to exist any noteworthy difference among African Americans based on the geographic location of their district (i.e., urban vs. rural).[4] The number of Hispanic and Other Democratic legisla-

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[4] This absence of a significant difference may be in part due to the relatively small number of Rural African American legislators in the legislative bodies included in the analysis.

tors is sufficiently small as to inhibit any reliable conclusions based on the analysis, although the data at hand suggest that Hispanic legislators are less likely to vote in favor of the legislation than Anglo legislators, and are more likely to support it than African American legislators.

The limited variance in both the vote outcome and ethnic/racial diversity within the Republican Party prevents a comparable analysis. However, a partial analysis did reveal that the small number of Hispanic Republican legislators were significantly less likely than their Anglo colleagues to support omnibus immigration reform, with expected values for Urban Anglo and Rural Anglo support of 0.977 and 0.971, respectively, compared to 0.650 for Hispanics. Furthermore, while the Hispanic legislators' 90 % confidence interval is unsurprisingly large, given the very limited number of Hispanic Republican legislators, it nonetheless does not overlap with that for either the Urban Anglo or Rural Anglo Republican legislators.

Public Policy Implications

The most profound public policy impact of the state-level immigration reform legislation was not to alter the policy environment in the specific states (though this did occur to a certain extent). Rather, the legislation served to focus national attention on the topic of immigration reform and put in stark relief the distinct positions of the Republican and Democratic parties (at least as represented by their legislative delegations in these states) on the conservative policy option of addressing undocumented immigration through a primarily punitive "attrition through enforcement" approach. The state-level legislation thus clarified the Democratic and Republican positions on immigration reform for voters, particularly Hispanic voters, who in 2012 overwhelmingly voted Democratic in the presidential (75 %) and congressional (77 %) elections (Latino Decisions 2012). This signal was read loud and clear by Republicans, and is largely responsible for their current willingness to sit down with their Democratic colleagues in Washington D.C. and together discuss a comprehensive immigration reform bill. Nevertheless, the unanimous Republican support for restrictive immigration reform legislation across many state legislative bodies stretching from Utah to South Carolina underscores the challenges confronting Republicans, such as US senators John McCain and Marco Rubio, who are charged with the difficult task of brokering a deal, which meets at least the minimum demands of Democrats, without alienating such a large number of Republicans that the reform is rendered unviable.

From a pure public policy perspective, the debate and controversy surrounding the restrictive immigration reform legislation in the state legislatures, combined with the subsequent injunctions issued by federal courts blocking much of the actual implementation of the ensuing laws, highlighted the reality that immigration reform is not an area of public policy that can be addressed by the individual states. Rather, only the federal government is endowed with the necessary constitutional power, nationwide vision, and financial and logistical resources to develop and

implement a broad and strategic immigration reform designed to fix the country's currently broken immigration system.

Conclusion

The debate over restrictive omnibus immigration reform legislation at the state level between 2010 and 2012 helped convert immigration reform into a highly salient issue in the 2012 campaign, particularly for Hispanic voters. It also, unfairly or fairly, crystallized an image, especially among many Hispanics, of the Republican Party as being on the side of anti-immigrant/anti-Hispanic forces and, to a lesser extent, of the Democratic Party being an advocate for the interests of immigrants/Hispanics.

This anti-immigrant image proved to be disastrous for the Republican Party in the 2012 election as the party saw its support drop among Hispanics. Mitt Romney garnered only a quarter of the Hispanic vote nationwide, and less than a quarter in the key battleground states of Colorado (where only 10% of Hispanic voters cast a ballot for Romney) and Nevada (20%), while at the same time performing sufficiently poorly in the red states of Arizona (20%) and Texas (29%) so that doubts began to be raised about how "solidly red" these states might be in the future (Latino Decisions 2012). Cognizant that the Republican Party does not have a future as a viable national party if its share of the Hispanic vote continues to shrink while the number of Hispanic voters continues its inexorable rise, Republican leaders in Congress now are working seriously on immigration reform legislation. This transformation in Republican attitudes towards immigration reform, in turn, can in many ways trace some of its origins to SB-1070, legislation that helped set in motion the nationwide forces that created the incentives for Republican lawmakers to support comprehensive immigration reform at the federal level.

Appendix 1: Synopses of the Omnibus Legislation by State[5]

1. *Alabama HB56*

Introduced on March 1, 2011 and passed in both chambers by large margins in 3 months (H: 73-28, S: 26-6).

Law Enforcement Law enforcement is required to determine the immigration status of a person if he/she is involved in the enforcement of any other law where reasonable suspicion exists that the person is an undocumented immigrant. However, race, color, or national origin cannot be used during implementation. The posses-

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[5] This appendix draws very heavily on the summaries of the legislation provided by the NCSL National Conference of State Legislatures (2012) as well as in many instances on the verbatim text of the actual bills.

sion of certain IDs presumes lawful presence. Additionally, citizens and legal residents can sue the state or localities that restrict the enforcement of federal law (e.g., "sanctuary cities").

IDs Willful failure to complete or carry an alien registration document is a crime.

Employment It is unlawful for undocumented immigrants to apply, solicit, or perform work. All public employers are required to use E-Verify, and public contractors may not employ undocumented immigrants.

Education Public K-12 schools are required to determine every student's immigration status and submit annual reports to the state. Undocumented immigrants are banned from attending college or receiving any state scholarships, grants, or financial aid.

Public Benefits Undocumented immigrants are prohibited from receiving any state or local public benefits.

Harbor/Transport/Rental It is unlawful for a person to transport, conceal, harbor, shield, or enter into a rental agreement with an undocumented immigrant.

Voting Proof of citizenship and residency is required before voting.

	Law enforcement	IDs	Employ	Edu	Public benefits	Harbor/transport/ rental	Other
Alabama	X	X	X	X	X	X	X

2. *Arizona SB1070 and HB2162*

Introduced January 13, 2010 and passed both chambers (H: 33-22, S: 16-11) on April 29, 2010.

Law Enforcement Law enforcement is prohibited from restricting the enforcement of federal immigration laws. Law enforcement must reasonably attempt to determine the immigration status of a person involved in a lawful stop, detention, or arrest in the enforcement of any other law where reasonable suspicion exists that the person is an undocumented immigrant. However, race, color, or national origin cannot be considered during implementation. Possession of certain IDs presumes lawful presence. Additionally, residents may sue the state or localities that restrict the enforcement of federal law.

IDs There are penalties for willful failure to complete or carry an alien registration document.

Employment It is unlawful for an occupant of a motor vehicle to hire workers on a street, roadway, or highway if the vehicle blocks or impedes normal traffic. It also is unlawful for an unauthorized immigrant to knowingly apply, solicit, or perform work.

Harbor/Transport/Rental It is unlawful to transport, conceal, harbor, shield, or encourage an alien to come to Arizona.

	Law enforcement	IDs	Employ	Edu	Public benefits	Harbor/ transport/rental	Other
Arizona	X		X	X			X	

3. Florida HB7089

Introduced on March 10, 2011, the bill died at the end of session on May 7, 2011 when the Republican Speaker of the House did not schedule the bill for floor action after it had passed out of committee.

Law Enforcement The state and political subdivisions are prohibited from limiting or restricting the enforcement of federal immigration laws. The state or its political subdivisions may not be prohibited from maintaining or exchanging information regarding immigration status. Law enforcement may determine the immigration status of a person subject to criminal investigation if reasonable suspicion exists that the person is undocumented. If arrested, a reasonable attempt shall be made to determine the person's immigration status. Race, color, or national origin may not be considered in enforcement.

Employment Employers are required to use E-Verify. They may not knowingly employ undocumented immigrants. Public employers are prohibited from contracting for services with contractors not using E-Verify.

Crime Enhanced maximum criminal penalties may be levied when offenses are committed by undocumented immigrants.

Why It Failed

- Democrats opposed the legislation (Ward 2011).
- Republicans were divided, many because of opposition to the legislation by the Florida Chamber of Commerce, the Associated Industries of Florida, the agriculture industry, and immigrants (Ward 2011).
- Senate Judiciary Chair Anitere Flores had already stripped out E-Verify from the stronger House version that passed the House and publically opposed an Arizona-style immigration legislation (Ward 2011).
- There were protests by students and immigrant groups (Valencia 2011).
- Gov. Rick Scott did not endorse the bills, though he supports immigration reform (Valencia 2011).

	Law enforcement	IDs	Employ	Edu	Public benefits	Harbor/ transport/rental	Other
Florida	X		X				X

4. *Georgia HB87*

Introduced in late January, HB87 was signed 5 months later on May 13, 2011. It passed both chambers by large margins (H: 112-59, S: 37-19).

Law Enforcement Law enforcement is authorized to verify a suspect's immigration status if the suspect cannot provide identification and probable cause exists to believe the suspect is guilty. Race, color, or national origin may not be considered in implementing the law.

Employment All contractors must include in their bids for publicly funded projects an affidavit attesting that a contractor and any subcontractors use E-Verify. The state will conduct compliance audits on public employers with penalties for noncompliance. Employers cannot claim deductible business expenses for wages paid to an employee in excess of $ 600 unless the employee has been approved to work in the US using E-Verify.

Public Benefits Applicants shall provide at least one secure and verifiable document in addition to an affidavit of lawful presence (for those 18 and over only).

Harbor/Transport/Rental Persons transporting an undocumented immigrant while committing another crime may be charged with a misdemeanor. The same penalties exist for a person convicted of knowingly concealing, harboring, or shielding an illegal alien from detection, and for a person inducing an illegal alien to enter the state.

	Law enforcement	IDs	Employ	Edu	Public benefits	Harbor/transport/ rental	Other
Georgia	X		X		X	X	

5. *Indiana SB590*

Introduced in January 2011 and signed on May 10, 2011. It passed both chambers by large margins (H: 68-31, S: 35-15).

Law Enforcement Law enforcement may arrest suspects if there is a removal order, detainer, notice of action, or if there is probable cause to believe the person has been indicted or convicted of one or more aggravated felonies.

Harbor/Transport/Rental Law enforcement can impound motor vehicles for moving, transporting, concealing, harboring, or shielding undocumented immigrants. The state must then verify the citizenship or immigration status of criminal offenders. Status as a foreign national must be considered in setting bail or bond requirements.

IDs The law criminalizes fake IDs and identity fraud.

Employment State agencies, political subdivisions, and contractors with public contracts are required to use E-Verify. Certain state income tax credits and deductions are banned for individuals who are prohibited from being hired as employees, unless the employer participates in E-Verify.

Public Benefits State agencies and localities must verify each individual's eligibility for public benefits and unemployment compensation.

Studies/Reimbursement of Costs The Office of Management and Budget must calculate the costs of undocumented immigrants to Indiana and request Congressional reimbursement. The state urges the Legislative Council to assign immigration topics for further study and consult with the lieutenant governor.

	Law enforcement	IDs	Employ	Edu	Public benefits	Harbor/transport/ rental	Other
Indiana	X	X	X		X	X	X

6.   Kentucky SB6

Introduced January 4, 2011 and passed the Senate by a 24–14 vote. The bill died after never receiving a hearing in the House Local Government Committee.

Law Enforcement Law enforcement may determine the immigration status of a person on reasonable suspicion, make arrests of undocumented immigrants upon probable cause, and transfer convicted undocumented immigrants to Immigration and Customs Enforcement (ICE) custody. Officers are indemnified if sued. The state and sub-entities are barred from adopting policies, administrative regulations, or laws that restrict the enforcement of federal immigration law. Furthermore, officials or agencies may not be prohibited from sharing the immigration status of a person under specific instances.

Harbor/Transport/Rental It is unlawful for a person to transport, conceal, or encourage undocumented immigrants to come to Kentucky.

Why It Failed

- The immigration bill would have cost the state $ 40 million a year (Cheves 2011).
- Large protests by immigrant communities (Arnold 2011).
- Sixty leading business executives signed a letter laying out the negative economic consequences of the anti-immigration campaign, such as canceled contracts, boycotts, and a decline in tourism (The Lexington Herald-Leader 2011).
- The Kentucky Association of Chiefs of Police, the Kentucky Sheriff's Association and the Kentucky Magistrates and Commissioners Association all raised

questions about the ultimate cost of the bill in terms of additional training, police manpower, and the operations of already-strapped county jails (Dixon 2011).

• The House was controlled by Democrats and there was a Democratic governor.

	Law enforcement	IDs	Employ	Edu	Public benefits	Harbor/transport/ rental	Other
Kentucky	X					X	

7. Maryland HB744

Introduced February 10, 2011 and voted down by the House Judiciary Committee 11-7.

Law Enforcement Law enforcement is authorized to verify the immigration status of specified persons. Officers who encounter and detain in the normal course of their duties an individual who law enforcement determines is an undocumented immigrant are required to inform the federal government as soon as possible. However, race, color, or national origin cannot be used during implementation.

Why It Failed

• Democrats controlled every branch of government in Maryland and actively opposed the legislation.

	Law enforcement	IDs	Employ	Edu	Public benefits	Harbor/transport/ rental	Other
Maryland	X						

8. Mississippi HB488

Introduced on February 13, 2012 and passed the House with a 70–48 vote. The bill was never brought up for debate in the Senate.

Law Enforcement No person or office shall limit the enforcement of federal immigration laws. For any lawful stop, detention, or arrest in the enforcement of other laws, where reasonable suspicion exists that the person is undocumented, a reasonable attempt shall be made to determine the immigration status of the person. The possession of certain IDs presumes lawful presence. Law enforcement is indemnified for the implementation of this bill. There is a prohibition of restricting the sending, receiving, or maintaining of information relating to the immigration status with any other entity. Residents may sue the state or any subdivision for restricting the enforcement of federal immigration laws.

IDs Willful failure to complete or carry an alien registration document is a crime.

Education Requires public (K-12) schools to determine the immigration status of students.

Public Benefits Prohibits undocumented immigrants from entering into business transactions with the state.

Employment Employers are prohibited from hiring undocumented immigrants. All employers must use E-verify and keep records of employment verification for the duration of the employee's employment or 3 years, whichever is longer.

Immigration Reimbursement Fund The state will reimburse localities for funds spent on local jails for the incarceration of certain undocumented immigrants.

Why It Failed

- The Democrat who chaired the Senate Judiciary Committee refused to bring the bill up for consideration by the committee (Hoy 2012).
- The Mississippi Sheriffs' Association, Chiefs of Police, Municipal League, and Association of Supervisors all urged lawmakers to oppose HB 488, calling it an "unfunded mandate" and highlighted problems enforcing the law as well as the cost to taxpayers (Hoy 2012).
- Mississippi farming groups also had come out against HB 488, asking lawmakers to consider the impact of neighboring Alabama's immigration law. Since Alabama passed their immigration law (HB 56), the state has been subject to costly federal lawsuits, rotting crops, lost income and sales tax revenue, federal lawsuits, and damage to local businesses (Hoy 2012).
- Strong support in the African American and Latino communities to kill the bill (Bacon 2012).

	Law enforcement	IDs	Employ	Edu	Public benefits	Harbor/transport/ rental	Other
Mississippi	X	X	X	X	X		X

9. *Oklahoma SB908 and HB1446*

Both bills were introduced on February 7, 2011. The House passed its version by a wide margin 85–7, and the Senate passed its version with a 29–15 vote. The Senate then passed an amended version of the House bill by a wide margin 37–8. However, the bill died when a revised bill failed to emerge from the conference committee.

Law Enforcement Law enforcement is required to determine the immigration status of a person involved in the enforcement of any other law where reasonable suspicion exists that the person is an undocumented immigrant. However, race,

color, or national origin cannot be used during implementation. The possession of certain IDs presumes lawful presence. Citizens and legal residents can sue the state or localities that restrict enforcement of federal law.

IDs Willful failure to complete or carry an alien registration document is a crime.

Employment It is unlawful for undocumented immigrants to apply, solicit, or perform work. All public employers are required to use E-Verify, and specifically, public contractors may not employ undocumented immigrants.

Why It Failed

- Republicans complained that the bill did not target employers who hire undocumented workers and Democrats were of the position that immigration is a policy area that should be addressed only by the federal government (Hoy 2011).
- Legislators on both sides of the partisan aisle expressed concerns about its high implementation costs (Hoy 2011).
- Business and faith leaders also spoke out forcefully against the bill, citing the likelihood it would harm the state's already-struggling economy (Raghunathan 2011).

	Law enforcement	IDs	Employ	Edu	Public benefits	Harbor/transport/ rental	Other
Oklahoma	X	X	X				

10.   *South Carolina SB20*

Introduced January 11, 2011, the bill passed both chambers by large margins and was signed by the governor on June 27, 2011.

Law Enforcement If there is reasonable suspicion that a person who is stopped, detained, or arrested is unlawfully in the US, law enforcement is required to verify the person's immigration status. However, race, color, or national origin may not be considered during implementation.

Employment It is unlawful for undocumented immigrants to knowingly apply, solicit, or perform work. Public contractors may not knowingly employ undocumented immigrants, and they in addition to subcontractors are required to use E-Verify. After being hired, an employer has 3 days to check an employee's verification in E-verify.

Harbor/Transport/Rental It is unlawful to transport, conceal, harbor, shield, or enter into a rental agreement with an undocumented immigrant.

Public Benefits Undocumented immigrants are prohibited from receiving any public benefits except certain emergency exemptions.

IDs It is unlawful for a person to make, issue, or sell, a fake ID. It is also unlawful for a person (18 or older) not to carry any certificate of alien registration.

	Law enforcement	IDs	Employ	Edu	Public benefits	Harbor/transport/ rental	Other
South Carolina	X	X	X		X	X	

11. *Utah H116, HB466, HB469, HB497*

All four bills were introduced between early February and March of 2011. By March 8, 2011, all four bills had passed both chambers: HB116 (H: 41-32, S: 19-5); HB466 (H: 72-0, S: 25-1); HB469 (H: 53-18, S: 19-6); HB497 (H: 59-15, S: 22-5).

H116

Temporary Guest Worker Program The law establishes a temporary guest worker program where certain eligibility requirements apply. Each application requires a $ 1000 fine if the individual entered the country legally or $ 2500 if entered illegally. Participants must make good faith efforts to become English-proficient. Private employers are prohibited from knowingly hiring an undocumented individual without a permit, and those with more than 15 employees must verify eligibility through E-Verify, an equivalent federal system, the Social Security Administration, or an equally reliable independent third-party system.

Law Enforcement Law enforcement shall request an individual's immigration status for Class A misdemeanors or felonies and may request verification for Class B or C misdemeanor offenders.

H466

State Commission on Immigration The law creates an advisory Utah Commission on Immigration and Migration composed of 27 members of the legislature, executive agencies, and the public. They shall review the impact of undocumented immigration and immigration laws, develop a state plan on immigration and integration, and make recommendations to the governor and the legislature.

Migrant Worker Visa Pilot Project The law establishes a migrant worker visa pilot project and authorizes Utah to work with the Mexican state of Nuevo León to fill jobs in Utah.

H469

Sponsor Resident Immigrant Pilot Program A US citizen and Utah resident may sponsor a foreign national as a resident immigrant who may then seek employment.

H497 (The Bill Examined in the Roll Call Vote Analysis)

Law Enforcement The law requires officers to verify the immigration status of a person arrested for a felony or a Class A misdemeanor and a person booked for Class B or C misdemeanors.

Public Benefits The law requires verification of immigration status regarding application for public services or benefits, except as exempted by federal law.

	Law enforcement	IDs	Employ	Edu	Public benefits	Harbor/transport/ rental	Other
Utah	X				X		X

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The Immigration Debate in Texas

Tony Payan

Introduction

The failure of the US Congress to deal with immigration reform prompted many state and local governments to craft their own responses to the presence of large and growing numbers of undocumented residents within their territory. This corresponds to a generalized tradition in American public policy—whenever the federal government fails to deal with an issue, the states step in and begin to experiment with various policies that fit the local reality. The responses to undocumented immigration varied by state, as should be expected, with some being relatively liberal and welcoming and others highly castigatory and hostile to unauthorized immigrants. In July 2011, for example, Gov. Jerry Brown of California signed AB-130, a bill that allowed undocumented students enrolled in California's public colleges and universities to receive privately funded university scholarships from non-state funds. Later, California also passed a companion bill, AB-131, which allowed undocumented students to apply for state-sponsored financial aid. California was particularly open-minded, but not necessarily unique. At the opposite end of the spectrum was Arizona, followed by other states such as Mississippi, Georgia, Alabama, Indiana, South Carolina, and Utah. In 2010, the Arizona legislature passed an immigration reform bill, SB-1070, which required police to determine the legal status of individuals during a lawful stop, criminalized working or attempting to work without authorization, and authorized Arizona law enforcement officers to make a warrantless arrest for the commission of a removable offense, among other harsh anti-immigrant provisions. As already mentioned, the passage of the Arizona law encouraged other state and even municipal governments to pass harsh anti-immigration legislation—a development some observers called the "Arizonification" of immigration law (Cianciarulo 2012). Local responses to the immigration crisis depended on a number of variables, including demographics, political leadership and party in control, as well as economic forces (unemployment, etc.), and historical factors. Of the 50

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states, 46 passed immigration-related legislation in 2010 alone.[1] Substantively, measures included a broad range of issues, including budgets, education, employment, health, human trafficking, identifications, driver's licenses, law enforcement, public benefits, and voting, as well as omnibus bills containing many different measures on several issues.[2] Numerous municipalities throughout the country entered the fray as well, passing various ordinances, from declaring themselves sanctuary cities for immigrants to barring apartment complexes from renting housing units to migrants who cannot demonstrate their legal presence in the country.

The final state and municipal level landscape on immigration was quite uneven by 2011. Again, some measures were somewhat generous, other initiatives were more mixed, and yet others were quite harsh against unauthorized migrants. In the midst of what became a chaotic but generally punitive debate on immigration and a flurry of local and state initiatives—mostly punitive toward undocumented migrants—Texas' response could be considered quite moderate. It is certainly so when compared to immigration initiatives in states such as Arizona, Mississippi, Georgia, Alabama, Indiana, South Carolina, Utah, and others. The response of the state of Texas—given the federal government's failure to stem the tide of undocumented migration and Congress' inability to pass immigration legislation to both legalize undocumented residents and secure the border—is rather counterintuitive, considering that Texas is both a passageway for much of that migration (it constitutes more than 60 % of the 2000-mile US–Mexico border) and a major recipient of undocumented migration, second only to California (see Fig. 1). The state's response is even more puzzling because Texas is considered largely Republican, and the Republican Party has come to be associated with some of the most hostile local responses to immigration and the undocumented population, as other authors have shown (e.g., Jeong et al. 2011).

This chapter examines several factors that may help explain why Texas stands, with a few local exceptions—such as the city of Farmers Branch, Texas[3]—as a state of relative restraint when it comes to immigration.

To conduct the analysis presented in this chapter, data were gathered from 2009 and 2011—a period when the immigration debate in the US was particularly contentious and generally antagonistic to undocumented workers in states that share Texas' current ideological leanings. In addition, the Texas legislature, which meets every other year, convened in 2009 and 2011, but not in 2010 or 2012. These were also the years when a majority of the most hostile state and local initiatives on

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[1] Only Texas, Nevada, Montana, and North Dakota did not do so, but only on account of the fact that their legislations session only on odd years. See http://www.ncsl.org/research/immigration/2010-immigration-related-laws-and-resolutions-in-t.aspx.

[2] Ibid.

[3] In 2006, the City of Farmers Branch, in the Dallas Metropolitan Area, was the first in Texas to pass anti-illegal immigration measures. It authorized the police to inquire into the legal status of detainees, curtailed the ability of apartment owners to rent to undocumented residents, eliminated subsidies for undocumented youth programs, and declared English the official language in the city. These measures were viewed as largely directed at the undocumented resident population of the city and reflected local frustration with the inability of the federal government to enforce immigration laws or reform the system.
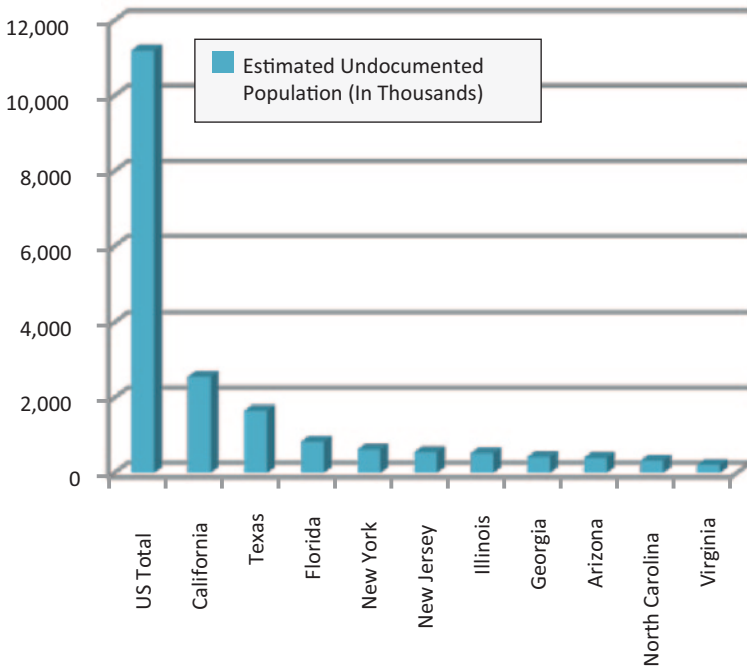
Fig. 1 Author's table based on estimated undocumented residents (in thousands) by the Pew Hispanic Center, 1 February 2010. (See Passel and Cohn 2009, http://www.pewhispanic.org/files/reports/133.pdf)

immigration were passed across the country. The data consist of a series of bills introduced in the Texas House and Senate that primarily addressed immigration-related issues. The chapter focuses on the bills introduced in the state legislature, setting aside the patchwork of ordinances that emerged in certain cities and towns throughout the state, although to further the analysis and put the results into context, this chapter also analyzes the 287(g) agreements—Immigration and Customs Enforcement (ICE) mechanisms of cooperation with local authorities on immigration enforcement—entered into by local governments in Texas.

Finally, the chapter looks at the post-electoral political environment after President Barack Obama won reelection and the Republican Party largely changed the tone of its stands on immigration issues, even if the US Congress has failed to produce comprehensive immigration legislation as of 2014.

Major Initiatives on Immigrants and Immigration in Texas

This section provides details of the 19 immigration-related bills introduced in the Texas legislature during the 2009 and 2011 sessions. These bills are overwhelmingly related to employment verification, lawful presence status, law enforcement,

government contracts, language, education, and cooperation with federal authorities (see Tables 1 and 2).

Table 1 shows the immigration-related bills introduced during the 2009 legislative session. It also shows that most bills (four out of five) did not pass. The character of the only bill that successfully passed was not anti-immigrant per se; it arguably supported immigrant rights since it dealt with interpretation services in the health-care system, an issue that often comes up in regard to the Spanish-speaking population of Texas, which is quite large. This bill was introduced by a Democrat, as was another bill that did not pass and was related to immigration assistance services and false advertisement—in a sense, an immigration-friendly bill as well given that it targeted individuals that deceived migrants by promising that they could legalize their status. Three bills that dealt with employment verification, introduced by Republican legislators, did not pass—even though Republicans enjoyed majorities in both state houses.

More telling is the fact that only five immigration-related bills were introduced in 2009—a small number considering Texas' role in the national immigration debate and the fact that other states forged ahead with a record number of immigration-related bills. State legislators across the country introduced approximately 1500 immigration-related bills and resolutions, according to the National Conference of State Legislatures (NCSL 2009). The same 2009 NCSL report shows that Texas' bills were related to education (tuition eligibility), health care (interpreters), human trafficking (assistance to victims), and a few other topics. There was no omnibus bill in Texas, as there were in Georgia, Missouri, and Nebraska that year. The 2009 immigration landscape in Texas appears to have been relatively benign compared to the aggressive legislative environment in many other states.

Table 2 shows the major immigrant- and immigration-related bills introduced in the Texas state legislature in 2011. A total of 14 bills were introduced during the 2011 legislative session. Of these, half (7) passed and half (7) were defeated.

Of the 14 bills introduced by Texas legislators in 2011, many were related to law enforcement, immigration status, and employment verification; and one related to housing/mortgage eligibility. As stated above, 7 of the 14 bills passed. The successful bills were primarily related to law enforcement; one was related to mortgage eligibility verification. But some of the provisions that imposed restrictions on the undocumented population and passed were not as radical as those introduced in other states, even though they were clearly directed at enforcing immigration laws. Interestingly, anti-immigrant rhetoric was largely absent during the debate of these bills. It is, however, unclear whether the laws have been thoroughly enforced; that will require a separate study.[4]

Running the analysis of the legislation through a second variable—political party—all initiatives were introduced by Republicans, with the exception of one, SB-150, which was introduced by a Democrat. This bill granted US Customs agents arrest, search, and seizure power under the laws of Texas for felony offenses.

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[4] Texas continues to be seen by undocumented migrants as a rather laissez-faire place, where they can settle, work, and raise their families without being bothered by immigration authorities. The economy has produced enough jobs so that it continues to absorb much of the documented and undocumented workforce in the state.

Table 1 Immigration-related bills introduced by Texas legislators in 2009

Date filed	Bill No.	Description	Keywords	Passed: Y or N	Ratio for or against	Party
11/14/2008	81 (R)—HB 233	The creation of an advisory committee to establish and recommend qualifications for certain health-care translators and interpreters	Language, Translators, Interpreters, Health care	Passed	95:48:1 in House; unanimous in Senate	D
2/17/2009	81 (R)—HB 266	Regulating the provision of benefits and services to, and the verification of the employment status of immigrants, and to enforcing laws relating to immigrants; providing civil and criminal penalties	Employment verification, Immigration status, Civil and criminal penalties	Not passed		R
3/13/2009	81 (R)—HB 4482	A requirement of lawful presence in the US for receipt of state educational benefits and to the determination of resident status of students by public institutions of higher education	Lawful presence, Education	Not passed		R
3/10/2009	81 (R)—SB 1677	The regulation of immigration assistance services; providing civil and criminal penalties	Immigration assistance services	Not passed		D
4/29/2009	81 (R)—SB 2568	A prohibition against the knowing employment of persons not lawfully present in the US and the suspension of licenses held by certain employers for the knowing employment of those persons	Employment verification, Immigration status	Not passed		R

D Democratic, *R* Republican

Table 2 Immigration-related bills introduced by Texas legislators in 2011

Date of introduction (filed)	Legisla-tion ID	Description	Keywords	Passed/not passed	Ratio for/against	Party
1/31/2011	81 (R)—SB 84	Relating to requiring governmental entities and contractors with governmental entities to participate in the federal electronic verification of work authorization program, or E-verify	Employment verification, Immigration status	Not passed		R
2/22/2011	82 (R)—HB 12	Vote to pass a bill that outlines the enforcement of state and federal immigration laws by certain governmental entities	Enforcement of Federal immigration laws, Immigration status, Information sharing	Not passed		R
2/9/2011	82 (R)—HB 1202	Makes it illegal to "intentionally, knowingly, or recklessly" employ an "unauthorized alien"; employ/contract for labor or other work; employ/contract labor or other work of someone who will use "unauthorized aliens"	Employment, Contracts, Verification of immigration status	Not passed		R
3/9/2011	82 (R)—HB 2734	Relating to certain mandatory conditions of parole or mandatory supervision for illegal criminal aliens and the revocation of parole or mandatory supervision as a result of violating those conditions	Aliens, Corrections—parole, probation, and pardons, Mandatory and community supervision	Passed (both)	146:0 (House); 30:1 (Senate)	R

Table 2 (continued)

Date of introduction (filed)	Legisla- tion ID	Description	Keywords	Passed/not passed	Ratio for/ against	Party
2/17/2011	82 (R)— SB 11	Relating to the enforcement of state and federal laws governing immigration by certain govern- mental entities	Immigration, Enforcement, State and Federal immi- gration laws, Information- sharing	Not passed		R
1/31/2011	82 (R)— SB 124	Relating to the enforcement of state and federal laws governing immigration by certain govern- mental entities; providing a civil penalty	Enforcement, State and Federal laws, Information- sharing, Civil penalties	Not passed		R
3/3/2011	82 (R)— SB 1124	This act requires applicants for residential mort- gages to submit a completed appli- cation through the Nationwide Mortgage Licensing Sys- tem and Registry and establish to the satisfaction of the commis- sioner that s/he is a citizen of the US or a lawfully admitted alien	Mortgage, Housing	Passed	Unanimous in both	R
7/3/1905	82 (R)— SB 1254	Relating to the creation of the offense of employing an individual not lawfully present in the US	Immigra- tion, Status, Resident verification, Employment verification	Not passed		R

Table 2 (continued)

Date of introduction (filed)	Legislation ID	Description	Keywords	Passed/not passed	Ratio for/against	Party
11/8/2010	82 (R)—SB 150	This act grants the Special Agents of the United States Immigration and Customs Enforcement authority to have the powers of arrest, search, and seizure under the laws of this state as to felony offenses	Law enforcement cooperation and authority	Passed	Unanimous in both	D
11/8/2010	82 (R)—SB 150	Relating to granting limited state law enforcement authority to special agents of the Office of Inspector General of the United States Department of Veterans Affairs and to updating certain references related to the grant of that authority to other federal law enforcement personnel	Law enforcement			
3/11/2011	82 (R)—SB 1698	Relating to reporting concerning inmates who are confined in county jails and subject to federal immigration detainers	Immigration, Jails, Detentions	Passed		R
12/15/2011	82 (R)—SB 259	Relating to the duty of a peace officer to inquire into the immigration status of persons arrested on other grounds	Immigration, Status, Arrests, Status verification	Not passed		R

Table 2 (continued)

Date of introduction (filed)	Legislation ID	Description	Keywords	Passed/not passed	Ratio for/ against	Party
2/7/2011	82 (R)— SB 530	Relating to granting limited state law enforcement authority to special agents of the Office of Inspector General of the United States Social Security Administration and to updating certain references related to the grant of that authority to other federal law enforcement personnel	Immigration, Customs, Law enforcement, Arrests, Felony, Detention, Probable cause and immigration Status	Passed		R
3/3/2011	82 (R)— SB 9	Relating to the enforcement of state and federal laws governing immigration by certain governmental entities and the administration of certain documentation of citizenship status and other lawful admittance by the Department of Public Safety of the State of Texas	Law enforcement, Identification, Immigration status verification, Driver's license	Passed		R

D Democratic, *R* Republican

Table 3 Partisan composition of the 82nd and 83rd legislative sessions in Texas

	Texas 81st Legislative Session, 2009		Texas 82nd Legislative Session, 2011	
	House of Representatives	Senate	House of Representatives	Senate
Affiliation				
Republican Party	76	19	101	19
Democratic Party	74	12	49	12
Total	150	31	150	31

What is puzzling about the 2009 and 2011 Texas legislative sessions is that both were overwhelmingly dominated by the Republican Party; even so, the Republican Party of Texas did not show a collective willingness to push aggressive legislative immigration reforms. Thus, even though Texas Republicans introduced most of the anti-immigration proposals, the party as a whole balked at supporting them; the majority of the bills did not make it out of committee. Table 3 shows the overwhelming dominance of the Republican Party in the Texas legislative sessions under consideration in this chapter.

The relevance of the dominance of the Republican Party in the Texas legislature would not be of interest were it not for the fact that the party in many other states is strongly associated with anti-immigrant legislation, such as SB-1070 in Arizona. This indicates that the Republican Party in Texas, perhaps under the implicit direction of the Bush administration, remained relatively friendly to immigrants, and anti-immigrant rhetoric appears to be used as a political tool mostly around election time, with little action once a candidate has secured the nomination.

Moreover, the inability or unwillingness of the Texas Republican Party to pass harsh anti-immigration legislation points to the fact that the party itself may be divided. In other words, the issue of immigration has driven a wedge in the Texas Republican Party between the Tea Party conservatives and the vibrant Texas business community—the former is quite hostile to immigrants but is unable to prevail over the more tolerant business wing of the Republican Party, which appears to value immigration for economic reasons. This in spite of the fact that the Tea Party appears to have the clout to nominate many of the candidates of the Republic Party.

The 287(g) Program and Sanctuary City Resolutions

US ICE, responsible for implementing immigration laws, has relied on Section 287(g) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to establish a series of collaborative agreements with local law enforcement. This allows local law enforcement to detect undocumented residents and detain them until ICE can make an appearance to process them for deportation. Through the 287(g) programs, ICE effectively delegated immigration enforcement authority to public safety agencies at the local level, essentially deputizing local law enforcement officers as immigration agents. City police departments and county sheriff offices

Table 4 Texas cities that have
passed sanctuary city resolutions

Austin, TX
Baytown, TX
Brownsville, TX
Channelview, TX
Denton, TX
Dallas, TX
El Cenizo, TX
Ft. Worth, TX
Houston, TX
Katy, TX
Laredo, TX
League City, TX
McAllen, TX
McKinney, TX
Port Arthur, TX
San Antonio, TX

in several dozen communities entered into 287(g) agreements with ICE across the US. Further confirming the relatively moderate position of the state in regard to immigration, only three local law enforcement agencies in Texas entered into such agreements: the police departments in Farmers Branch and Carrollton (near Dallas, TX) and Harris County (Houston). No other community law enforcement agencies in Texas appeared to have been willing to enter into such agreements.

The number of 287(g) agreements in the US was not large in any case, as local law enforcement agencies feared their deputized role as immigration agents would deter citizens from reporting crime in their communities. The number of agreements does appear to be particularly low in Texas, however, given the state's central role as a transit region for undocumented residents and as the residence of more than 1.5 million undocumented residents. The fact that only three local governments out of 4856 entered into 287(g) agreements is indicative of the unwillingness of Texas to participate in the anti-immigration wave that swept state and local governments after 2005.

However, a number of local governments in Texas did pass sanctuary city resolutions (Table 4). A sanctuary city resolution is a written policy—an ordinance, a declaration, or administrative action by local government officials—that prevents local employees from notifying federal authorities on the immigration status of a person they come into contact with or detain. The policy makes no distinction between a legal and undocumented presence; it treats everyone the same. The policy makes a city or town an effective safe haven for undocumented residents. An Internet search shows that at least 15 Texas cities, including Houston, Dallas, and San Antonio, have passed sanctuary city resolutions—several times more cities, and with considerably larger populations, than the places that entered into 287(g) agreements. In fact, while Dallas is considered a sanctuary city, two of its suburbs, Carrollton and Farmers Branch, have signed 287(g) agreements with ICE. Most cities in Texas took a less visible and controversial approach, neither committing to 287(g) agreements nor passing sanctuary city resolutions.

The fact that, in spite of the well-known Republican character of the state, a number of Texas cities passed sanctuary city resolutions signals that the state's relationship with immigration is mixed. While strong anti-immigrant sentiments do exist in Texas, state leaders appear to take a more pragmatic approach to immigration, even undocumented immigration, preferring to view it as linked to the economic vitality of the state.

In order to understand this attitude, it is necessary to stay alert to the words of politicians and the political mood of the state in general. During his opening remarks at the 2011 legislative session, Gov. Rick Perry called for abolishing sanctuary cities in Texas. He also called for a crackdown on immigration. In May 2011, a bill was introduced to ban Texas governmental entities from adopting policies to protect undocumented residents. But in spite of an overwhelming Republican majority in both houses of the Texas legislature, the state failed to pass any laws abolishing sanctuary cities—although legislation allowing a policy to inquire on the immigration status of lawfully detained individuals did pass. During his opening remarks at the 2013 legislative session, Perry did not mention the issue of immigration at all.

The 2013 Legislative Session and the Post-electoral Scenario in Texas

Public opinion varies considerably in regard to undocumented migration in the US. Why specific individuals or groups hold more liberal attitudes than others is not well understood (Espenshade and Calhoun 1993). It is also difficult to establish how public opinion translates into public involvement in policy decision-making, though some researchers have proposed innovative methods to understand that transition (Hampton 2009). Sorting out why Texas is relatively liberal in its attitudes toward immigration, even undocumented immigration, in spite of Republican Party dominance can help us understand this general theoretical puzzle. Indeed, Texas' moderate position is somewhat counterintuitive in light of the fact that the state is considered relatively conservative; that its national voting record since the 1990s has made it a nearly solidly red state; that the Republican Party has dominated nearly every statewide office as well as the state legislature, with majorities sufficient to pass nearly any legislation it wished; and that the Republican Party elsewhere has been associated more closely with anti-immigration legislation than the Democratic Party.

This section breaks down this apparent paradox. I hypothesize that the rather moderate position that Texas has embraced in regard to immigration may be directly related to the changing demographic dynamics of the state—particularly its rapidly growing Hispanic population, which, according to the US Census Bureau, reached 38.1% in 2011—and the national political context, as crystallized in the November 2012 elections. Combined, these factors may prove helpful to understanding why

the rhetoric in the state has changed, and why Tea Party loyalists have not effectively won over the immigration debate in Texas as they have in Arizona and other states. In order to understand the position of the state of Texas, we have to consider not only statewide legislation and local 287(g) agreements sanctuary city resolutions but also the more subjective dynamics of politics and other factors unique to Texas, such as demographics and dynamic economy, as well as the national political context.

Changing Demographics and the Latino Vote

As stated, the Latino population of Texas reached 38.1 % in 2011, according to the US Census Bureau. It is also clear that the Latino population is growing much faster than other demographic groups in the state. And, although their political power has not been realized because many are not citizens and their vote-share is proportionately lower than their overall numbers in the state population, Latino numbers are growing so fast that they will eventually have enormous electoral influence. That Latinos lean Democratic in Texas, however, is not a surprise. The 26 counties that went Democratic in the 2012 presidential election are counties where Hispanics are a majority or a first plurality. Thus, even though the Republican Party held onto 228 out of 254 counties, there was a direct correlation between Hispanic majority or plurality counties and a vote for the Democratic Party (Fig. 2). In addition, 70 % of all Texas Latinos voted for Obama, while only 29 % voted for Mitt Romney—a number comparable to the national vote, which was 71 % for Obama and 27 % for Romney. It is also noteworthy that the five largest cities in Texas (Houston, Dallas, San Antonio, Austin, and El Paso) are governed by Democrats and in all five Latinos are an important part of the electorate. This urban–rural divide can be attributed to the Latino vote to a large extent and cannot easily be ignored by Republicans.

To reiterate, Texas Republicans cannot easily ignore Latino demographics and the voting tendencies of Latinos. As mentioned above, Perry—who had asked for a crackdown on immigration during the 81st legislative session in 2011—did not mention the immigration issue at all during the opening remarks of the 82nd legislative session in 2013. In addition, Perry clearly stated during the 2011 Texas legislative session that sanctuary cities should be abolished in Texas, but made no mention of sanctuary cities during the opening of the 2013 Texas session.

As Fig. 2 illustrates, only 26 of the 254 counties in Texas voted Democratic in 2012. Romney received 57.2 % of the vote compared with 41.4 % for Obama. Looking beyond the general numbers, however, to the voting tendencies of Latinos and the demographic composition of the counties that went Democratic, it is evident that if a solid victory in Texas emboldened the Republican Party to make further calls for an immigration crackdown, a deeper analysis of the demographic composition of the state and the electoral results cooled such temptation.
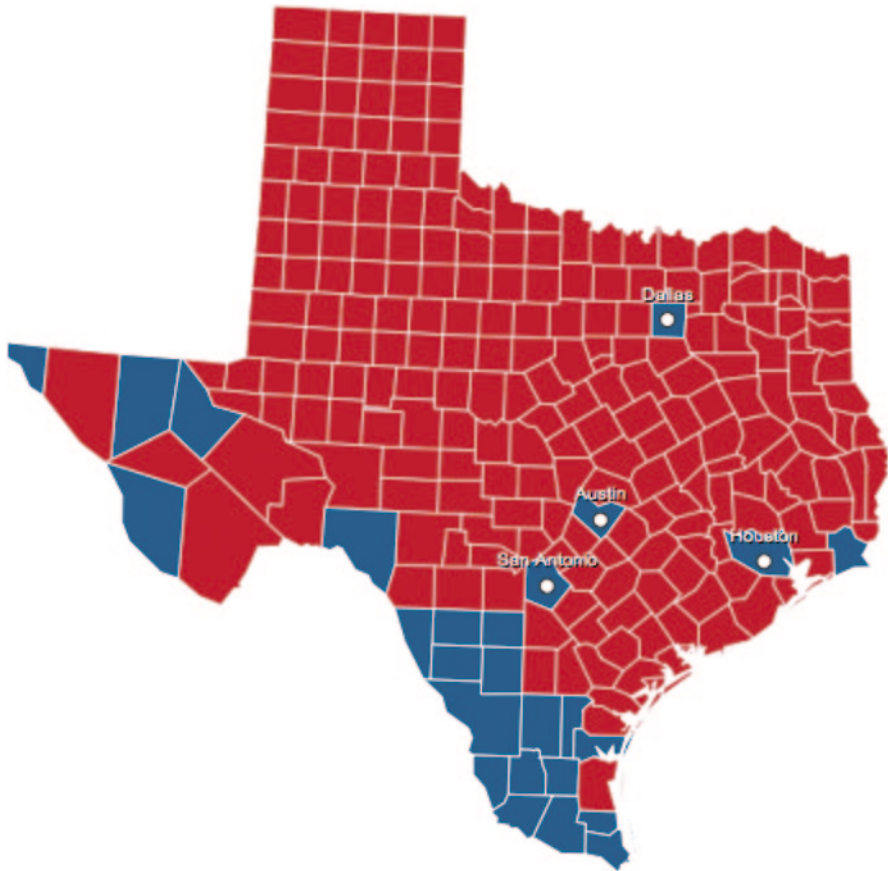
Fig. 2 Texas counties and the electoral breakdown of November 2012. (Source: www.nbcnews.com)

The National Context and Texas' Stands on Immigration

It would be difficult to claim that Texas' position on immigration changed after the November 2012 election—even if Perry's post-electoral silence is telling and likely the result of his reading of the 2012 election results. It is more than clear that Texas' overall position vis-à-vis immigration issues had already exhibited a remarkable degree of moderation well before the 2012 elections. This is well demonstrated in the analysis above, and the general reading of the results support that conclusion. But there is greater depth to Perry's nearly complete lack of public interest in the current immigration debate in Washington. The governor should be openly advocating for changes in the immigration system that would be beneficial to the state. He appears to prefer relative silence as a more convenient response, partly because he does not want to alienate the Republican Party base, and partly because he understands that the party cannot continue to do well in Texas in the long term were it to take a tough

stand on immigration. Thus, Texas' moderate position on immigration appears to be a pragmatic result of balancing political forces in the state. This is not an unreasonable position to take and corresponds to the generally liberal attitude that Texas has had toward immigration over the long term.

The Texas position in regard to immigration cannot be separated from national voting results, the Hispanic vote landslide in favor of Obama, and the growing Hispanic population in Texas. These developments do not bode well for the Republican Party and explain to a large extent the silence of Texas state politicians in regard to the immigration debate in the spring of 2013. Although some Texas politicians have declared their opposition to a path to citizenship for undocumented residents—mostly those who draw their support from the Tea Party—the Republican Party in Texas has staked out a more moderate position as a whole.

In addition, the 2013 legislative session has not seen any of the more contentious immigration bills that were introduced in the 2011 legislative session. The word "immigration" has hardly come up during this session. Perry did not mention immigration in his January 2013 State of the State address, although he did address the border. This silence from both legislators and Perry's office is telling, and speaks to the political shift within the Republican Party in Texas. It further reinforces the more tolerant discourse present in the more moderate wing of the party that existed well before the November 2012 elections. The three-to-one margin in the November 2012 elections was essentially a reminder of the emerging power of the Hispanic vote and the need of the Republican Party to appeal to that electoral segment if it is to maintain its majority in the state of Texas.

Minorities today represent nine out of every ten new residents in Texas, putting further pressure on the Republican Party to adapt to the new demographic reality of the state. This, of course, means that the Republicans will have to weigh the influence of their more conservative base (social conservatives) with the influence of their more tolerant wing (business) and the rapidly growing power of minorities in the electorate. This will not be easy, however. Even if the hard-line talk on immigration has quieted, the Republican Party will not easily tone down its anti-immigration rhetoric, given that its weapons against Democratic candidates often include references to undocumented residents and the insecurity of the border. The Republican Party will have to find a different way of rallying its conservative base, without alienating the growing Hispanic population. In addition, the Democrats are already counting on the Hispanic base to recover its electoral competitiveness statewide. Mayor Julian Castro of San Antonio is one of the most outspoken leaders in the Democratic Party and has a determination to make the Hispanic vote in Texas count.

Public Policy Implications

Few national policy implications can be drawn from a study of Texas and immigration. This is because the states are not generally in charge of immigration, and immigration-related initiatives in recent years were both unusual and a response to

the failure of the federal government to deal with the issue. But there are a number of important lessons for both the Republican Party and its task in regard to immigration reform—something that the Senate may have understood as it pushed through bipartisan immigration legislation in 2013.

A key public policy implication is that any immigration bill in Washington will likely contain large prescriptions on border security—something that would assuage the concern of more conservative sectors in Texas. More investment in border security may make it more palatable for Texans to sign on to some kind of legalization for undocumented workers. There is no apparent agreement on what constitutes a secure border, but states like Texas have much to say about that. Even so, the rhetoric should be stripped from the real issues around immigration and conservatives should probably stop using border security as a rallying cry. Instead, a clear measure on border security should be crafted or, better yet, Texans should be appealing for the creation of an entirely new border management regime rather than more border security. Such border management regime should involve Mexico at some level—something that should not be difficult given Mexico's importance to Texas' own economic prosperity. The definition of a secure border should be determined more scientifically, according to specific material interests, and less rhetorically, and to that end, the state of Texas has much to say. As it designs policies to secure or, better yet, manage the border, the federal government should tap the expertise of border states, whose experience on the issue is vast.

In addition, the Texas business community, which has been the most tolerant wing of the Republican Party, has ample and useful experiences related to the importance of low- and mid-skilled labor in the US economy. These lessons should not be ignored by legislators in Washington. In crafting a potential guest worker program—as Congress appears poised to do, although it is hard to know when the House will take up the immigration debate—the federal government should consider the needs of the states and their economies, and allow the states to determine to a large extent their labor needs and the number of visas needed for their specific industries. For instance, the types and numbers of visas can be indexed to the economic needs, and the industries present, in each state. Texas, with its large energy, biomedical, and agricultural industries, should be able to have a say as to what kind of immigrants it requires and how many of them.

Conclusion

Texas has exhibited remarkable moderation when it comes to undocumented migration and the presence of undocumented residents in the state. This is puzzling, given the fact that Texas' politics is dominated by the Republican Party, which is closely associated with anti-immigration policies in other states. The situation is compounded by the fact that Texas constitutes half of the US–Mexico border, and it is the transit zone for many of the undocumented residents in the US, as well as home to the second-largest number of undocumented residents. Finally, the state's

moderate stance is perplexing given the relative violence that the Mexican side of the border has experienced in the past 6 years and the constant threat of a spill-over—however real or imagined.

This moderation is demonstrated in the relatively low number of immigration-related bills introduced in Austin and the largely rhetoric-free legislative debates. Several anti-immigrant bills were introduced in the Texas legislature in 2009 and 2011, but most were defeated—although Republicans could have passed them at any time. The moderation is also evident in the low number of 287(g) agreements signed—only three, which contrasts with the higher number of Texas cities that declared themselves sanctuary cities for undocumented residents.

Finally, the rhetoric of the Texas Republican Party shows its ambivalence in regard to the issue. There is plenty of anti-immigration rhetoric in the party at a national level, but it seldom translates into actual policies at the state level. It is simply impractical for the party to push anti-immigration legislation that will further alienate the Hispanic population, which is growing rapidly throughout the state. In that sense, the Republican Party has simply shifted to silence. This silence may be strategic because it stops the hemorrhage of Hispanic votes, particularly after the November 2012 elections, without necessarily alienating much of the conservative base. Silence is a calculated choice, at least while the party crafts its strategy vis-à-vis the Hispanic population of the state and the country.

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US Immigration Policy in the Twenty-First Century, with Special Reference to Education: Examining Crosscurrents of Nativist and Accommodationist Policymaking

Michael A. Olivas

Introduction

In a development that Charles Dickens might have appreciated, it is the best of times and the worst of times in the US for undocumented immigrant children and young adults. At the macro level, there is an unmistakable anti-immigrant policy trend evident in various state legislatures, resulting in partially discredited and punitive statutes and policies in several states, from Arizona to Alabama and Georgia (McWhorter 2012). A national barometer of interest in this larger issue is the scorecard of how many state legislatures have considered legislation on immigration-related issues. The National Conference of State Legislatures (NCSL) issues a report twice each year that details the state-level immigration legislation. This discouraging report card shows that state legislators in 46 states and the District of Columbia introduced 948 bills and resolutions related to immigrants and refugees from January 1 to June 30, 2012. This was a 40 % drop from the peak of 1592 in the first half of 2011, although the state legislatures in Montana, Nevada, North Dakota, and Texas did not meet in regular session in 2012. In the first half of 2012, 41 state legislatures enacted 114 bills and adopted 92 immigration-related resolutions for a total of 206, a decrease of 20 % from the 257 laws and resolutions enacted in the same period in 2011 (NCSL 2012). Of course, not all of these statutes were anti-immigrant but the vast majorities were restrictionist. In addition, it appears that the widespread use of E-Verify will lock many states and employers into a required employment verification regime, one sure to be applied against Latinos in the work authorization process. And although there is evidence that the Grand Old Party (GOP) overplayed its anti-immigrant cards in the 2012 federal election and was punished for it, the lessons remain unclear in 2014, and will become clarified only as the contours of Comprehensive Immigration Reform (CIR) make their way through Congress (Preston 2013).

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Alongside this visible and extensive infrastructure of restrictionist policies, there exist substantial countervailing currents at the federal and state levels, most notably in the areas of K–12 and higher education, where the sheer demographic realities are playing out to ensure that Latino children will be the substantial growth sector for years to come, especially in states such as California and Texas. In Texas, African-American and Hispanic K–12 enrollment increased between the 2009−2010 and 2010−2011 school years, while white enrollment decreased. In 2010−2011, Latino students accounted for more than half of total enrollments (50.3 %) followed by white students (31.2 %) and African-American students (12.9 %; TEA 2011). California figures are similarly revealing (CDE 2012). In these and other states, the enrollments at both levels already reveal a tidal wave of these children currently enrolled and moving through the system (Keaton 2012).

The year 2012 was the 30th anniversary of the US Supreme Court decision in *Plyler v. Doe*. That decision to prohibit states from charging tuition to undocumented school children has proven to be more flexible and resilient than was evident at the time. *Doe* has gone to college, aided by almost 20 state laws enacted to accommodate the undocumented college students—in several instances even providing them with in-state resident tuition and financial assistance. This anniversary also provided President Barack Obama with an occasion to extend the administrative prosecutorial discretion available to immigration authorities, and he announced Deferred Action for Childhood Arrivals (DACA), a status that has provided more than 500,000 undocumented college students the chance to enter a program that froze any potential deportation action, and accorded them "lawful presence" and eligibility for employment, licensing, and other status benefits with that space (Olivas 2012). While DACA did not regularize their status or offer any opportunity for legalization, it was a remarkable and generous opportunity for many of these students to come out of the shadows and pay back the investment that society had made in them in accord with *Plyler*.

The hoped-for DREAM Act at the federal level stalled, but it was later reintroduced as part of a CIR effort by the Senate in 2013. The legislative efforts for CIR are likely to provide some safe harbor for these DACA beneficiaries, so that they will begin their long march to permanent residence and citizenship. Meanwhile, even before DACA was announced in June 2012 and begun in August 2012, several state bar authorities had acted to admit undocumented law graduates to their ranks, and the possibility of an undocumented lawyer practicing in court was near at hand, depending upon the actions of the California and Florida state supreme courts (Laird 2013). It has been a long and strange ride to this point.

Other related developments also assisted in the accommodation of college students, such as courts in New Jersey and Florida striking down statutes that had precluded US citizen children of undocumented parents from receiving college tuition and financial aid (Preston 2012). Maryland voters even passed a resident tuition statute—the first such ballot measure that allowed these undocumented children to pay the lower resident tuition (Tilsley 2012). The thermodynamics of these accommodationist and restrictionist narratives have clearly begun to favor the immigrant children, and federal relief seems more likely than it has in many years. This section reviews developments in the last half dozen years, employs education as a met-

ric for examining the crosscurrents of nativist and restrictionist policymaking, and evaluates likely efforts at enacting comprehensive immigration relief.

In 2009, political scientists Benjamin Márquez and John Witte wrote an exceptionally useful paper that maps out what they consider the varying and kaleidoscopic legislative strategies in the immigration reform efforts of the Obama administration's first term. They grappled with the key issue in negotiating complex and interlocking facets—i.e., whether to enact piecemeal statutes in the hope that varying coalitions will have different alignments in any complex regime or to attempt a comprehensive solution that has many moving parts (Márquez and Witte 2009). They perceptively set out the basic trade-offs inherent in CIR efforts in their conclusion.

> A paper that sets out to discuss legislative strategies should in the end have some definitive recommendations, but we do not. That may be a function of the policy subject—immigration—or it may be because, when faced with complex policy issues, the road ahead depends on trying different strategies. And that is what we see for immigration policy. It is clear that, whatever occurs, moving down that road will be very difficult, as it has been in the past. For some issues such as amnesty, there seems to be strong support across a range of interest groups, yet no issue divides Congress more decisively. If that issue needs to be resolved, and the demand is pressing, it may be best to separate the issue and try to reach compromises with the backing of the interest groups. To include it instead in a large package of reforms is likely to sink the package along with amnesty.
>
> On the other hand, other issues have formed natural combinations and compromises. Such has been the case on legal visa levels and in negotiations over types of visas. The Irish were even able to increase their numbers through a clever and indirect route as "diversity visas." In other contexts, diversity for Northern Europeans may well have been hard to sell. What we believe is essential is to keep the prospect of dealing with discrete and separable issues on the table. There is in Congress the powerful tendency to solve all the problems at one time in a huge complex bill that covers broad ranges of issues.
>
> This tendency has several possible failings. First, it may often produce nothing—as has been the case with immigration policy in the current century. Second, the results of large sets of compromises may make the resolution of individual issues less optimal than if they were handled in discrete legislation. We trust the skills and wisdom of leaders who work for years in a policy area to realize when one of these outcomes looms. At that point, it might be better simply to ask: "Can we make positive progress on issue x, always remembering that issue y can be dealt with on another day?" Indeed, we also suspect that similar analyses on other issues, such as health-care reform, would benefit from the same advice (Márquez and Witte 2009, pp. 24–25).

In large part, I agree with their conclusions, yet their analysis omits the DREAM Act and education generally. This dog-that-does-not-bark dimension is interesting because it would have been the best test of their thesis—that incremental and severable legislative approaches to complex problems are preferable and, especially in immigration reform, likely the most efficacious political strategy. For example, they identify theoretical positions on "Major Policy Issues on Immigration: Higher Immigration Totals, Higher Family Unification, Higher Specialized Employment, Amnesty—Path to Citizenship, Guest Worker Program, Social Services for Illegals [*sic*], Employer Sanctions/IDs, and Border Security" (Marquez and Witte 2009, p. 6). In these core areas, they chart interest group salience, probe the resistance each position triggers, and indicate the extent to which there are possibilities for compromise. They also helpfully measure the additional partisan and ideological implications of particular salience to analyses of immigration, and highlight two:

"the effects on members of both parties of representing districts in southwestern border states, and, independently, districts with high levels of foreign-born constituents" (Márquez and Witte 2009, p. 8).

Although Márquez and Witte do not focus upon the DREAM Act or the area of undocumented postsecondary students, they might profitably have done so, as there has been substantial sub-federal legislative activity in the field; there is an evident tug-of-war among advocates and restrictionists; there is a large body of literature and public focus on the subject; there is the categorical precedent of related US Supreme Court decisions with bearing upon the issue; there is a growing litigation record in other federal and state courts; and, more to their point, the issue is severable (what they characterize as "discrete and separable") and has already been contested in the Congress. Thus, it would have been the perfect test case for their thesis, and a useful case study proxy for contesting the efficacy of CIR.

Even as this CIR legislative struggle goes on during the writing of this chapter, the reelection of President Obama, the retention of the US Senate by the Democrats and the smaller GOP majority in the House, when combined with the perceived need to accommodate Latino voters and the successful implementation of DACA—with its LPR-ready recipients, its required biometrics, its screening mesh of even small criminal conduct, and its strong narrative—the odds appear greater today for CIR than at any recent time in memory. If the primary lesson from the president's first-term high-wire gamble on health care and financial reform is that comprehensive legislative efforts are possible, even with a gridlocked Congress, CIR may pass, depending upon the details, where both God and the devil reside (Olivas 2009).

Higher education has been the unusual emphasis for congressional consideration of immigration reform issues—"unusual" in several ways. Except when the Higher Education Act itself is being reauthorized, as it is every few years, causing a reconsideration of financial aid and student loan programs, college itself is simply not a major omnibus legislative priority for either party. This is not to say that the stakes and appropriations are not important or strategic, as they surely are. But if higher education is a repeat player, it is more for its widespread reach of financial assistance issues, which extend to bankruptcy policy, tax policy, Pell Grant efficacy, and college going generally. Two scholars have recently reviewed the field of federal financial aid legislation and noted the need for evaluation of the many programs.

> As state and federal budgets face increasing pressures and politicians look for ways to control spending, financial aid programs will be vulnerable to cutbacks if evidence is lacking on their effectiveness, and even those programs with documented positive effects may be asked to do more with less. Fortunately, more may be known about the effects of financial aid than about any other interventions aimed at increasing postsecondary attainment. No longer is it necessary to ask the question, "Does aid work?"—for the research definitively shows that it can. But the evidence also suggests that some programs work better than others, and because of the magnitude of government investment as well as the numbers of individuals affected by student aid, the stakes have never been higher for understanding what aid programs work best and why. (Dynarski and Scott-Clayton 2013, p. 32)

Although financial aid legislation is central to the postsecondary polity because Title IV funds are unavailable to the undocumented, this subject matter is an unlikely provenance for immigration reform even in recent versions of the DREAM

Act (Olivas 2009). Therefore, this education domain is not where any immigration reform will be considered, nor will the wellspring of state statutes and programs for undocumented college students ascend to a national stage, for such initiatives are reserved to the states and affect only state policies. Even if the DREAM Act were to miraculously appear on the statute books tomorrow, it would not make state resident tuition or financial assistance available to these unauthorized students, as these benefits or statuses can only be given or denied (or rescinded) by the states.

A Thumbnail Sketch of State Laws Concerning Undocumented College Students

The holding of *Plyler v. Doe*, which allowed undocumented schoolchildren to enroll freely in elementary and secondary schools, has been challenged but has remained good law nearly 30 years after the 1982 decision. Indeed, except for a mid-1990s dustup that threatened congressional action to overturn the decision, *Plyler* has become accepted and accommodated by a substantial majority of school districts and policymakers, holding children blameless for what may have been the transgressions of their undocumented parents. However, the holding does not extend to high school graduates and their admission to college or other post-compulsory schooling, and a number of cases have arisen in several states. This section details two issues concerning undocumented college students as a component of CIR: the severability of the DREAM Act and its legislative history in Congress. The near-miss of the 2007 legislation, its unusual provenance, and its recurrence in 2010—when it passed the US House but narrowly failed again in the Senate vote—made this issue a bellwether for the likelihood of a more omnibus legislative strategy. Recalling Marquez and Witte's framing question—"At that point, it might be better simply to ask: 'Can we make positive progress on issue *x*, always remembering that issue *y* can be dealt with on another day?'" (2009, p. 25)—one might usefully ask: Can the DREAM Act pass as a standalone bill, if at all, or must it be a part of a larger legislative strategy (Olivas 2009)?

Here, it is useful to recall in more detail the original status and introduction of the DREAM Act. As noted in Table 3, the original DREAM Act was first introduced on August 1, 2001, by Senator Orrin Hatch (R-UT) and Senator Richard Durbin (D-IL). The bill had broad, bipartisan support, with Senator Hatch being among the most conservative members of the Senate, and Senator Durbin being among the most liberal. Despite some traction on the issue, formal hearings, and even a positive vote out of the Senate committee in November 2003, the DREAM Act in its various versions languished there until CIR efforts failed in the summer of 2007. In July 2007, the Senate tried a different legislative approach, and developed plans to attach the legislation to the Department of Defense (DOD) authorization bill, but Senator Harry Reid (D-NV) pulled it from the floor when an Iraq timetable amendment failed; as a result, the Senate never got to the DREAM vote in this guise.

Nonetheless, the tactic to use the DOD bill as a vehicle was quite clever and germane because of provisions in the legislation that would have facilitated the legalization of undocumented members of the US military. The DOD authorization bill was scheduled to return to the Senate floor in September 2007, but by late fall 2007, there had been no additional movement on the proposal. By then, the growing unpopularity of the war in Iraq had made the issue a political landmine, too divisive to provide the ground cover that might have been available had the tactic been used sooner after 2001's "war on terror" or in the early stages of the Iraq or Afghanistan military actions. The House Judiciary Committee held a DREAM Act hearing on May 18, 2007; on September 6, 2007, the House held subcommittee hearings on the STRIVE Act, the comprehensive House legislation that contained, among other provisions, the DREAM Act. In one last attempt to enact the postsecondary education legislation, on October 24, 2007, the Senate voted down the stand-alone DREAM Act, 44–52, on the cloture motion. The one possible opportunity closed and its moment passed.

The actors in this 2007 vote were an odd array. In a situation where 60 votes were needed and every vote counted, four voters who were on record as supporting the legislation did not vote. Senator John McCain (R-AZ), who had been instrumental in the failed Kennedy–McCain effort at CIR, did not vote, as he was in the midst of his unsuccessful presidential campaign. Senator Edward Kennedy (D-MA) was unavailable for the vote, as his health had taken a turn for the worse. (He died less than 2 years later, in August 2009.) Senator Barbara Boxer (D-CA) was unavailable, as extensive fires had broken out in her state, and she was attending to business there. Senator Christopher Dodd (D-CT), an early DREAM Act supporter, was also unavailable and did not vote. Most unusual and remarkable was the action of Senator Arlen Specter (R-PA), who had been a supporter of the DREAM Act and who was considered among the most liberal Republicans in the Senate. He voted against the bill, on the credulity-straining grounds that if it were enacted, it would impede the larger goal of CIR. On the Senate floor on October 24, 2007, he read the following remarks:

Mr. President, I believe that the DREAM Act is a good act, and I believe that its purposes are beneficial. I think it ought to be enacted. But I have grave reservations about seeing a part of comprehensive immigration reform go forward because it weakens our position to get a comprehensive bill. Right now, we are witnessing a national disaster, a governmental disaster, as states and counties and cities and townships and boroughs and municipalities—every level of government—are legislating on immigration because the Congress of the United States is derelict in its duty to proceed.

We passed an immigration bill out of both Houses last year. It was not conferenced. It was a disgrace that we couldn't get the people's business done. We were unsuccessful in June in trying to pass an immigration bill. I think we ought to be going back to it. I have discussed it with my colleagues.

I had proposed a modification to the bill defeated in June, which, much as I dislike it, would not have granted citizenship as part of the bill, but would have removed fugitive status only. That means someone could not be arrested if the only violation was being in the country illegally. That would eliminate the opportunity for unscrupulous employers to blackmail employees with squalid living conditions and low wages, and it would enable people to come out of the shadows, to register within a year. We cannot support 12 to 20 million undocumented immigrants, but we could deport the criminal element if we could segregate

those who would be granted amnesty only. I believe we ought to proceed with hearings in the Judiciary Committee. We ought to set up legislation. If we cannot act this year because of the appropriations logjam, we will have time in late January. But as reluctant as I am to oppose this excellent idea of the Senator from Illinois, I do not think we ought to cherry-pick. It would take the pressure off of comprehensive immigration reform, which is the responsibility of the federal government. We ought to act on it, and we ought to act on it now. (Specter 2007)

This defection of a previously supportive senior Republican senator, combined with the Bush White House's efforts to defeat passage, essentially on the same grounds, were the kiss of death to the bill. The White House issued a press release just prior to the DREAM Act Senate vote, suggesting the need for overall immigration reform and suggesting that the current legislation was too generous.

The administration continues to believe that the nation's broken immigration system requires comprehensive reform. This reform should include strong border and interior enforcement, a temporary worker program, a program to bring the millions of undocumented aliens out of the shadows without amnesty and without animosity, and assistance that helps newcomers assimilate into American society. Unless it provides additional authorities in all of these areas, Congress will do little more than perpetuate the unfortunate status quo. The administration is sympathetic to the position of young people who were brought here illegally as children and have come to know the US as home. Any resolution of their status, however, must be careful not to provide incentives for recurrence of the illegal conduct that has brought the nation to this point. (OMB 2007)

Senator Specter was widely considered a safe vote on the issue, and his politics had evolved to the point where he would even switch parties in 2008 and become a Democrat. (He died in 2012.) Senator Kay Bailey Hutchison (R-TX), who anticipated running for governor of Texas against the incumbent Republican Rick Perry (who had signed into law the first state legislation to grant in-state tuition to the undocumented), voted for the DREAM Act, and thereby reduced the risk of alienating Latino voters in her home state, who would now have a choice in the primary between two candidates who had both supported the issue. Observers, including Senate staff, noted that there had been several other possible votes that would have been available for the legislation if the required 60 votes were within shouting distance; these senators were only willing to risk the wrath of critical voters if the game were worth the candle and their votes would actually count. However, the absence of Senators McCain and Kennedy, both champions of immigration reform generally, the absences of Senators Dodd and Boxer, the defection of Specter, and the White House withholding support combined and clearly doomed the star-crossed bill at the very last stages of maneuvering. There was evidence that Republicans, all of whom except McCain voted, also had not wanted to give what would likely be viewed as a legislative "victory" to the Democrats, or to appear to do so, with the national presidential elections coming soon afterward. Given that the DREAM Act had bipartisan sponsorship, there were signals that its enactment would be able to garner the 60 votes necessary to avoid the filibuster, under the structural and operating rules of Congress.

This was the final nail in the coffin, especially when the Republican presidential primary candidates began in earnest to accuse each other of weakness on

immigration and of favoring an amnesty to the affected students. By this time, FAIR, the Heritage Foundation, and restrictionist lawyers had also added to the mix, making it impossible for supporters to bring up the issue. The fleeting, best opportunity for enacting the DREAM Act had passed, caught in a catch-22 of being too much (for conservative legislators who feared being tarred as supporting an "amnesty") and too little (enacting it would torpedo the larger strategy of reforming overall immigration problems). In this scenario, the initiative died both by fire and by ice, and even was too-little/too-late, being tarnished by the increasingly unpopular Iraq War association. Had the strategy been attempted either immediately after September 11, 2001, or soon after, when support for the Afghan and Iraq war efforts had been greater, it is more likely it would have passed. Ironically, several of the terrorists involved in the deadly attacks were themselves college students out of status, and the predictable reaction to the acts of terrorism also entangled the issue. It is all the more remarkable that the various state DREAM Acts were all undertaken after 2001, save the original statute, signed into Texas state law before September 11 by Governor Bush's successor.

After Obama, an early cosponsor of the bill when he was in the US Senate, was elected to the presidency and assumed office in January 2009, his first major legislative initiatives were dealing with the economic meltdown that began to surface politically in the late summer and fall of 2008, and then with comprehensive health-care and insurance reform and financial institution legislation, which were brought forward in the omnibus fashion that Marquez and Witte had suggested was less likely to succeed. Senator Reid, the Senate majority leader, indicated that he would not proceed with the next two major legislative subjects in a piecemeal fashion, forcing climate change and immigration reform to evolve as omnibus projects. There was also a substantial wait until the Obama administration made its own immigration reform design clear (Preston 2009). It was not until mid-November 2009 that DHS Secretary Janet Napolitano made her first address on the subject of CIR, and while she stressed the need to incorporate the undocumented "shadow" population through legalization provisions, the major emphasis appeared to be on border security and employment verification:

> Let me be clear: when I talk about "immigration reform," I'm referring to what I call the "three-legged stool" that includes a commitment to serious and effective enforcement, improved legal flows for families and workers, and a firm but fair way to deal with those who are already here. That's the way that this problem has to be solved, because we need all three aspects to build a successful system. This approach has at its heart the conviction that we must demand responsibility and accountability from everyone involved in the system: immigrants, employers and government. And that begins with fair, reliable enforcement. (Napolitano 2009)

At the present, until the actual proposals are finalized and negotiated, by Congress or by President Obama and the executive branch, the full contours will not be evident, but everything points to an omnibus approach; the convolutions of the 2009–2010 health-care reform strategy may suggest that the most salient consideration will be which of the large-scale systemic initiatives is able to move forward and under what timing and calendar constraints it will emerge. Senator Charles Schumer

(D-NY) assumed the responsibility for shepherding immigration reform through the Senate, following the death of Senator Kennedy, and his remarks have shown him to be much more conservative than was the late senator. For example, in his public remarks, he has adopted restrictionist code words and rhetoric (for example, "force-multiplier" and "border security"), has made it clear that his first priority is to "secure the border," and has even touted language to signal and characterize the problems. For example, in summer 2009, he gave a public lecture in which he laid out his first principle: objecting to widely employed terminology such as "undocumented workers."

> The first of these seven principles is that illegal immigration is wrong—plain and simple. When we use phrases like "undocumented workers," we convey a message to the American people that their Government is not serious about combating illegal immigration, which the American people overwhelmingly oppose. Above all else, the American people want their Government to be serious about protecting the public, enforcing the rule of law, and creating a rational system of legal immigration that will proactively fit our needs rather than reactively responding to future waves of illegal immigration. People who enter the United States without our permission are illegal aliens, and illegal aliens should not be treated the same as people who entered the United States legally. (Schumer 2009)

These words were surprising for a liberal senator, one who had been a regular supporter of CIR. On the subject of the DREAM Act, his principles did not include specific reference to the topic, but he did vote for the bill in 2007, and did so again in 2010, suggesting his inclination and support for this part of the larger issue. The draft versions of that reform legislation included DREAM Act provisions, buried in larger, omnibus overhaul approaches, drawing attention away from their "legalization" or "amnesty" features. As of the 111th Congress in spring 2010, the House and Senate versions of this legislation were filed and waiting in the queues. In the House, the chief sponsor of H.R. 1751 was Representative Howard L. Berman (D-CA), and it was introduced on March 26, 2009, with 106 cosponsors. It was referred to the House Judiciary and House Education and Labor Committees; on May 14, 2009, it was referred to House subcommittee, and in turn, to the Subcommittee on Higher Education, Lifelong Learning, and Competitiveness. In the US Senate: S. 729, whose chief sponsor was Senator Richard Durbin (D-IL), was introduced on March 26, 2009, with 32 cosponsors. On the same day, it was referred to the Senate Judiciary Committee.

Then, in fall 2010, at the urging of Latino groups, and to jumpstart CIR, Senator Harry Reid (D-NV) changed his mind and brought forward bill S. 3454. Facing a substantial challenge in his own reelection to the US Senate, he opted for a down payment approach, with DREAM being the first building block toward future comprehensive reforms, and AGJOBS legislation as the likely next step. The DREAM Act became an amendment to a DOD bill, S. 3454, the "National Defense Authorization Act for Fiscal Year 2011." He also added two other amendments: a repeal of "Don't Ask, Don't Tell," (DADT) regarding the enlistment of gays and lesbian soldiers in the military, and an overhaul of the "secret hold" tradition in the Senate, to require public disclosure moving legislative actions forward. On September 21, 2010, the vote became hostage to the DADT controversy, and the Republicans

voted as a bloc, rather than accord President Obama and the Democrats a victory on this issue; the cloture motion was rejected 43–56 (with one absence). Senator Reid voted "no" after it was clear that he did not have the required 60 votes. (The "no" vote for his own motion would allow him to call for reconsideration.) Disappointingly, even Republican supporters of the legislation in the 2007 vote did not support the overall package in the 2010 effort, and two Democrats crossed over to vote against it as well. Once again, the DREAM Act was tantalizingly close, and supported by many public stories about undocumented college students in the media; these news stories continued through the lame duck session, where once again the votes were not there.

The "third time" may be the mythical "charm," but not in this subject matter. In the final days of the same Congress, the greatest disappointment occurred. On December 8, 2010, the House attached the DREAM Act (H.R. 6497) to another moving House bill, H.R. 5281, and passed it, 216 to 198. This was the first time that the House had ever voted upon a version of the DREAM Act since its introduction in 2001. Initially, the Senate was scheduled to take a procedural vote on its version of DREAM (S. 3992), but instead, Senate Democrats voted 59−40 to withdraw S. 3992 and focus on the bill passed on December 8 by the House. On December 18, 2010, the Senate took up the cloture motion (technically, the Motion to Invoke Cloture on the Motion to Concur in the House Amendment to the Senate Amendment No. 3 to H.R. 5281, the Removal Clarification Act of 2010). Democratic backers of the legislation fell short of the 60 votes required to move the DREAM Act legislation forward, with a vote of 55−41 in favor. Five Democrats—Senators Max Baucus (MT), Kay Hagan (NC), Ben Nelson (NE), Mark Pryor (AR), and Jon Tester (MT)—joined most Republicans in voting against the measure. Three Republicans, Senators Bob Bennett (UT), Richard Lugar (IN), and Lisa Murkowski (AK), voted yes. Four members—Senators Jim Bunning (R-KY), Judd Gregg (R-NH), Orrin Hatch (R-UT), and Joe Manchin (D-WV)—were not present for the vote. The ultimate irony was that in a separate vote, the "DADT" policy was repealed, and that Senator Hatch, who introduced the original legislation a decade earlier, did not vote for the DREAM Act. But it turned out that all these complex moving parts were only prelude to spring 2012, when several developments kept the larger DREAM Act issues in the public eye and with another place on legislative agenda.

Spring 2012 Developments

In spring 2012, the state supreme courts in Florida and California considered two unprecedented requests from their bar licensing authorities: Would federal and state law allow them to admit undocumented law students to the practice of law in their states? By July 15, 2012, both state bars had formal legal requests before their highest courts, asking for permission to admit the graduates who had passed the required bar exams and navigated the moral character and fitness provisions and other bar criteria. In both instances, the graduates had been brought to the US by their

parents, and both had attended state K–12 schools, college, and law school. Somewhat caught off guard by the questions of first impression, both courts requested amici to submit briefs on the issues that were raised. On May 16, 2012, for example, the California State Supreme Court issued the following order:

> The California Supreme Court today unanimously issued an order directing the Committee of Bar Examiners of the State Bar of California to show cause before the Supreme Court why the court should grant the Committee's motion to admit Sergio C. Garcia to the State Bar of California as a licensed attorney. Garcia has graduated from law school in California and has passed the California bar examination, but is currently an undocumented immigrant. After reviewing his application and performing a moral character review, the Committee of Bar Examiners certified his name to the Supreme Court for admission to the State Bar. The bar notified the court of Garcia's immigration status at the time the motion was filed. The Supreme Court's order directs the Committee of Bar Examiners and Garcia to file opening briefs in support of the Committee's motion by June 18, 2012, and invites others to file amicus curiae briefs in the Supreme Court, either in support of or in opposition to the motion. In particular, the order invites amicus participation by the Attorneys General of California and the United States.

The order also listed five specific questions as "among the issues that should be briefed." The five questions were:

1. Does 8 U.S.C. section 1621, subdivision (c) apply and preclude this court's admission of an undocumented immigrant to the State Bar of California? Does any other statute, regulation, or authority preclude the admission?
2. Is there any state legislation that provides—as specifically authorized by 8 U.S.C. section 1621, subdivision (d)—that undocumented immigrants are eligible for professional licenses in fields such as law, medicine, or other professions, and, if not, what significance, if any, should be given to the absence of such legislation?
3. Does the issuance of a license to practice law impliedly represent that the licensee may be legally employed as an attorney?
4. If licensed, what are the legal and public policy limitations, if any, on an undocumented immigrant's ability to practice law?
5. What, if any, other concerns arise with a grant of this application? (Judicial Council of California 2012)

In addition, in a similar action in Florida, four former American Bar Association (ABA) presidents filed an action with the Florida Supreme Court, seeking to determine whether or not their undocumented client (who had passed the Florida bar examination) could be admitted to the State Bar. At first, the Florida Board of Bar Examiners denied the applicant's application, but still sought clarification about its authority from the court. Following President Obama's announcement of a new policy on deferred action (DA) and the use of his prosecutorial discretion (DACA), it appeared that the candidate's unlawful status in the US would be reconstituted so that he would no longer accrue unlawful presence, an important legal consideration, in effect, stopping the "illegality clock." Therefore, the Florida Board ruled in August 2012 that under the new guidelines, the candidate appeared to qualify for a law license. However, the Florida Board still wanted an advisory opinion from the state Supreme Court about his immigration status; this is the same posture as

that pending in California—meaning that there are currently two state authorities seeking clarification of the legal authority to allow the graduates to be licensed, with positive recommendations from both bars. This Florida issue is pending in spring 2013 (Dolan 2012, LATEXTRA-1), but remarkably, the California Legislation passed a statute to admit the applicant to that Bar, and in January 2014, the California Supreme Court ruled he could be admitted to practice.

The new DACA policy by the president will also guarantee that more undocumented students will not only surface and work their way through the pipeline (another is awaiting developments in New York, and more are in the DACA application process) but the permission to gain employment authorization will affect their applications as well. The California law deans collectively prepared and submitted a brief in the California matter, as did immigration law professors, indicating that there is a substantial stake in this issue for legal educators and the lawyer establishment. Virtually all the California regional and specialized bar associations, chief among them the State Bar, submitted careful briefs in favor of the petitioner, also revealing the broad interest and support for his admission to their Bar. Finally, licensing in other professional fields will be affected, as there will now be undocumented graduates applying for teaching certificates, psychologist licenses, and licenses in medicine, engineering, architecture, pharmacy, and many other related fields. In this sense, the law license issue has been the lead runner in the marathon, but other fields will also be affected.

Another development has been the sheer number of cases involving citizens, residency requirements, and tuition benefits, all of which have favored accommodationist values. While almost a dozen cases challenging the various state laws have been filed by restrictionist advocates, as of spring 2013, not one has prevailed, falling short either on civil procedural grounds (that is, the plaintiffs had not been harmed by someone else receiving the lower, in-state tuition—so they could not be provided a remedy in law) or, as in the important 2010 *Martinez v. University of California Regents* case, the state statute was upheld as a legitimate state policy. In another higher education immigration/residency case that occurred in California during this time period, a number of immigrant organizations filed suit in November 2006 to challenge California's postsecondary residency and financial aid provisions in *Student Advocates for Higher Education et al. v. Trustees, California State University et al.* Citizen students with undocumented parents were being prevented from receiving the tuition and financial aid benefits due to the residency and financial aid provisions, at least in part because the California statute was not precisely drawn (or was being imperfectly administered). The challenge highlights several overlapping policies: immigration, financial aid independence/dependence upon parents, and the age of majority/domicile. The state agreed to discontinue the practice, and entered into a consent decree, resolving the matter in the plaintiffs' favor. The order overturned CSU's odd and likely unconstitutional take on undocumented college student residency—that a citizen, majority-age college student with undocumented parents, was not able to take advantage of the California statute according the undocumented in-state residence, even if the student were otherwise eligible.

Rulings such as these have made a virtue of necessity, inasmuch as citizen children (whether birthright or naturalized) who reach the age of majority by operation of law establish their own domicile, so that their parents' undocumented status is irrelevant to the ability of the children to establish residency. In *A.Z. v. HESSA*, a 2012 New Jersey appeals court ruled that a similar program in the state (the Tuition Assistance Grant, TAG) could not withhold the grants from citizen children whose parent was undocumented (2012).

> Given our determination that A.Z. is the intended TAG recipient and that she meets the residency and domicile requirements independently of her mother, we need not determine B.Z.'s legal residence or domicile nor review HESAA's conclusion that B.Z. lacks the capacity to become a legal resident or domiciliary of New Jersey. We note, however, substantial authority supporting the proposition that a person's federal immigration status does not necessarily bar a person from becoming a domiciliary of a state. In sum, A.Z. is the intended recipient of a TAG. She is a citizen. The record also supports that she is a legal resident of, and domiciled in, New Jersey, based upon her lengthy and continuous residence here. To the extent the agency's 2005 regulation irrebuttably established that a dependent student's legal residence or domicile is that of his or her parents, it is void. Therefore, HESAA erred in denying A.Z. a TAG (427 N.J. Super A.D. 389, at 1151, 1159).

The latest instance of such a restriction upon birthright citizens was discovered in Florida, when the *Ruiz v. Robinson* case, filed in 2011, challenged a similar practice in the state. The state regulation denied resident tuition to US citizen children whose parents were undocumented, as the New Jersey and California practices had done for state financial aid. On August 31, 2012, the federal court in Florida struck down this statute. Both states acceded to the courts and have revised their practices (Olivas 2012).

Back on the national front, President Obama determined that he would find executive authority to address the inchoate and marginal status where these students found themselves, and in summer 2011, within 6 months of the failure of the DREAM Act to attract the required 60 votes, his administration indicated it would simply assign low-enforcement priority to DREAMers, and would not remove or deport them if they were caught in the immigration enforcement mechanism, unless they had criminal records or other disqualifying characteristics. In June 2011, in a series of detailed "Morton" memoranda, the administration rolled out a series of reviews of all the 400,000 persons then in immigration proceedings, and would close the removal cases and grant 2-year stays and possible employment authorization (permission for the DREAMers so certified to work without violating federal law). The review, which had seemed so promising, was underwhelming by any measure. The Obama administration had developed the most aggressive enforcement in US history, militarizing the border, building the futile fence that is supposed to deter unauthorized entry, and removing over 400,000 persons each in 2011 and 2012, more than any recent presidency. In addition, the reset of DA was used more sparingly than it was during George W. Bush's presidency (Wadhia 2013; Martin 2012).

Yet even with these demonstrable enforcement priorities and results, congressional restrictionists were not satisfied. They would not acknowledge the metrics of immigration enforcement, as the stated predicate for what everyone knew was needed, CIR of one sort or another, to regularize the flow, to reorganize the complicated

and unsuccessful employment provisions, especially those designed for short-term high skilled work, and to provide some trade-off for increased legal immigration: a pathway to eventual legalization or "amnesty," perhaps along the lines of the last such program, the 1986 IRCA legalization provisions. The data have not been transparent or easily available, but the preliminary figures revealed fewer than 2 % of the test case reviews for DA led to closed cases, and only 54 % of those fortunate few were given permission to work—and these were considered the easy, most deserving, "low-hanging fruit"—and while their removals were temporarily stayed, they received no benefits, remained ineligible for most forms of relief, and were, in many respects, no better off than before. Fewer than 300 of these closed cases were DREAM Act eligible students. They were now known to the government, yet had no hope of any reconstitution of their unlawful status (Olivas 2012).

Worse, a number of DREAMers became frustrated by the legislative failures, and with no futures, they began to "out" themselves in a longstanding US protest tradition and civil rights argot. While their status may have been characterized as a low priority for removal, this public revelation of their status had the practical effect of putting their undocumented families at risk, and in the increased removal regime, they were less well off than they had been before. And in the difficult dynamics of immigration, the conservative restrictionists howled, and all the competing GOP presidential candidates in an election year vied with each other to see who could be the most nativist, build (or electrify) the biggest fence, or engage in the harshest rhetoric (Raab 2011). (The only exception was Texas Governor Rick Perry who, having signed the state's DREAM Act legislation twice, was the piñata of the group.)

Tens of thousands of undocumented students are making their way through college without federal financial support and with little state financial aid available. Yet they persist—only to find that they cannot accept employment or enter the professions for which they have trained; thus, cases of undocumented law-school graduates who have passed the bar are surfacing in California, Florida, and New York, and more will surface soon enough concerning lawyers, doctors, teachers, psychologists, and other licensed professionals, as more and more unauthorized students graduate from college. Seeing this brick wall, a number of immigration law professors drafted and circulated a letter to the president, calling upon him to use the administrative discretion available to him, in lieu of any likely legislative reform of immigration policy right now, to help undocumented college students who find themselves in the worst of all possible worlds. It appears that President Obama heard, and in June 2012, he announced an even more expansive DACA policy for DREAMers, which is still in the first phases of implementation (Olivas 2012).

On the 30th anniversary of *Plyler v. Doe*—the 1982 case in which the US Supreme Court ruled that states could not deny funds for the education of children of unauthorized immigrants—the president announced a halt to the deportation of some undocumented immigrants who came to the US as children and have graduated from high school and served in the military. Unfortunately, despite the excitement—and outrage from Obama's Republican opponents—it is not the stalled DREAM Act, which would have created a path to citizenship for some immigrants

who came to the US as children and have been admitted to college or registered under the Selective Service Act. The president's decision, which uses existing prosecutorial discretion, generously gave the applicants employment authorization and permission to remain in the US for renewable 2-year periods.

In reality, the president's adoption of a "DA" policy was, to a great extent, old wine in a new bottle. The policy does not grant legal residency status as the DREAM Act would, but defers deportation for a renewable 2-year period. Announcing the policy shows new political will, but it does not change existing law or expand available discretion. Forms of prosecutorial discretion, including DA, have been available for many years (originating in the John Lennon deportation case, in the early 1970s); nothing substantive has been added to existing authority. Indeed, in the Morton Memo of June 2011, the government announced that it would focus on deporting known criminals and urged prosecutors to use their discretion in considering the cases of students who would qualify for the DREAM Act. Yet data from the Department of Homeland Security show that fewer than 300 such "Morton" students were granted administrative closure—a remarkably small number, given their clear qualifications for approval. While it is impossible to tell just how successful the review ordered by John Morton, director of US Immigration and Customs Enforcement, has been to this point—the government has made the data virtually impossible to gather and analyze in any systematic way—the program has been disappointing. Bear in mind, too, that this administration removed and deported nearly 400,000 unauthorized immigrants in 2011 and 2012, the greatest removal efforts in over a half century (Wadhia 2013).

Even with those metrics and the militarization of the US–Mexico border, those who would further restrict immigration are not convinced that there has been enough enforcement. They adamantly oppose the president's new decision, and in August 2012, disgruntled immigration employees filed suit in federal court; in January 2013, they cleared the first trial hurdle to continue the litigation (Winograd 2013b).

There is a new application procedure for DA and many details yet to be determined. DA is a vague and confusing process. Furthermore, students who reside in states where they cannot enroll in public colleges or where the states have no resident tuition provisions for undocumented immigrants may not be able to raise a claim under this policy, because they will have been unable to enroll in college. While a dozen states have laws granting some undocumented immigrants in-state tuition rates, most do not (see Tables 1 and 2). Even if the DREAM Act were to be enacted tomorrow by Congress, states would still have to pass laws to grant in-state tuition and financial aid to qualified students in the majority of states, without which most students would be unable to afford college. The real value of President Obama's announcement was that it surpassed the earlier disappointing Morton effort, and called attention to the vexing issue of how to deal responsibly with the potential, and eventually likely, new members of our American community. One might add, but need not, that administrations come and go, and that such initiatives can wax and wane. On this point, opponents and supporters of immigration reform can agree: The approach just announced cannot be the only way to resolve the impasse. Despite my own misgivings, the early returns on DACA's implementation have

Table 1 State laws allowing undocumented college students to establish residency, 2014 (Source: http://www.law.uh.edu/ihelg/documents/Statute-TableOne.html)

Texas, H.B. 1403, 77th Leg., Reg. Sess. (Tex. 2001) [amended by S.B. 1528, 79th Leg., Reg. Sess. (Tex. 2005), relating to student financial aid]; TEX. EDUC. CODE ANN. § 54.052

California, A.B. 540, 2001−2002 Cal. Sess. (Cal. 2001); CAL. EDUC. CODE § 68130.5; A.B. 30 (2011), amending CAL. EDUC. CODE § 68130.7 and adding § 66021.7, relating to non-state funded scholarships); A.B. 131, October 8, 2011 (amending Sect. 68130.7 of and adding Sects. 66021.6, 69508.5, and 76300.5 to the Education Code, relating to state financial aid); A.B. 844, October 8, 2011 (amending Sect. 72023.5 and adding Sects. 66016.3 and 66016.4 to the Education Code, relating to state financial aid to certain student leadership positions)

Utah, H.B. 144, 54th Leg., Gen. Sess. (Utah 2002); UTAH CODE ANN. § 53B-8-106

New York, S. B. 7784, 225th Leg., 2001 NY Sess. (NY 2002); N.Y. EDUC. LAW § 355(2)(h)(8)

Washington, H.B. 1079, 58th Leg., Reg. Sess. (Wash. 2003); WASH. REV. CODE ANN § 28B.15.012

Oklahoma, S.B. 596, 49th Leg., 1st Reg. Sess. (OK 2003) [financial assistance provisions rescinded, Oklahoma Taxpayer and Citizen Protection Act of 2007 (H.B. 1804)]; OKLA. STAT.ANN.TIT. 70, § 3242

Illinois, H.B. 60, 93rd Gen. Assemb., Reg. Sess. (Ill. 2003); 110 ILL. COMP. STAT. ANN. [amended by S.B. 2085, 97th Gen. Assemb., Reg. Sess. (Ill. 2011); 110 ILL. COMP. STAT. ANN.]

Kansas, H.B. 2145, 2003–2004 Leg., Reg. Sess. (KS 2004); K.S.A. § 76–731a

New Mexico, S.B. 582, 47th Leg. Reg. Sess. (2005); N.M.STAT. ANN. § 21-1-1

Nebraska, L.B. 239, 99th Leg. 1st Sess. (Neb. 2006); NEB REV. STAT. ANN. § 85–502

Wisconsin, 2009 Assembly Bill 75 (2009 WISCONSIN ACT 28); WIS. STAT. § 36.27 [repealed by AB 40, June 26, 2011]

Maryland, S.B. 167, 2011 Leg., Reg. Sess. (Md. 2011); MD. CODE ANN. § 15–106.8 ["suspended," pending state referendum: MD Const. XVI, Sec. 2] [Ballot measure approved in general election, November 2012]

Connecticut, H.B. 6390, 2011 Leg., Reg. Sess. (Conn. 2011); CONN. GEN. STAT. § 10a-29

Rhode Island, S. 5.0, R.I. Board of Governors for Higher Education, Sept. 26, 2011

Oregon, H.B. 2787, 77th Leg., Reg. Sess. (Or. 2013); 2013 Or. Laws Ch. 17, § 2 [pending stat. cite]

Colorado, S.B. 13–033, 69th Gen. Assemb., 1st Reg. Sess. (Co. 2013); amending Colo. Rev. Stat. § 23-7-110 and Colo. Rev. Stat. § 24-76.5-103

Hawai'i, Haw. Code R. §§ 20-4-1-17 (LexisNexis 2013)

Minnesota, S.F. 1236, 88th Leg., 2013 Minn. Laws 75; MINN. STAT. § 135 A.043 (2014)

New Jersey, S. 2479, 215th Leg., 1st Ann. Sess., N.J. STAT. ANN. § 18 A:62−4.4 (West Supp. 2014)

Current as of spring, 2014

actually been very generous and transformative, with employment authorization given widely to the recipients. (Semple 2013)

The real question is: how can this complex issue be resolved in the current climate? Thirty years after the Supreme Court ruled that undocumented immigrants deserve an education, we have not resolved the impasse. Even when the tens of thousands of undocumented students currently enrolled in our colleges, many of whom will graduate and find themselves unable use their education, do receive DA, they will still not find themselves on a pathway to permanent residence. Their chances of being deported may be reduced, but without a reasonable opportunity to regularize their status, they will still live in the shadows with limited hope. Despite

Table 2 States restricting access to postsecondary education, 2013

By statute

Alabama, H.B. 56, 2011 Leg., Reg. Sess. (Ala. 2011); ALA. CODE § 31-13-8 [added section barring undocumented students from enrolling in or attending any institutions of postsecondary education; enjoined by federal district court, October 2011]

Arizona, S.C.R. 1031, § 3, Proposition 300, approved election Nov. 7, 2006, eff. Dec. 7, 2006 (Ariz. 2006); ARIZ. REV. STAT. ANN. § 15-1803 [amended to ban in-state tuition for undocumented students]

Georgia, S.B. 492, 149th Gen. Assemb., Reg. Sess. (Ga. 2008); GA. CODE ANN. § 20-3-66(d) [amended to ban in-state tuition for undocumented students]

Indiana, H.B. 1402, 2011 Gen. Assemb., Reg. Sess. (Ind. 2011); IND. CODE ANN. § 21-14-11 [added Ch. 11 to title 21, banning in-state tuition for undocumented students]

Ohio, 129th Gen. Assemb. File No. 28, HB 153, § 101.01; O.R.C. 3333.31 (D), (E) (2011) [banning in-state tuition for undocumented students]

Montana, 2011 Mont. Laws 1238 [ratified by state ballot measure, November 2012; amending Mont. Code Ann. § 20-25-502 (2009), eff. 1/2013]

South Carolina, H.B. 4400, 117th Gen. Assemb. Reg. Sess. (S.C. 2008); S.C. CODE ANN. § 59-101-430 [added Sect. 430 to bar undocumented students from attending public institutions of higher learning, and also bar them from being able to receive in-state tuition]

By policy or regulation

Georgia Board of Regents, October, 2010

Section 4: Student Affairs

4.1.6 Admission of Persons Not Lawfully Present in the United States

A person who is not lawfully present in the United States shall not be eligible for admission to any University System institution which, for the two most recent academic years, did not admit all academically qualified applicants (except for cases in which applicants were rejected for non- academic reasons)

(http://www.usg.edu/policymanual/Sect.4/policy/4.1_general_policy/#p4.1.6_admission_of_persons_not_lawfully_present_in_the_united_states) (affecting Georgia College & State University, Medical College of Georgia, Georgia State University, Georgia Institute of Technology, and University of Georgia)

4.3.4 Verification of Lawful Presence

Each University System institution shall verify the lawful presence in the United States of every successfully admitted person applying for resident tuition status, as defined in Sect. 7.3 of this Policy Manual, and of every person admitted to an institution referenced in Sect. 4.1.6 of this Policy Manual. (http://www.usg.edu/policymanual/Sect.4/policy/4.3_student_residency/#p4.3.4_verification_of_lawful_presence)

University of North Carolina Board of Governors:

Chapter 700

700.1.4[G]

Guidelines on the Admission of Undocumented Aliens

Undocumented aliens are eligible to be considered for admission as undergraduates at UNC constituent institutions[a] based on their individual qualifications with limitations as set out below:

1. An undocumented alien may be considered for admission only if he or she graduated from high school in the United States

2. Undocumented aliens may not receive state or federal financial aid in the form of a grant or a loan

3. An undocumented alien may not be considered a North Carolina resident for tuition purposes; all undocumented aliens must be charged out-of-state tuition

4. All undocumented aliens, whether or not they abide in North Carolina or graduated from a North Carolina high school, will be considered out of State for purposes of calculating the 18 % cap on out of state freshmen pursuant to Policy 700.1.3

5. When considering whether or not to admit an undocumented alien into a specific program of study, constituent institutions should take into account that federal law prohibits the states from granting professional licenses to undocumented aliens.

[a] The North Carolina School of Science and Mathematics admits and enrolls only legal residents of the state of North Carolina. G. Seite 116–235. (http://www.northcarolina.edu/policy/index.php?pg=vb&node_id=451). Current as of spring 2013. Source: http://www.law.uh.edu/ihelg/documents/Statute-TableTwo.html

the uncertainty, hundreds of thousands of these DREAMers have begun the process of seeking DA and employment authorization. In major cities, the applicants lined up and applied by the hundreds of thousands, and paid their application fees; these fees are the means by which the program will be administered (Solis 2013). In the racial dynamics of the nativism in Arizona, which has persisted in its restrictionist efforts, Governor Jan Brewer enacted law that took place the day after the DA programs to be certain that Arizona benefits were still out of the reach of these students (Winograd 2013a). History may be on the side of the DREAMers, but they still find themselves in a cruel limbo not of their making, and with no clear way out of the thicket.

Within the first week of the DA program application, which began on August 15, 2012, tens of thousands of these students surfaced. By the spring 2013 semester, the contours of the DA review process have become more evident, and, depending upon political circumstances and agency capacity, a number of the applicants will have received their DA status and will be newly eligible for certain benefits and legal status. Early contacts with would-be applicants uncovered many individual issues, likely to be ones that had to be dealt with, finessed, or subject to exceptions or waivers, especially applicant reluctance to come forward and expose their status to the government or possibly compromise their parents (Semple 2013). Under current regulations, more than 400,000 individuals whose cases have been deferred are eligible to receive employment authorization for the period of DA, provided he or she can demonstrate "an economic necessity for employment," as virtually all have been able to prove (Manuel and Garvey 2013). The federal government has made it clear that DA will not be eligible for additional federal benefits, such as health care. Each DA applicant's history will be considered along with other facts to determine whether, under the totality of the circumstances and on a case-by-case basis, he or she will be granted prosecutorial discretion. I had one such successful DACA recipient in my Higher Education Law Seminar in spring 2013; not surprisingly, he wrote his seminar paper on immigration and higher education issues.

Conclusion: The Crosscurrents

Even with the increasingly evident nativism that has arisen—especially in state and local ordinances that attempt to preempt immigration policymaking, which have caused great mischief and racial violence against the Latinos at whom they are

Table 3 DREAM Act congressional legislative history (2001–2014)

(107th Congress) 2001–2002:

S. 1291, DREAM Act of 2001

H.R. 1918, Student Adjustment Act of 2001

(108th Congress) 2003–2004:

S. 1545, DREAM Act of 2003

H.R. 1684, Student Adjustment Act of 2003

(109th Congress) 2005–2006:

S. 2075, DREAM Act of 2005

H.R. 5131, American Dream Act of 2006

S. 2611, Comprehensive Immigration Reform Act of 2006

(110th Congress) 2007–2008:

S. 1348, Comprehensive Immigration Reform Act of 2007

S. 774, A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes

H.R. 1221, To provide for cancellation of removal and adjustment of status for certain long-term residents who entered the United States as children

H.R.1275, To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes

S. 2205, A bill to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes. [defeated 44–52 (October 24, 2007)]

S. 2919, Department of Defense Authorization Bill (originated in House)

H.R. 4986, DoD Authorization Bill

(111th Congress), 2009–2010:

S. 729, DREAM Act of 2009

H.R. 1751, American Dream Act

S. 3827, DREAM Act of 2010

H.R. 6327, Citizenship and Service Act of 2010

S. 3962, DREAM Act of 2010

S. 3963, DREAM Act of 2010

S. 3992, DREAM Act of 2010 (withdrawn, combined with H. R. 5281) (Motion to Invoke Cloture on the Motion to Concur in the House Amendment to the Senate Amendment No. 3 to H.R. 5281, the Removal Clarification Act of 2010; defeated 55–41, December 18, 2010)

S. 3454, National Defense Authorization for FY 2011 (cloture motion defeated: 43–56, September 21, 2010)

H.R. 6497, DREAM Act of 2010 (combined with H.R. 5281 [Removal Clarification Act of 2010]: passed 216-198, December 8, 2010)

(112th Congress), 2011–2012:

S. 952, DREAM Act of 2011

H.R. 1842, DREAM Act of 2011

(113th Congress), 2013–2014:

S. 744, Border Security, Economic Opportunity, and Immigration Modernization Act (6/27/2013 Passed Senate with an amendment by Yea-Nay Vote. 68–32) H.R. 15, Border Security, Economic Opportunity, and Immigration Modernization Act

aimed—there is also a strong countervailing crosscurrent in the polity, one that is demonstrably integrationist and accommodationist, especially in the areas of education at the K–12 and higher education levels. Although the doctrine of preemption obligates states and local authorities to yield to clear federal prerogatives, there are many interstices to be filled out and state benefits eligibility to be determined at the sub-federal levels, both for policy determination and implementation (Wadhia 2013). This has been most evident in the subject matter of education, where state and local policies predominate. Here, the legacy of *Plyler* has continued to cast a long shadow, even with recent efforts such as those that occurred in Alabama's overreaching. The Morton Memorandum trial run and the more successful DACA initiatives have shown that there are many undocumented students who can navigate exacting federal eligibility requirements, and the likely enactment of CIR will facilitate the incorporation of these innocent sojourners into society even more firmly and irrevocably. This continued viability and extension of *Plyler* reaffirm the decision in its maturity.

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The Fallout and Costs of Political Gridlock

The Costs and Benefits of Immigration Enforcement

Raúl Hinojosa–Ojeda

Introduction

For more than two decades, the US government has attempted to put a stop to unauthorized immigration from (and through) Mexico by implementing "enforcement-only" measures along the US–Mexico border and at work sites throughout the country. These measures have not only failed to end unauthorized immigration, but have placed downward pressure on wages in a broad swath of industries. In recent decades, the US government's avoidance of immigration reform and dependence upon enforcement-only approaches to immigration has served only to deepen a vicious cycle of underground labor markets, lower wages, lower consumption, lower tax revenue, and reduced productivity. Were the government to end this failed enforcement-only crusade and create a pathway to legal status for unauthorized immigrants in the US, as well as new legal limits on immigration that respond to market forces, it would raise the social floor for the entire US economy—to the benefit of both immigrant and native-born workers.

The experience of legalization under the 1986 Immigration Reform and Control Act (IRCA) indicates that comprehensive immigration reform has the potential to raise wages, increase consumption, create jobs, and generate additional tax revenue. All of these potential effects are compelling economic reasons to move from the current "vicious cycle," in which an enforcement-only approach to unauthorized migration exerts downward pressure on already-low wages, to a "virtuous cycle" of worker-empowerment in which legal status and labor rights exert upward pressure on wages. The critics of legalization often point to the failure of IRCA to stem the tide of unauthorized immigration. However, it is this very failure, combined with the lack of effectiveness of enforcement-only policies, that demonstrates the critical need for a truly comprehensive immigration reform policy that addresses the present crisis facing the US, in addition to establishing a modern immigration system

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for future flows that provides for, and responds to, the ups and downs of the US economy and needs of the labor market.

"Enforcement Only" Is Costly, Ineffective, and Counterproductive

The current enforcement-only approach to unauthorized immigration is not cost-effective and has not deterred unauthorized migrants from coming to the US when jobs are available. Rather, these policies have wasted billions of taxpayer dollars while pushing unauthorized migration further underground. In the process, the enforcement-only strategy has produced a host of unintended consequences: more deaths among border crossers, greater demand for people smugglers, less circular migration in favor of more permanent settlement among unauthorized immigrants, and further depressing of wages in low-wage labor markets. To date, significant declines in unauthorized immigration have occurred only during downturns in the US economy when US labor demand is dampened. Ironically, demographic trends in Mexico will likely accomplish what tens of billions of dollars in border enforcement clearly have not: a decline in the supply of migrants from Mexico who are seeking jobs in the US.

High Costs and No Benefits

The number of unauthorized immigrants in the US has increased dramatically since the early 1990s despite equally dramatic increases in the amount of money the federal government spends on immigration enforcement:
- Between fiscal year (FY) 1992 and FY 2011, the annual immigration enforcement budget (INS/ICE and CBP) has increased 587% (from roughly US\$ 2.48 billion to US\$ 17.04 billion; see Fig. 1),[1] while the cost ratio of enforcement expenditures to apprehensions increased 1245% from US\$ 1971 in FY 1992 to US\$ 26,516 per apprehension in FY 2011 (see Fig. 2).[2]
- The number of Border Patrol agents stationed along the Southwest border has grown by 420.8% (from 3555 in FY 1992 to 18,516 in FY 2012; see Fig. 3).[3]

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[1] Statistics provided to the authors by US Border Patrol Headquarters, Office of Public Affairs, September 25, 2009.

[2] Budget data provided to the authors by US Border Patrol Headquarters, Office of Public Affairs, September 25, 2009; apprehension data from the Office of Immigration Statistics, US Department of Homeland Security, 2008 Yearbook of Immigration Statistics (Table 35) and 2004 Yearbook of Immigration Statistics (Table 37).

[3] Data provided to the authors by US Border Patrol Headquarters, Office of Public Affairs, September 25, 2009.
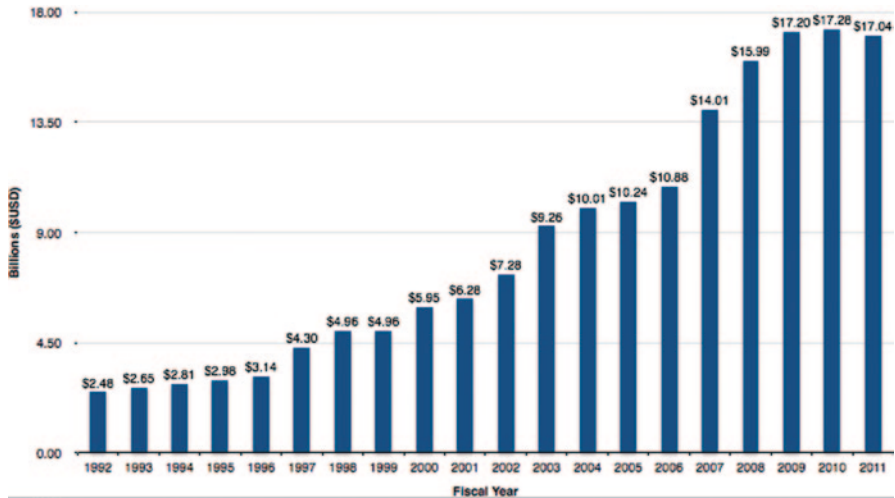
Fig. 1 Immigration enforcement expenditures (INS/ICE and CBP Budget)
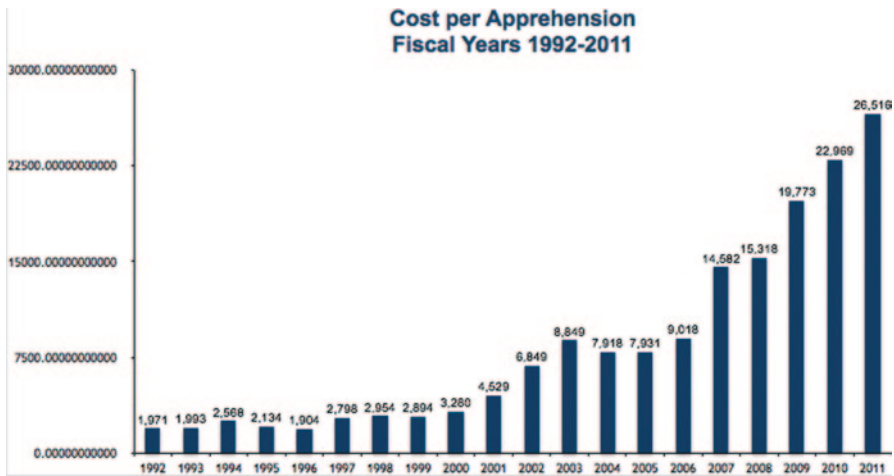
Fig. 2 Cost per apprehension, fiscal years 1992–2011. (Source: Budget data from border patrol and US Department of Homeland Security)

- Since the creation of the Department of Homeland Security (DHS) in 2003, the budget of Customs and Border Protection (CBP), the parent agency of the Border Patrol within DHS, has increased 95.8 % (from US$ 6.0 billion in FY 2003 to US$ 11.73 billion in FY 2012). Furthermore, the budget of Immigration and Customs Enforcement (ICE), the DHS interior-enforcement counterpart to CBP, has increased 77.5 % (from US$ 3.3 billion in FY 2003 to US$ 5.86 billion in FY 2012; see Fig. 4; US DHS 2005a, b, p. 13; 2007, p. 18; 2008, p. 19; 2009a, b, p. 19; 2010, p. 19).

Figure 3: U.S. Border Patrol Agents Stationed Along Southwest Border,
Fiscal Year 1992-2012
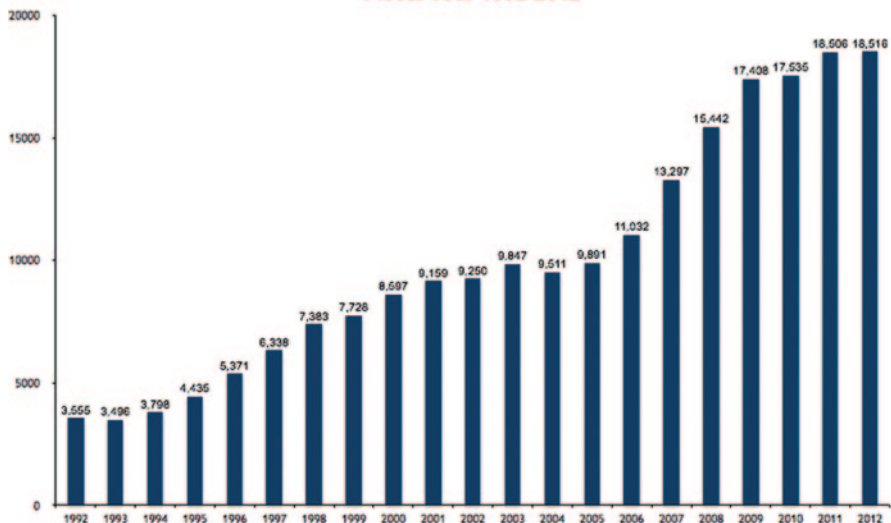
Fig. 3 US border patrol agents stationed along southwest border, fiscal year 1992–2012. (Source: US Customs and Border Patrol; Homeland Security, Office of Immigration Statistics)
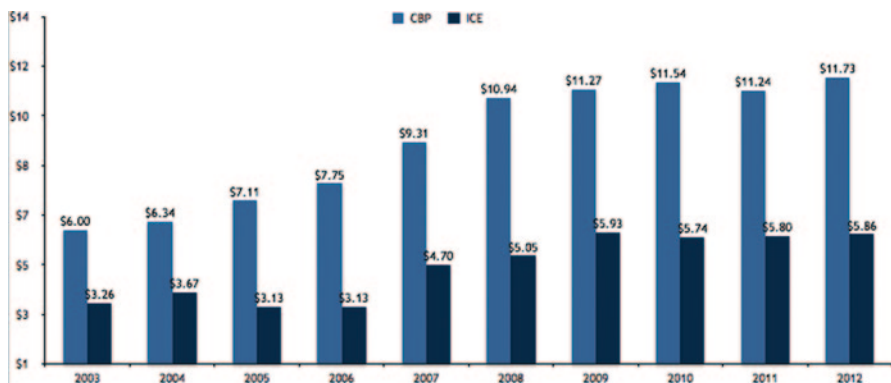
Fig. 4 CBP and ICE budgets, fiscal years 2003–2012 (billions). (Source: Budgets in brief for FY 2005–2014 by Department of Homeland Security; ICE and CBP)

- Despite tens of billions of dollars of immigration enforcement spending since the early 1990s, nearly all unauthorized migrants still eventually succeed in entering the US. Wayne Cornelius, Ph.D., and his colleagues at the University of California, San Diego, have conducted a long-term study of unauthorized migration and found that the vast majority of unauthorized immigrants (92–98 %) keep trying to cross the border until they make it (Cornelius et al. 2008, p. 3). Cornelius has concluded that "tightened border enforcement since 1993 has not stopped nor even discouraged migrants from entering the United States. Neither
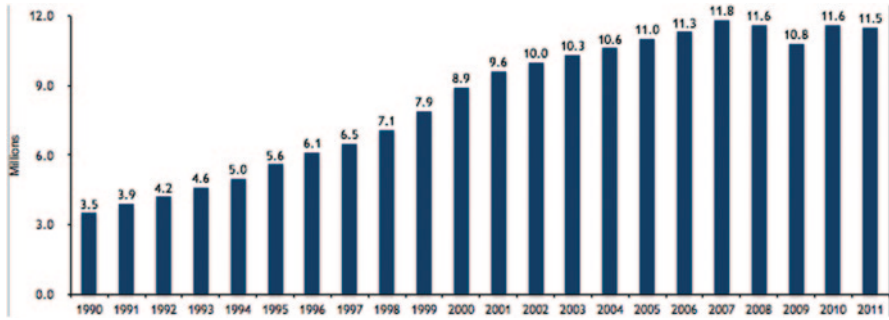
Fig. 5 Unauthorized immigrants in the US. (Source: Homeland Security, Office of Immigration Statistics; "Unauthorized Immigration to the United States: Annual Estimates and Components of Change, by State, 1990 to 2010," Robert Warren and John R. Warren, International Migration Review)

    the higher probability of being apprehended by the Border Patrol, nor the sharply increased danger of clandestine entry through deserts and mountainous terrain, has discouraged potential migrants from leaving home"—provided that US jobs are available (Cornelius 2006).

- The unauthorized immigrant population of the US has roughly tripled in size over the past two decades, from an estimated 3.5 million in 1990 to 11.5 million in 2011 (see Fig. 5; Passel and Cohn 2009, p. 1; Hoefer et al. 2009, p. 2; US Immigration and Naturalization Service 2003, p. 10).

- Historically, significant declines in unauthorized immigration have occurred only during downturns in the US economy, when US labor demand is dampened. For example, the number of unauthorized immigrants in the country appears to have declined slightly since 2007 in response to the recession, which began at the end of that year (Passel and Cohn 2008, p. 1; Hoefer et al. 2009, p. 1). Cornelius and his team have also found that, due to the contraction of the job market in the US with the onset of recession in December 2007, far fewer Mexicans are coming to the US (Cornelius et al. 2009).

The Unintended Consequences of Border Enforcement

While enforcement-only border policies have not stopped, nor even slowed, the pace of unauthorized immigration, they have distorted the migration process in ways that produce unintended consequences, which are detrimental for both the US economy and unauthorized migrants themselves. To date, the primary accomplishments of the enforcement-only strategy have been to make the US–Mexico border more lethal; to create new opportunities and higher profits for people-smugglers; to break historical patterns of circular migration and promote permanent settlement in the US instead; and to depress low-wage US labor markets.
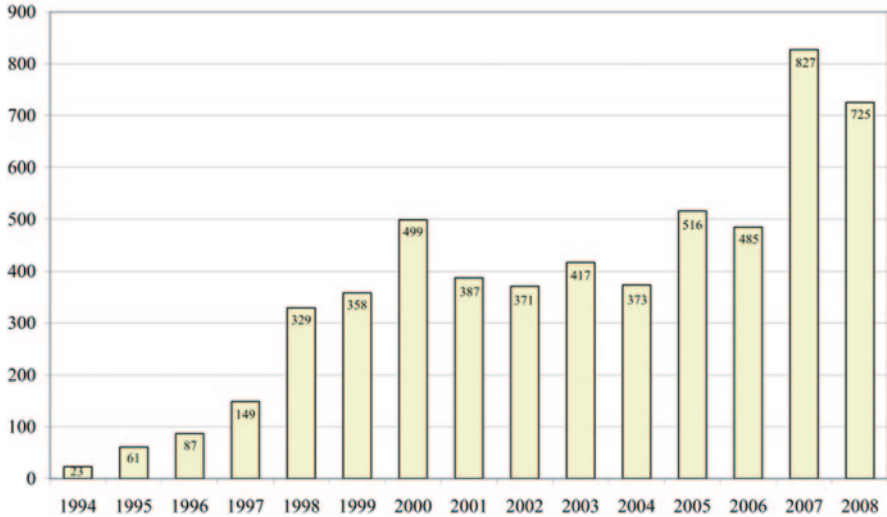
Fig. 6 Border-crossing deaths, 1994–2008. (Source: Jimenez 2009, p. 17)

- Making the Southwestern border more lethal: By channeling unauthorized migrants through extremely hazardous mountain and desert areas, rather than the relatively safe urban corridors used in the past, the concentrated border-enforcement strategy has contributed to a surge in migrant fatalities since 1995. The US Government Accountability Office (GAO) has estimated that the number of border-crossing deaths doubled in the decade following the beginning of enhanced border-enforcement operations (US GAO 2006, pp. 3–4). A report released in October 2009 by the American Civil Liberties Union (ACLU) of San Diego and Imperial Counties and Mexico's National Commission of Human Rights estimates that 5607 migrants died while crossing the border between 1994 and 2008 (Fig. 6; Jimenez 2009, p. 17).
- Creating new opportunities for people-smugglers: Stronger enforcement on the US–Mexico border has been a bonanza for the people-smuggling industry. Heightened border enforcement has made smugglers essential to a safe and successful crossing by closing safer, traditional routes. Cornelius' research in rural Mexico shows that more than nine out of ten unauthorized migrants now hire smugglers to get them across the border. Only a decade ago, use of smugglers was the exception, rather than the rule (Cornelius 2006). And the fees that smugglers charge have tripled since 1993. By January 2006, the going rate for Mexicans was between US\$ 2000–3000 per head, and there is evidence of a further rise since that time (Preston 2009).[4] But, even at these prices, it is still economically

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[4] Cites immigrants and social workers who say that smugglers' fees in Mexicali for a trip to Los Angeles are US\$ 3000–5000.

rational for migrants—and, often, their relatives living in the US—to dig deeper into their savings and go deeper into debt to finance illegal entry.

- Breaking circular migration and promoting permanent settlement in the US: Given the high costs and physical risks of unauthorized entry, migrants have a strong incentive to extend their stays in the US; and the longer they stay, the more probable it is that they will settle permanently (Massey et al. 2003, pp. 128–133).
- Depressing low-wage labor markets: The enhanced enforcement regime moves unauthorized workers further underground, lowering their pay and, ironically, creating a greater demand for unauthorized workers. A 2008 report from the Atlanta Federal Reserve analyzes how this vicious cycle is activated, and then expands, as firms find themselves forced to compete for the supply of cheaper, unauthorized labor. When a firm cuts costs by hiring unauthorized workers for lower wages, its competitors become more likely to hire unauthorized workers for lower wages, as well, in order to benefit from the same cost savings (Brown et al. 2008).

Demographic Trends in Mexico

While migration flows from Mexico to the US can be explained in large part by differences in labor demand and wages between the two countries, economists also estimate that about one-third of total immigration from Mexico over the past four decades is the result of higher Mexican birth rates and resultant population pressures (Hanson and McIntosh 2007). However, Mexico has begun to experience what will soon be a major reduction in the supply of new entrants into the North American labor force. The birth rate in Mexico has fallen from nearly seven children per mother in the mid-1960s to just 2.2 today, barely above replacement rate and only slightly higher than the US level of 2.1. Mexico's birth rate is expected to fall below replacement level over the coming decade (United Nations Department of Economic and Social Affairs/Population Division 2008, p. 67). This is one of the fastest declines in fertility ever recorded in any nation. As a result, Mexican migration to the US is expected to continue declining in near future. To illustrate this declining birthrate: in the 1990s, when unauthorized migration from Mexico reached record levels, its working-age population was growing by 1 million each year—today that growth rate is 500,000 (Sedano 2008).

Although the US will continue to attract many Mexicans seeking higher wages and a better life, the population pressures of the past two decades are already starting to recede, and a reduction in the pressures to migrate to the US will likely follow. An early indication of this shift is seen in the increasing age of apprehended migrants. The share of apprehended immigrants under the age of 25 was 3.0 percentage points lower in 2008 compared to 2005, while the share of those over the age of 35 was 2.5 percentage points higher (Rytina and Simanski 2009, p. 2).

Lessons from the IRCA of 1986

Beyond illustrating the failure of the enforcement-only approach to unauthorized immigration, the recent history of US immigration policy also offers important insights into the economic benefits of providing unauthorized immigrants with legal status—as well as the drawbacks of immigration-reform efforts that are not sufficiently comprehensive in scope. The 1986 IRCA ultimately granted legal status to 1.7 million unauthorized immigrants through its general legalization program, plus another 1.3 million through a Special Agricultural Workers program (Massey et al. 2003, p. 90). Studies of immigrants who benefited from IRCA's general legalization program indicate that they soon earned higher wages and moved on to better jobs—and invested more in their own education so that they could earn even higher wages and get even better jobs. Higher wages translated into more tax revenue and increased consumer purchasing power, which benefited the public treasury and the US economy as a whole. But IRCA failed to create flexible limits on future immigration that were adequate to meet the growing labor needs of the US economy during the 1990s. As a result, unauthorized immigration eventually resumed in the years after IRCA (despite an initial decline), thereby exerting downward pressure on wages for all workers in low-wage occupations.

Legalized Workers Earn More and Move on to Better Jobs

Surveys conducted by Westat Inc. for the US Department of Labor found that, on average, the real hourly wages of immigrants who acquired legal status under IRCA's general legalization program had increased 15.1 % by 1992 (4–5 years after legalization in 1987 or 1988). On average, men experienced a 13.2 % wage increase and women a 20.5 % increase (Smith et al. 1996, p. 102). Based on the same survey data, economists Sherrie Kossoudji, Ph.D., and Deborah Cobb-Clark, Ph.D. (2000), found that 38.8 % of Mexican men who received legal status under IRCA had moved on to higher-paying occupations by 1992. Other researchers have also analyzed these survey data and supplemented it with data from additional sources—such as the 1990 Census and the National Longitudinal Survey of Youth—in an effort to determine how much of the wage increase experienced by IRCA beneficiaries was the result of legalization per se, as opposed to the many other variables that influenced wage levels for different workers in different occupations during the same period of time. Although the findings of these researchers vary according to the economic models they use, the results are uniformly positive:

- Economist Francisco Rivera-Batiz (1999) estimated that, by 1992, the very fact of having legal status had resulted in a wage increase of 8.4 % for male IRCA beneficiaries and 13 % for female IRCA beneficiaries—independent of any increase in earning power they might have experienced as a result of acquiring more education, improving their mastery of English, etc.

- Economists Catalina Amuedo-Dorante, Cynthia Bansak, and Stephen Raphael estimated that, by 1992, real hourly wages had increased 9.3 % for male IRCA beneficiaries and 2.1 % for female IRCA beneficiaries—independent of broader changes in the US economy that might have impacted wage levels generally (2007, pp. 412–416).
- Kossoudji and Cobb-Clark (2002) estimated that, by 1992, legalization had raised the wages of male IRCA beneficiaries 6 %—independent of broader changes in the US and California economies that might have impacted wage levels generally.

Legal Status Yields Increasing Returns Over Time

The experience of IRCA also indicates that legalization greatly increases the incentive for formerly unauthorized workers to invest in themselves and their communities—to the benefit of the US economy as a whole. As Kossoudji and Cobb-Clark explain, the wages of unauthorized workers are generally unrelated to their actual skill level. Unauthorized workers tend to be concentrated in the lowest-wage occupations; they try to minimize the risk of deportation even if this means working for lower wages; and they are especially vulnerable to outright exploitation by unscrupulous employers. Once unauthorized workers are legalized, however, these artificial barriers to upward socioeconomic mobility disappear. IRCA allowed formerly unauthorized workers with more skills to command higher wages, and also provided a powerful incentive for all newly legalized immigrants to improve their English-language skills and acquire more education so they could increase their earnings. Kossoudji and Cobb-Clark (2002) estimate that if the men who received legal status under IRCA had been "legal" throughout their entire working lives in the US, their wages by 1992 would have been 24 % higher because they would have been paid in relation to their actual skill level since arriving in the country—and would therefore have had an incentive to improve their skills to further increase their earning power.

A recent NAID research project on the 20-year impact of IRCA documents a number of important long-term improvements among previously unauthorized immigrants. Based on household surveys in Los Angeles before and after IRCA, the study illustrates how removing the uncertainty of unauthorized status not only allows legalized immigrants to earn higher wages and move into higher-paying occupations but also encourages them to invest more in their own education, open bank accounts, buy homes, and start businesses. These are long-term economic benefits that continue to accrue well beyond the initial 5-year period examined by most studies of IRCA beneficiaries (Takash and Hinojosa-Ojeda 2015).

Effective Immigration Reform Must Address Future Flows

Initially, unauthorized immigration to the US declined following the passage of IRCA (Orrenius and Zavodny 2001, p. 14). However, IRCA failed to create flexible legal limits on immigration that were capable of responding to ups and downs in future US labor demand. Rather, IRCA attempted to stop unauthorized immigration through sanctions that imposed fines on employers who knowingly hire unauthorized workers. Given the US economy's continuing demand for immigrant labor in excess of existing legal limits on immigration—together with the ready availability of fraudulent identity documents and the inherent difficulty of proving that an employer has "knowingly" hired an unauthorized worker—IRCA did not put an end to unauthorized immigration. A new, easily exploited, unauthorized population arose in the US during the economic boom of the 1990s. Moreover, the costs of employer sanctions were passed along to all Latino workers (regardless of legal status or place of birth) in the form of lower wages. This resulted in part from increased anti-Latino discrimination against job applicants who looked like they might be unauthorized, and in part from the increased use of labor contractors by employers who wanted to distance themselves from the risk of sanctions by having someone else hire workers for them—and the costs of these changes have largely been passed on to Latino workers (Dávila et al. 1998; Phillips and Massey 1999; Orrenius and Zavodny 2003).

Three Immigration Policy Scenarios

Taking the historical experience of legalization under IRCA as a starting point, and using a computable general equilibrium (CGE) model (see Appendix 1), we estimate the impact on the US economy as a whole of three different immigration policy scenarios over the course of 10 years:

1. Comprehensive immigration reform, in which a pathway to legal status is created for unauthorized immigrants already living in the US, and new, flexible legal limits on permanent and temporary immigration are established that respond to changes in US labor demand in the future.
2. Temporary workers only, in which a new temporary-worker program is created for both currently unauthorized immigrants and future immigrants, but which includes neither a pathway to permanent status for unauthorized immigrants, nor more flexible legal limits on permanent immigration in the future.
3. Mass deportation, in which all unauthorized immigrants are expelled from the US, and the US–Mexico border is effectively sealed to future immigration. Although this is not a realistic scenario, it is useful for comparison purposes.

Scenario 1: Comprehensive Immigration Reform

In this scenario, the US government enacts immigration reform that allows unauthorized immigrants to come forward and register, pay an application fee and a fine, earn legal status—if they pass a criminal background check—and, eventually, US citizenship. Applicants would also be required to learn English and pay any back taxes owed. Moreover, future levels of permanent and temporary immigration to the US would be based on the demand for labor in the US. All immigrant workers in this scenario have full labor rights, which results in higher wages—and higher worker productivity—not only for immigrants but also for all workers in industries where large numbers of immigrants are employed. As wage and productivity levels rise, the US economy's demand for new immigrant workers actually declines over time as the market shrinks for easily exploited, low-wage, low-productivity workers.

This scenario uses the parameters of the IRCA experience to simulate the impact on the US economy of the higher wages that would be earned by newly legalized workers, as well as the higher worker productivity which would result from the movement of workers into new occupations and from increased investment by workers in their own education and skills. However, this model does not capture a range of other economic benefits that have been documented among IRCA beneficiaries, such as increased household investments in the education of family members and increased rates of home ownership and small-business formation. Therefore, the results of our modeling should be viewed as a conservative, baseline estimate of the actual economic benefits that would flow from comprehensive immigration reform.

Scenario 2: Temporary Workers Only

In this scenario, the US government creates a new temporary-worker program that encompasses both currently unauthorized immigrants and future immigrants, but with limited labor rights and on a temporary basis only. Neither unauthorized immigrants nor future temporary immigrants would be granted a pathway to permanent status or US citizenship. Immigrant workers in this scenario have limited labor rights, which drive down wages (and productivity) for all workers in industries where large numbers of immigrants are employed. In other words, legal immigration responds to changes in US labor demand, but at relatively low wages and without the buildup of human capital and labor productivity that occurs over time among legalized workers. As a result, future levels of immigration are actually higher under this scenario than under comprehensive immigration reform, since more workers are needed to produce the same level of output under low-wage, low-productivity conditions.

Scenario 3: Mass Deportation

In this scenario, more than 4 million immigrant workers (and their dependents) are deported, or alternatively, never allowed to enter the US. While this scenario is not a realistic policy option, it serves as an extreme, or boundary, case against which the other two scenarios can be evaluated. It is important to note that, while this scenario estimates the broader economic impact of mass deportation, it does not take into account the actual cost of mass deportation. The Center for American Progress has pegged this cost at somewhere between US$ 206 billion and US$ 230 billion over 5 years (Goyle and Jaeger 2005).

The Economic Benefits of Comprehensive Immigration Reform

The results of our modeling (see Appendix 2) suggest that:

1. The comprehensive immigration reform scenario generates an annual increase in US Gross Domestic Product (GDP) of at least 0.84 %. Over 10 years, this amounts to US$ 1.5 trillion in additional GDP (see Fig. 7)[5]. Moreover, wages rise for both native-born and newly legalized immigrant workers under this scenario.
2. The temporary-workers-only scenario generates an annual increase in US GDP of 0.44 %. Over 10 years, this amounts to US$ 792 billion of additional GDP (see Fig. 7). However, wages fall for both native-born and newly legalized immigrant workers under this scenario.
3. The mass deportation scenario reduces US GDP by 1.46 % annually. Over 10 years, this amounts to US$ 2.6 trillion in lost GDP (see Fig. 7). Although wages rise for less-skilled native-born workers under this scenario, they fall for higher-skilled natives and the US economy loses large numbers of jobs as a result of a contracting economy.
4. Under the comprehensive immigration reform scenario, US GDP increases by at least 0.84 % per year. Using 10-year GDP projections prepared by the Congressional Budget Office (CBO 2009, p. 44 Table B-1), this translates into a steadily increasing amount of added annual GDP over the coming decade (Fig. 8 and Appendix 3). The 10-year total is at least US$ 1.5 trillion in added GDP over 10 years, which includes roughly US$ 1.2 trillion in additional consumption and US$ 256 billion in additional investment.

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[5] As quoted by the White House, the Congressional Budget Office also used a CGE model to come to a roughly similar estimate of "$ 1.4 trillion in 2033 in today's dollars." See White House, "The Economic Benefits of Fixing our Broken Immigration System," Executive Office of the President (Washington, DC, July 2013), p. 2; The Congressional Budget Office, "The Economic Impact of S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act." (Washington, DC: CBO, June 18, 2013). Trade Policy Analysis Report No. 40 (Washington, DC: Cato Institute, August 13, 2009), p. 1.
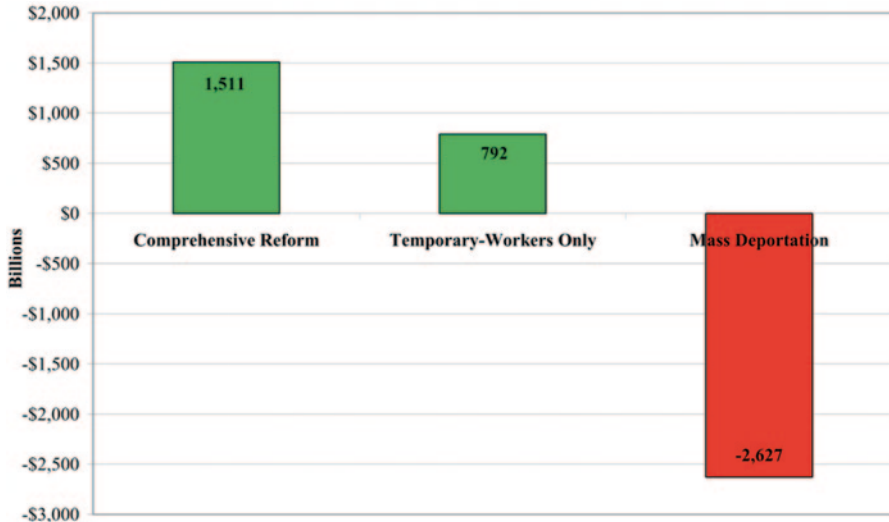
Fig. 7 Change in US GDP under different scenarios, over 10 years
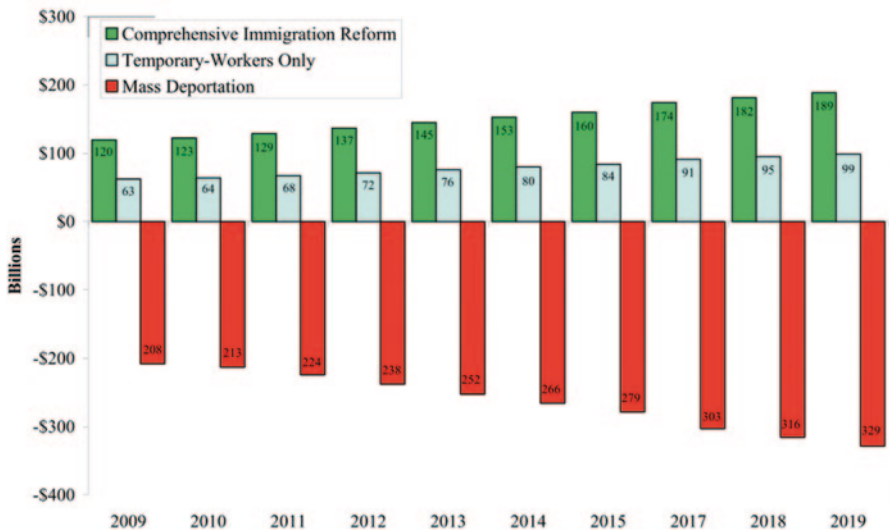
Fig. 8 Annual change in US GDP under different scenarios, 2009–2019

Even in the short run—that is, during the first 3 years or so following legalization—the economic gains from comprehensive immigration reform are substantial. The real wages of newly legalized workers increase by roughly US$ 4405 per year among those in less-skilled jobs, and US$ 6185 per year for those in higher-skilled
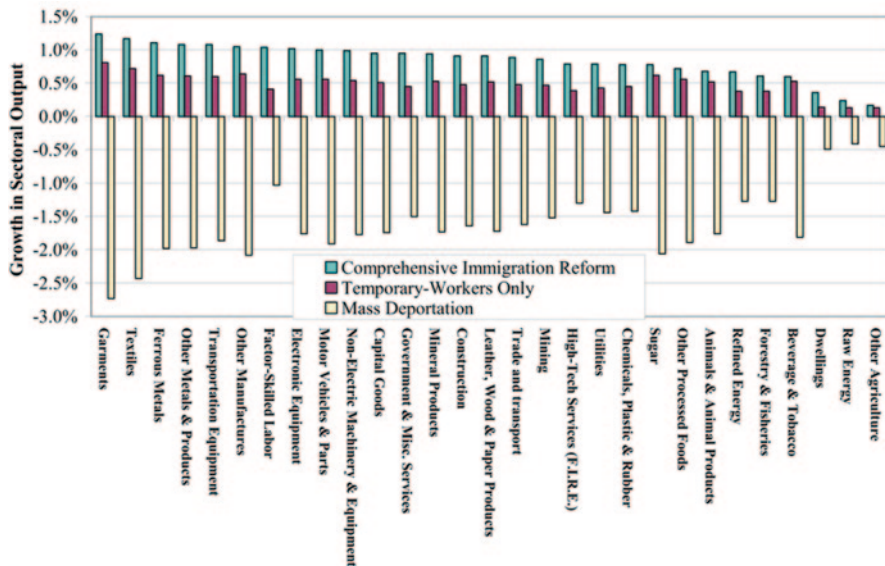
Fig. 9 Annual impact of different scenarios on US economic sectors

jobs. The higher earning power of newly legalized workers translates into an increase in net personal income of US$ 30–36 billion, which supports 750,000–900,000 additional new jobs and generates US$ 4.5–5.4 billion in additional net tax revenue.

It is important to note that the wages of native-born workers also increase under the comprehensive immigration reform scenario because the wage floor for all workers rises—particularly in industries where large numbers of easily exploited, low-wage, unauthorized immigrants currently work. Among native-born US workers, wages increase by roughly US$ 162 per year for the less-skilled and US$ 74 per year for the higher-skilled. In contrast, wages for both less-skilled and higher-skilled native-born US workers fall under the temporary-workers-only scenario. Wages for less-skilled native-born workers rise under the mass deportation scenario—but only at the cost of significantly fewer jobs as the economy contracts and investment declines (see Appendix 2).

The benefits of additional US GDP growth under the comprehensive immigration reform scenario are spread very broadly throughout the US economy, with virtually every sector expanding. Particularly large increases are seen in textiles, ferrous metals, transportation equipment, electronic equipment, motor vehicles and parts, nonelectric machinery and equipment, capital goods, mineral products, and construction. In comparison, every sector experiences significantly smaller gains under the temporary-workers-only scenario, while every sector contracts under the mass deportation scenario (see Fig. 9 and Appendix 4).

Conclusion: From a Vicious Cycle to a Virtuous Cycle

Both the experience of IRCA, and the results of our modeling, indicate that legalizing currently unauthorized immigrants, as well as creating flexible legal limits on future immigration in the context of full labor rights, would raise wages, increase consumption, create jobs, and generate additional tax revenue—particularly in those sectors of the US economy now characterized by the lowest wages. This is a compelling economic reason to move from the current "vicious cycle," in which an enforcement-only approach to unauthorized migration exerts downward pressure on already-low wages, to a "virtuous cycle" of worker empowerment, in which legal status and labor rights exert upward pressure on wages. The legalization of the nation's unauthorized workers and the creation of new legal limits on immigration that rise and fall with US labor demand would help lay the foundation for a robust, just, and widespread economic growth. In essence, moving unauthorized workers out of a vulnerable underground status strengthens the ability of all working families to become more productive, with higher levels of job-generating consumption, thereby laying a foundation for long-term community revitalization, middle-class growth, and a stronger, more equitable national economy.

Appendix 1: Methodology

CGE Modeling

This study presents the results of a computable general equilibrium (CGE) modeling project of the US and Mexico, in the context of a multiregional world economy, designed to analyze scenarios of alternative immigration policies, as well as alternative trade policies. The results of this integrated CGE model allow us to analyze the impacts of both migration and trade policies on differently skilled labor within a common comparative framework. As is typical in CGE models of this type, trade is motivated by both price differentials and regional characteristics of goods (Armington 1969). Services trade is included, such that none of the 29 sectors in the models are "purely nontraded." Trade liberalization can consist of reducing or eliminating manufacturing tariffs, all tariffs, or all barriers, including nontariff barriers. Immigration is motivated by real wage differentials and influenced by immigration policies. Migrant remittances are explicitly modeled, and are impacted by any policy that affects migration levels or migrant earnings.

Typically, CGE models are used to run "comparative static" experiments. An experiment is constructed, changing key variables and observing how the equilibrium adjusts. This gives the researchers an approximate picture of how the economy in the base year would have looked if the changes being simulated in a particular

scenario had occurred years ago and the economy had fully adjusted to the change. Our longer-term research goal is to extend this work to include dynamics: how the economies would adjust over a period of time to policy changes made in the model's base year. This extension will allow even greater focus on important issues such as savings and investment, demographic change, and human capital formation.

Our model simulates the impacts of immigration policies primarily through two variables:

1. Impacting wage differentials directly by raising or lowering the level of domestic wages earned by migrants. For example, wages (and productivity) of legalized migrants increase with immigration reforms that grant those workers additional rights and encourage investments in their human capital.
2. Impacting the responsiveness (elasticity) of migration with respect to any given wage differential. For example, additional enforcement lowers immigration, for a given wage differential (Orrenius 2001).

Immigration and trade interact in several important ways in the model. The presence or absence of immigrants in a country impacts the relative price of goods, and thus trade flows. Openness to trade impacts wage levels, and thus immigration incentives. Remittances impact the balance of payments and thus trade flows. Remittances further fuel investment and growth in migrant-sending regions, thus impacting wages, prices, trade, and migration.

In this chapter, we use a global applied general equilibrium model that has been adjusted to take into account bilateral labor flows (Hertel 1997). The global migration model, termed GMig2, represents a significant improvement on the model developed in Terrie L. Walmsley and Alan L. Winters (2006). The GMig2 model takes advantage of the recent bilateral migration database developed by Christopher R. Parsons et al. (2005) to allow bilateral labor movements to be tracked. The GMig2 is documented by Terrie Walmsley et al. (2007b).

The GMig2 Database

The database used with the Bilateral Labor Migration Model (GMig2) is based on the GTAP 6 Database (Dimaranan 2006) and is augmented with the bilateral migration database developed by Parsons et al. (2005), skill data from Frédéric Docquier and Hillel Rapoport (2007), and remittance data from the World Bank (Ratha and Zu 2008). The GMig2 database construction process is documented by Terrie Walmsley et al. (2007a). Table 1 shows the configuration of the GMig2 Database as aggregated for this chapter. The nine regions are shown in Panel A and the 29 commodities in Panel B.

Table 1 Configuration of the GMig2 Database

Panel A

1	US
2	Canada
3	Mexico
4	China
5	India
6	Rest of South America
7	Rest of OECD
8	Asian newly industrialized countries (Singapore, Taiwan, and Hong Kong)
9	Rest of World

Panel B

1	Irrigated agriculture in Mexico (vegetables, fruit, and sugar cane)
2	Traditional agriculture in Mexico (cereal grains, oil seeds, and plant-based fibers)
3	Animals and animal products
4	Other agriculture
5	Forestry and fisheries
6	"Raw" energy
7	Mining
8	Other processed foods
9	Sugar
10	Beverages and tobacco
11	Textiles
12	Garments
13	Leather, wood, and paper product
14	"Refined" energy
15	Chemicals, plastic, and rubber
16	Mineral products
17	Ferrous metals
18	Other metals and products
19	Motor vehicles and parts
20	Transport equipment
21	Electronic equipment
22	Nonelectric machinery and equipment
23	Other manufactures
24	Utilities
25	Construction
26	Trade and transport
27	High-tech services (finances, insurance, recreation)
28	Government and miscellaneous services
29	Dwellings

The GMig2 Model

As in the GMig2 Database, the model tracks both the home and host region of each person and worker. The home region is defined as the country of origin of the person/worker; in the database, this is their place of birth. The host region is the region in which the person resides/works. The labor force of skill i, located in region r ($LF_{i,r}$), and available to firms for production, is therefore the sum across home regions (c) of all workers located in the host region r (equation (1)); similarly for population, equation (2):

$$LF_{i,r} = \sum_c LF_{i,c,r} \qquad\qquad (1)$$

$$POP_r = \sum_c POP_{c,r}. \qquad\qquad (2)$$

An increase in the number of migrant workers from region c to region r would reduce the number of workers in the labor supplying region ($LF_{i,c,c}$ would fall) and increases the labor force of the labor importing region ($LF_{i,c,r}$ would rise). The populations would change in a similar way, since it is assumed that migrant workers move with their families.

Changes in the number of migrants can occur in two ways in the GMig2 model: as an exogenous change in the supply and/or demand for migrant workers (e.g., changes in quotas); or as endogenous movements of migrant workers in response to wage differentials. In this chapter, movements in migrant workers occur endogenously, except in the zero Mexican migration scenario, where a hypothetical, enforceable quota of zero migrants from Mexico is set without allowing compensating flows based on changing wage differentials.

Migrants are assumed to respond to differences in the real wages between the home ($RW_{i,c,c}$) and host ($RW_{i,c,r}$) region. ESUBMIG is a parameter reflecting the extent to which migrants respond to differences in real wages; this parameter would also reflect any restrictions on migration flows imposed by the host or home country policies:

$$LF_{i,c,r} = A_{i,c,r} \times \left[\frac{RW_{i,c,r}}{RW_{i,c,c}} \right]^{ESUBMIG_{i,r,s}}. \qquad\qquad (3)$$

Note that with endogenous movements responding to changes in real wages, migrants can either migrate or return home depending on the impact of the trade and/or migration policy on real wages; policies that increase real wage differentials lead

to higher levels of migration, while those that reduce the wage differential lead to lower migration levels.[6]

Migrant workers are assumed to gain a portion of the difference between their nominal wages at home and the nominal wages in the host region, reflecting the fact that their productivities have also changed as they move from the home to the host region and interact with the resources and technology of that host region. Changes in real wages and incomes are also considered, since different purchasing power between regions is also an important factor in the migrant's decision on whether to migrate and on the impact of migration (Timmer and van der Mensbrugghe 2001).

In this chapter, changes in migration policies are implemented in two ways:

1. The responsiveness of migration to real wage differentials (ESUBMIG) can be shocked to reflect changes in migration policy that increase or decrease the ability of people to migrate in response to wages.
2. The ratio of a migrant's wage in the host country to their home country wage can be altered to reflect changes in the productivities of migrants resulting from changes in migration policy. This ratio is referred to as BETA.

Hence, a tightening (loosening) of migration policy involves reducing (or increasing) the responsiveness of migrants to wage differentials (ESUBMIG) and/or a reduction (increase) in the productivity or lowering the ratio of migrant wages to home wages (BETA). The model is also consistent with standard trade theory—countries benefiting from inward migration experience a decline in the marginal product/wage of labor as they move down their marginal product curves, and production increases as firms gain greater access to cheaper labor. Returns to capital also increase as capital becomes scarce relative to labor. The reverse is true for those countries experiencing outward migration.

Remittances are also an important feature in the model and for examining the impact of migration. Remittances are assumed to be a constant proportion of the income received by migrant workers and flow out of the host country back to the permanent residents of the home country. Hence, as the number of new migrants or their wages increase, total remittances increase. Remittances therefore reduce the income of the migrants and increase the incomes of permanent residents back home. These remittances can have an important offsetting effect on the home economies (labor suppliers) and on the incomes of permanent residents remaining at home; and on the current account balances of both the home and host countries. Thus, migration works to narrow real wage differentials between countries in two ways: raising labor productivity in the sending country and lowering it in the receiving country ("leveling down") and promoting improvements in living standards in sending regions through remittances (potentially "leveling up").

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[6] Given the counterfactual comparative statics nature of the scenarios, this can best be interpreted as deterring migration (a smaller inflow leading up to the base year) rather than literally inducing return migration.

Appendix 2: Macroeconomic Results of Different Scenarios

	Mass deportation	Temporary workers only	Comprehensive reform
Annual change in GDP			
US	−1.46%	0.44%	0.84%
Mexico	2.75%	−0.41%	−0.2%
Annual migration			
Mexico—Unskilled	−3,500,000	571,000	249,000
Mexico—Skilled	−570,000	54,000	41,000
Annual change in remittances			
Mexico	−99.21%	14.49%	27.68%
Annual change in wages			
Unskilled			
US: natives	US$ 399	−US$ 102	US$ 162
US: Mexican immigrants	US$ 364	−US$ 93	US$ 4405
Mexico	−US$ 254	US$ 47	US$ 23
Skilled			
US: natives	−US$ 73	−US$ 7	US$ 74
US: Mexican immigrants	−US$ 68	−US$ 6	US$ 6185
Mexico	−US$ 800	US$ 83	US$ 100
Annual change in real returns to:			
US: capital	−1.1%	0.33%	0.64%
Land	−5.12%	1.67%	2.19%
Resources	−4.33%	1.4%	2.62%
Mexico: capital	1.59%	−0.24%	−0.07%
Land	12.17%	−1.69%	−0.45%
Resources	6.3%	−0.68%	−0.59%

Appendix 3: Annual Impact on GDP of Different Scenarios, 2009–2019

Change in GDP under…

Year	Total projected US GDP[a]	Comprehensive reform (0.84% per year)	Temporary workers only (0.44% per year)	Mass deportation (−1.46% per year)
2009	US$ 14,241,000,000,000	US$ 119,624,400,000	US$ 62,660,400,000	−US$ 207,918,600,000
2010	US$ 14,591,000,000,000	US$ 122,564,400,000	US$ 64,200,400,000	−US$ 213,028,600,000
2011	US$ 15,347,000,000,000	US$ 128,914,800,000	US$ 67,526,800,000	−US$ 224,066,200,000
2012	US$ 16,293,000,000,000	US$ 136,861,200,000	US$ 71,689,200,000	−US$ 237,877,800,000
2013	US$ 17,280,000,000,000	US$ 145,152,000,000	US$ 76,032,000,000	−US$ 252,288,000,000
2014	US$ 18,211,000,000,000	US$ 152,972,400,000	US$ 80,128,400,000	−US$ 265,880,600,000
2015	US$ 19,077,000,000,000	US$ 160,246,800,000	US$ 83,938,800,000	−US$ 278,524,200,000
2017	US$ 20,749,000,000,000	US$ 174,291,600,000	US$ 91,295,600,000	−US$ 302,935,400,000
2018	US$ 21,617,000,000,000	US$ 181,582,800,000	US$ 95,114,800,000	−US$ 315,608,200,000
2019	US$ 22,500,000,000,000	US$ 189,000,000,000	US$ 99,000,000,000	−US$ 328,500,000,000
Cumulative total		US$ 1,511,210,400,000	US$ 791,586,400,000	−US$ 2,626,627,600,000

[a] Congressional Budget Office, The Budget and Economic Outlook: Fiscal Years 2009–2019 (Washington, D.C.: January 2009), Table B-1, p. 44

Appendix 4: Impact of Different Scenarios on Various Sectors

	Mass deportation	Temporary workers only	Comprehensive immigration reform
Garments	−2.73%	0.81%	1.24%
Textiles	−2.43%	0.72%	1.17%
Ferrous metals	−1.98%	0.62%	1.11%
Other metals and products	−1.97%	0.61%	1.08%
Transportation equipment	−1.86%	0.60%	1.08%
Other manufactures	−2.08%	0.64%	1.05%
Factor-skilled labor	−1.03%	0.41%	1.04%
Electronic equipment	−1.76%	0.56%	1.02%
Motor vehicles and parts	−1.91%	0.56%	1.00%
Nonelectric machinery and equipment	−1.77%	0.54%	0.99%
Capital goods	−1.74%	0.51%	0.95%
Government and misc. services	−1.50%	0.45%	0.95%
Mineral products	−1.73%	0.53%	0.94%
Construction	−1.64%	0.48%	0.91%
Leather, wood, and paper products	−1.72%	0.52%	0.91%
Trade and transport	−1.62%	0.48%	0.89%
Mining	−1.52%	0.47%	0.86%
High-tech services (F.I.R.E.)	−1.30%	0.39%	0.79%
Utilities	−1.44%	0.43%	0.79%
Chemicals, plastic, and rubber	−1.42%	0.45%	0.78%
Sugar	−2.06%	0.62%	0.78%
Other processed foods	−1.89%	0.56%	0.72%
Animals and animal products	−1.76%	0.52%	0.68%
Refined energy	−1.27%	0.38%	0.67%
Forestry and fisheries	−1.27%	0.38%	0.61%
Beverage and tobacco	−1.81%	0.53%	0.60%
Dwellings	−0.49%	0.14%	0.36%
Raw energy	−0.41%	0.13%	0.24%
Other agriculture	−0.45%	0.13%	0.17%

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Immigrants in the US Labor Market

Pia M. Orrenius and Madeline Zavodny

Introduction[1]

The US is the world's top destination for migrants. It is home to 19 % of the world's migrants and between 40 and 50 % of the world's unauthorized migrants.[2] No other nation takes in as many immigrants. Immigration has a number of benefits: It boosts the US economy, enhances productivity, spurs innovation, helps consumers by keeping prices low, and enriches US society and culture. However, there are at least two important caveats to consider. Immigrants to the US are disproportionately low skilled and, hence, low wage. Low-wage immigrant households have an adverse fiscal impact, receiving more in public services than they pay in taxes, on average. Second, the economic gains from immigration are not distributed equally among natives. Competing low-skilled workers, for example, may suffer wage losses, and poor households will not benefit as much as rich ones from lower prices for immigrant-produced goods and services since they consume less of those products.

The positive economic impact is greatest for high-skilled and employment-based migration, particularly of science, technology, engineering, and math (STEM) workers, who can directly influence innovation and, hence, productivity growth. However, US policy allocates only a small fraction of permanent resident visas

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[1] The views expressed are those of the authors and do not reflect those of the Federal Reserve Bank of Dallas or the Federal Reserve System.

[2] The United Nations estimates the world migrant stock was 214 million in 2010. See http://esa.un.org/migration/ (accessed February 15, 2013). The International Labour Organization (ILO) estimates there are 20–30 million unauthorized migrants worldwide. See http://www.ilo.org/ilc/ILCSessions/103/reports/reports-to-the-conference/WCMS_242879/lang--en/index.htm (accessed June 1, 2014).

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to employment-based immigrants, who are overwhelmingly high skilled, reserving most so-called green cards for family and humanitarian cases—people who frequently have much less education than employment-based immigrants. In other words, quotas restrict the most economically beneficial immigration by awarding permanent residence primarily on the basis of family ties.[3]

US immigration policy has turned a blind eye to unauthorized immigration and the market forces that attract it, which has resulted in an undocumented immigrant population that now numbers over 11 million people (Passel and Cohn 2012). In recent years, several states have passed anti-immigrant legislation, adversely affecting an already vulnerable group. The large number of unauthorized immigrants and the shortage of high-skilled visas, along with a host of other issues, have prompted calls for comprehensive immigration reform. Once the 2012 presidential election was over, the White House and Congress appeared ready to take action.

This chapter proceeds by first discussing recent trends in immigration in the context of US labor demand, including the volume of immigrant workers and their education, occupation, and geographic distribution. We then discuss the effects of immigration on economic output (gross domestic product, or GDP) and the rate of economic growth. Labor market and fiscal effects are then discussed, with particular attention to the impacts stratified by educational attainment. Last, the implications of the economic analysis are explored in the context of current and proposed immigration policy.

Trends in Immigration

The foreign-born population rose from 25 million in 1996 to just over 40 million in 2011, representing 13 % of the total US population.[4] This share is on par with many Western European countries although not as high as Canada, at 20 %, or Australia, at 27 %. The share of workers who are foreign born is higher than the population share because immigrants are more likely to be of working age. Of the 40 million immigrants in the US, 25 million of them work, making up 16 % of the labor force (Fig. 1). Even more significantly, between 1996 and 2011, immigrants accounted for 51 % of labor force growth. As the US population ages and the labor force participation rate among the US-born continues to fall, the role of immigrants in labor force growth will likely remain substantial.

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[3] This article does not speak directly to the benefits or costs of humanitarian immigration; the volume of refugees to accept should be determined primarily on humanitarian and geopolitical considerations rather than economic principles.

[4] We use the terms "immigrant" and "foreign born" interchangeably in this article to refer to all individuals residing in the US who were born abroad to non-US parents. Immigrants thus include legal and illegal, temporary, and permanent residents.

Thousands of
Workers   Percent
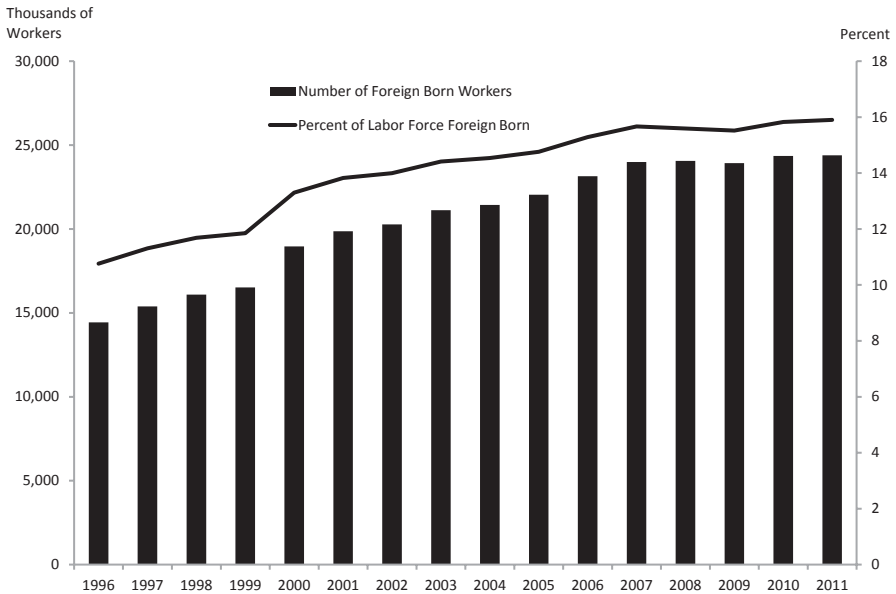
Fig. 1 The growing foreign-born labor force in the US. (Source: Bureau of Labor Statistics)

A. Countries of Origin

US immigration is the outcome of push and pull factors. Push factors represent poor conditions in the home country, whether they are low wages, corruption, violence, or a lack of jobs. Pull factors include economic growth in the US and the inability or unwillingness of the domestic labor force to respond quickly to increases in labor demand. Ties to family and friends already here are an important pull factor for workers and nonworkers alike.

Costs also play into migration decisions. Distance is a good catchall measure of migration costs. Geographic proximity typically means the historic, economic, social, cultural, and linguistic ties are stronger between two nations. In the US case, geographic proximity, along with strong push and pull factors, has ensured large and persistent migration flows from Mexico. In 2011, 12 million US immigrants were from Mexico, constituting 29% of the total. Mexico is followed by China with 6% of US immigrants and India with 5%.[5] The Philippines, El Salvador, and Vietnam round out the top six sending countries, which together account for half of all immigrants.

Immigration policy is the other important cost factor. Immigration policy plays a critical role in determining who comes and how. Quotas that restrict the number of

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[5] Immigrant population by country of origin is based on 2011 ACS data from the US Census Bureau's American FactFinder http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t (Accessed February 15, 2013).

permanent resident visas available in various categories and restrictions on temporary foreign worker visas affect how hard it is to enter legally. A complicated system allocates permanent resident visas primarily based on family ties, employment, and refugee/asylee status. Potential immigrants who do not qualify for one of those categories are stymied. Among those who qualify, annual limits on the number of permanent resident visas available result in millions of people with approved visa applications waiting for a visa. The number of temporary foreign worker visas also is capped in some important categories. In others, complicated rules reduce employers' willingness to utilize them. Because of the difficulty of obtaining a permanent resident visa or a temporary worker visa, many migrants enter clandestinely or overstay visitor visas. Border and interior enforcement discourage entering or remaining in the country illegally, but obviously are not completely effective. The global supply of potential immigrants and employer demand for more workers than are admitted legally combine to overwhelm enforcement efforts.

B. Education and Occupation Distribution

For the past three decades or so, employer demand for foreign workers has been particularly strong at the low and high ends of the skill distribution. Top jobs for low-skilled immigrants include occupations such as housekeepers and maids, cooks, janitors, farm workers, construction laborers, gardeners, and groundskeepers. Top occupations among high-skilled immigrants include managers and administrators, computer software developers, registered nurses, subject instructors, accountants and auditors, computer systems analysts, and physicians. At both ends of the skill distribution, immigrants have flowed into occupations and industries that have either grown quickly, outstripping native supply, or that natives have, over time, either exited or eschewed.

Immigration policy has helped shape immigrants' educational composition. Immigration policy has actively constrained immigration by highly educated workers, while facilitating family-based immigration, a group with considerably lower levels of education. The lack of effective border and interior enforcement has also resulted in large flows of unauthorized migrants with relatively little education compared with US natives. As a result, nearly one-third of US immigrants lack a high school diploma or equivalent (Fig. 2). About 40 % have a high school diploma but no college degree, and 27 % have a college degree or higher. The foreign born are concentrated at the bottom and top of the education distribution while natives are massed in the middle.

C. Geographic Distribution

The geographic distribution of immigrants has traditionally been a function of prior migration. New migrants tend to choose destinations where they have strong migrant networks, and states with large settled immigrant populations are sometimes

Education Distribution by Nativity
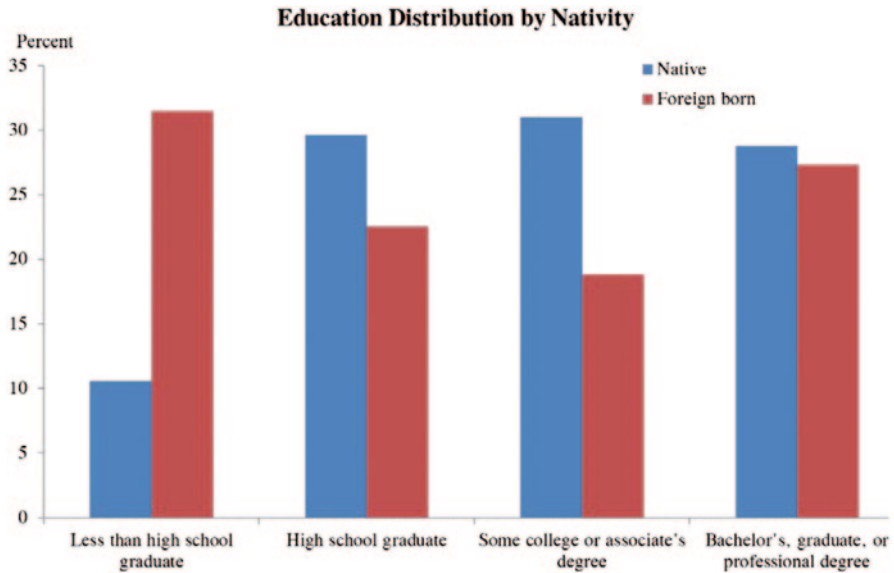
Fig. 2 Education distribution by nativity. (Source: American Community Survey 2011)

called "gateway states." The map below (Fig. 3) illustrates the uneven distribution of foreign workers; states with a higher portion of the nation's foreign labor supply than their portion of the native labor supply are shaded more darkly and include California, Nevada, New York, and New Jersey at the high end (where the foreign-to-native worker ratios exceed 1.7) and Texas, Florida, Illinois, Massachusetts, and Maryland on the lower end of the high scale (with ratios between 1 and 1.7). States with relatively low shares of foreign workers, shaded the lightest, include West Virginia, Montana, North and South Dakota, Mississippi, and Maine, among others.

Arriving in a gateway state does not imply that immigrants will stay there. In fact, following arrival, migrants respond to economic incentives and move for better employment and wage opportunities much like other groups (Cadena 2013; Card and Lewis 2007). The great 1990s dispersion of US immigrants away from gateway states, such as California and Texas, is evidence of the responsiveness of foreign workers to economic incentives. In the Mexican case, Bean et al. (2007) note that three of the five traditional Mexican-receiving US states experienced net out-migration of Mexicans in the 1990s. Mexicans and other immigrants moved to states in the South and mountain regions of the country, which were experiencing faster economic growth at that time. By 2000, one-quarter of Mexican immigrants resided outside the five traditional gateway states, up from only one-tenth a decade earlier (Leach and Bean 2008).

Foreign Born Worker Concentration by State
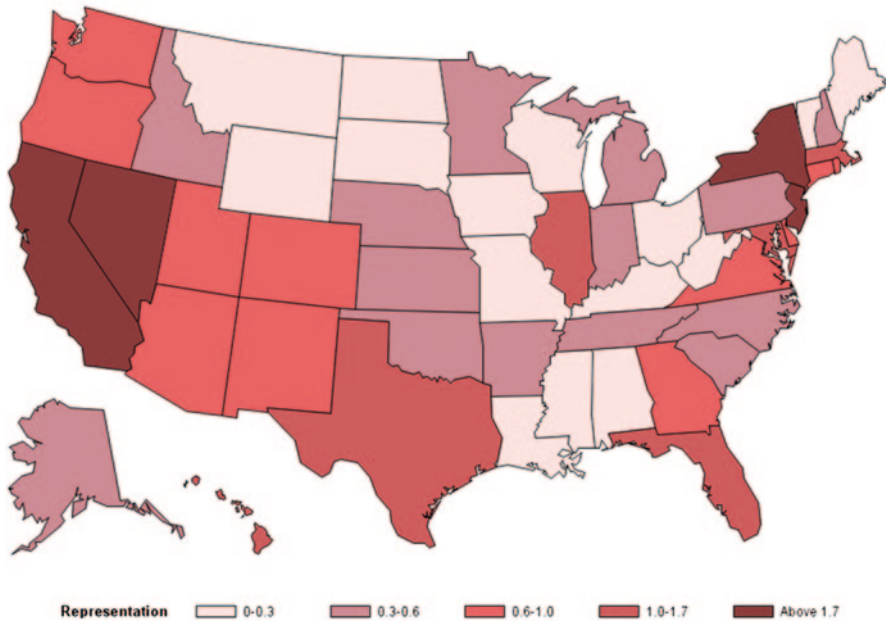
Fig. 3 Foreign-born worker concentration by state. (Source: Data in AK, ME, MT, SD, VT, WV are from the 2009–2011 3-year American Community Survey estimates, data in ND and WY are from the 2009 American Community Survey, and data in the remaining states are from the 2011 American Community Survey)

Effect on Economic Activity

A. Immigration and GDP

Immigrants help power and grease the economy's engines. First, immigration increases the labor force, enlarging the economy. Although they make up only 16 % of the US workforce, these immigrants account for a much larger share of its growth. Just over half of the increase in the US labor force between 1996 and 2010 was the result of immigration—legal and illegal. The role of native-born workers in workforce growth is diminishing due to several factors, including declining labor force participation rates. As the native-born population ages over the next 20 years, the foreign-born contribution to labor force growth is expected to stay high or even increase. This will help offset the 80 million baby boomers retiring from the US workforce over the next two decades (Social Security Administration 2012).

When immigrants flow into the labor force, it is not just a question of adding more workers. As long as immigrants differ from natives—which they do in varying

degrees—specialization occurs. Native and immigrant workers sort into the jobs and tasks that they do relatively well. For example, one recent study shows that natives have a comparative advantage in communication-intensive work, while immigrants have a comparative advantage in manual labor jobs (Peri and Sparber 2009). Specialization increases efficiency, which allows more output to be produced with fewer resources. This boosts labor market productivity, raising economic output, or GDP.

   Although the bulk of GDP gains go to the immigrants in the form of labor earnings, the native-born population benefits from the immigrant influx through lower prices and the specialization in production described above. The effect of immigration on the GDP accruing to natives has been termed the "immigration surplus" (Borjas 1995). Estimates suggest that the gain to natives' incomes from immigration is about US$ 38–75 billion per year, which is not insignificant even though it represents less than 0.5% of the US$ 16 trillion US economy. Consumers benefit from lower relative prices for goods and services, and investors, business owners, and landowners from higher returns on capital and land. In cases where immigrants and natives are complements, lower prices can have far-reaching effects. For example, research shows the immigration-induced decrease in the cost of child care and housekeeping has significantly increased the labor supply of highly educated native women (Cortés and Tessada 2011).

B. Immigration Surplus: Education and Spillovers

The immigration surplus depends on, among other things, the relative skill levels of migrants, host country institutions, and spillover effects. If the migrant skill composition is unlike that of natives, then immigrants are complementary to most domestic workers, which means immigrants and natives mutually supply what the other lacks. In this case, the immigration surplus is larger than it would be if migrants and natives were close substitutes, which is when one can perform the work of the other (Borjas 1995). If capital is taken into account, the benefits of high-skilled immigration in particular are larger. Capital represents the economy's stock of financial and physical assets, including technology. Research suggests skilled migrants are complementary to capital, implying the immigration surplus is larger when high-skilled rather than low-skilled immigration occurs in a capital-intensive economy, such as the US. There is an added benefit if high-skilled immigrants are more likely to bring capital with them when they migrate, such as their own savings, which can then be used for investment.

   A look at where immigrants are in the educational distribution of US workers reveals that immigrant flows have been largely complementary to natives, occurring at the high and low ends of the education distribution where there are relatively few US-born workers. That said, newcomers are most overrepresented at the lowest education level, among workers who lack a high school degree (Fig. 4). Half of the
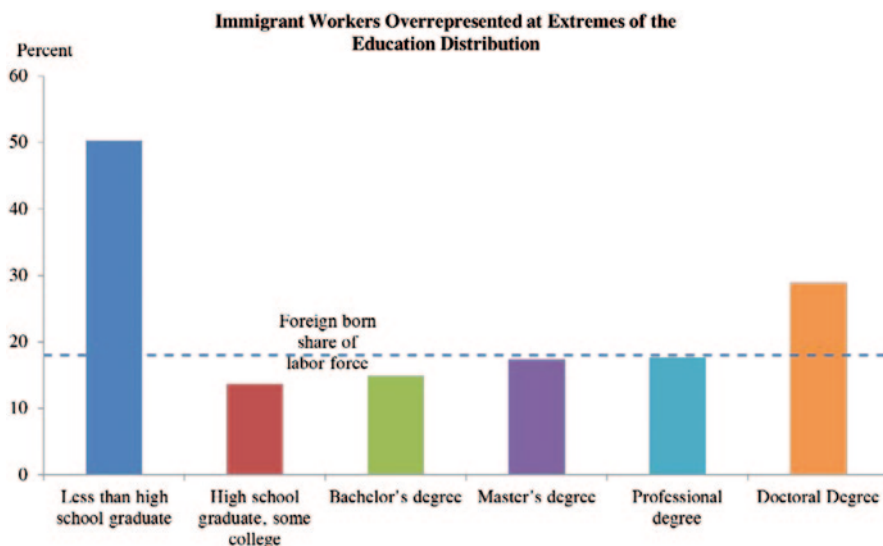
Fig. 4 Immigrant workers overrepresented at extremes of the education distribution. Percent of foreign workers aged 25 and over in the US labor force by education. (Source: American Community Survey 2011)

workers with less than a high school diploma are foreign born.[6] Conversely, 29 % of workers with doctoral degrees are foreign born. Overall, foreign-born workers account for about 18 % of all US workers aged 25 and older (see dashed line in Fig. 4).

If immigration has external or spillover effects on the US economy, the immigration surplus may be smaller or larger than the estimates noted above. Congestion and pollution costs associated with population growth can reduce the immigration surplus while the new arrivals' innovation and business creation, as discussed below, can increase it.

C. Migrant Mobility

Immigrants have relatively greater mobility than natives. This willingness to relocate to where economic opportunity exists contributes to the US economy (Borjas 2001). For example, the Hispanic population in Louisiana jumped nearly 20 % following Hurricane Katrina in 2005, as migrant workers converged upon the state to assist in cleanup and reconstruction. Most regional disparities, however, emerge more slowly as some industries decline and workers are reluctant to relocate, driving wages down and unemployment rates up in already distressed areas. Moving to growing areas helps reverse this process and speeds wage convergence. Immigrants

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[6] 25.5 % of foreign-born workers aged 25 and over lack a high school diploma compared with 5.3 % of native-born workers.

are more likely to do this than natives, particularly among the less educated. Immigrants also alleviate shortages and bottlenecks that can thwart economic growth in expanding areas. The economy runs more efficiently as a result. The gains accruing to natives from this convergence are around US$ 8–16 billion per year (Borjas 2001).

D. Immigration and Economic Growth

The static effects of immigration on the macro economy from specialization and greater efficiency are one-time gains that boost output but do not change the long-run growth rate. In the longer term, increases in income per capita come from productivity growth, a result of technological progress. Technological progress, in turn, depends on innovation, which is closely related to research and development activities.

Recent research provides ample empirical evidence that immigrants with advanced skills play an important role in innovation (Hunt and Gauthier-Loiselle 2010; Kerr and Lincoln 2010; Hunt 2011; Chellaraj et al. 2008). Highly educated immigrants receive patents at more than twice the rate of highly educated natives. The difference has been linked to immigrants' overrepresentation in STEM fields and to the growing number of immigrants entering on employment-based and student visas. There is also evidence of positive spillovers on natives, meaning that immigrants not only raise innovation directly but also boost overall patent activity, perhaps by attracting additional resources and boosting specialization.

Innovation is also closely related to entrepreneurship, particularly in the high-tech sector. Immigrants founded 25% of US high-tech startups between 1995 and 2005 (Wadhwa et al. 2007). In the overall economy, immigrants also have much higher rates of business creation than natives. Immigrants are nearly 30% more likely to start a business than natives (Fairlie 2008). This is surprising given that immigrants typically have less wealth, worse English skills, limited institutional knowledge, and less access to bank credit than natives. However, despite a greater proclivity to become entrepreneurs, immigrant self-employment rates are not too different from those of natives. The self-employment rate among immigrants was 11% in 2010 compared with 9% among natives (Orrenius and Zavodny 2011).

Figure 5 shows the extent to which immigrants are overrepresented in STEM and health-care occupations. Immigrants make up 16% of the college-educated labor force as a whole. However, they are 48% of medical scientists and 39% of computer programmers. Immigrants also have an outsized presence in medicine, engineering, higher education, accounting and auditing, nursing, and architecture.

STEM, Health Care Occupations Rely on High-skilled Foreign Workers
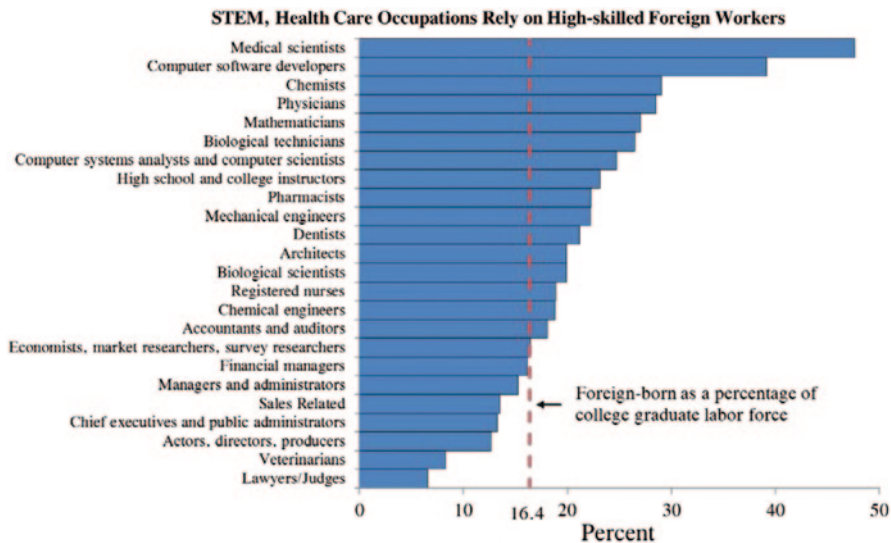
Fig. 5 STEM, health-care occupations rely on high-skilled foreign workers. Percent of workers aged 25 and over, with bachelor's degree or higher who are foreign born for selected occupations. (Source: American Community Survey 2011)

Labor Market Effects

Many factors influence how immigration affects labor market outcomes. A simple model of supply and demand predicts that immigration increases the number of workers, pushing the labor supply curve out (Fig. 6). Wages fall from W to W′ as a result, and employment of natives falls as well from E to E′. The magnitude of these decreases depends on the size of the immigrant inflows and how responsive labor supply and demand are to changes in wages. For example, if natives' labor supply is not very responsive to changes in their wages, the decrease in natives' wages will be larger but the decrease in their employment will be smaller than if natives' labor supply is very responsive to wage changes. If employers' labor demand is not very responsive to changes in wages, the decreases in natives' wages and employment will be bigger than if employers' labor demand is very responsive to wage changes. For any given responsiveness of labor supply and demand to changes in wages, the bigger the immigrant inflow, the bigger the decreases in natives' wages and employment.

The magnitude of the effects on natives also depends on how substitutable immigrants are for native workers. Some natives benefit from immigration, whereas others likely incur losses. Natives whose skills are complementary to those of immigrants are most likely to gain from immigration, and natives with substitutable skills are most likely to lose (Ottaviano and Peri 2012; Orrenius and Zavodny 2007). The brunt of the negative labor market impact falls on earlier immigrants, not natives, because they are most similar to new immigrants and hence compete most closely with them.
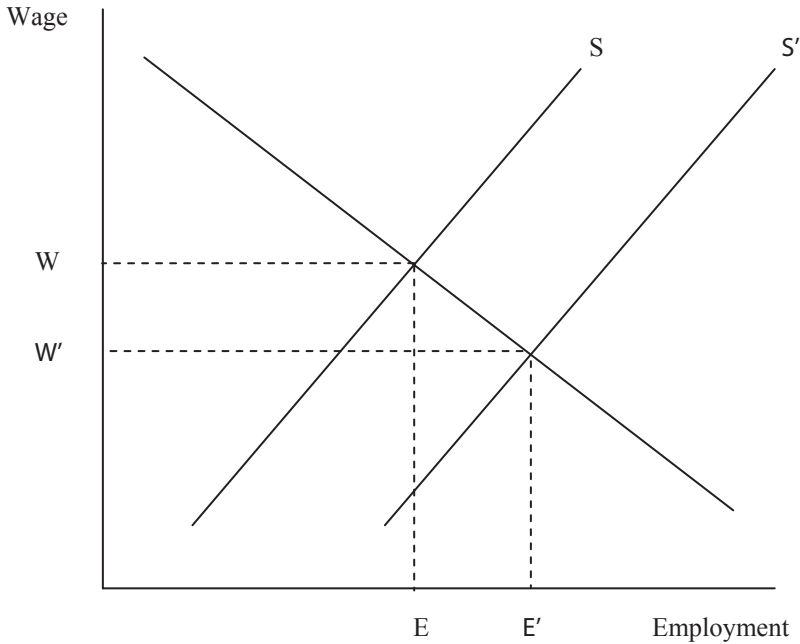
Fig. 6 In the standard case, increased labor supply through immigration causes natives' wages and employment to fall

The preponderance of empirical evidence indicates that the adverse impact of immigration on natives' wages is considerably smaller than might be expected given the magnitude of immigration to the US, particularly of low-skilled workers. For example, Card (2001) concludes that immigrant inflows reduced wages and employment rates of low-skilled natives in traditional gateway cities, like Miami and Los Angeles, by 1–3 percentage points during the 1980s. Ottaviano and Peri (2012) find that immigration inflows during 1990–2006 reduced wages among natives without a high school diploma by about 1 % in the short run and actually increased their wages slightly in the long run. Some other research indicates more negative effects, such as Borjas's (2003) conclusion that immigration inflows during 1980–2000 reduced wages among natives without a high school diploma by almost 9 %. But even the most adverse estimates suggest that other factors, not immigration, played a dominant role in the long-term decline in wages for less-educated natives.[7]

Why does immigration not have a more negative effect on natives? If immigrant workers are complementary to natives, then efficiency gains from immigration may push up productivity and thereby raise natives' earnings (Peri 2012). Industry or occupation mix may change in response to immigration as well. Research suggests that when the cost of labor falls, firms employ production processes that use more labor than they would have otherwise (Card and Lewis 2007). The decline in the

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[7] Labor market institutions, particularly the fall in the real (inflation-adjusted) minimum wage, played a larger role than immigration (Card and DiNardo 2002).

cost of labor also raises the relative return to capital, so immigration may also spur investment and inflows of capital. Another reason that immigration does not have a more negative effect on natives is that immigrants tend to move to booming areas that otherwise might experience labor shortages. Natives and other immigrants may also move in response to immigration, making adverse wage effects difficult to measure. And immigrants are themselves consumers who create jobs via their own effect on aggregate demand. Last but not least, certain immigrants also create jobs via their entrepreneurial activities and innovation, as discussed above.

Fiscal Effects

Apart from immigration's direct impacts on the economy and growth, it has a fiscal impact—the difference between what immigrant families pay in taxes and consume in government-provided benefits. Highly skilled immigrants, generally well educated with substantial incomes, pay more in taxes than they consume in publicly provided services (Smith and Edmonston 1997). By comparison, low-skilled immigrants are a net fiscal drain because of their low wages, large families, and lack of employer-provided health insurance coverage. In 2010, about 31 % of immigrant-headed US households participated in a major means-tested public assistance program, compared with 19 % of native-headed households (Orrenius and Zavodny 2011).

It is important to note that higher welfare participation among immigrants in the US is not related to lower employment among low-education, foreign-born household heads (which is often the case in other advanced economies). In the US, low-education immigrants actually have much higher labor force participation rates than similar natives. Rather, the difference is due to greater immigrant participation in public health insurance programs, such as Medicaid and the Children's Health Insurance Program (CHIP).

It is also important to note that, in the very long run—across generations—the negative fiscal impact of low-skilled immigrants dissipates. This happens through the assimilation of their children, grandchildren, and later generations, who eventually reach average or above-average education and income levels and "pay back" the costs imposed by their ancestors. Rapid economic integration of the second and third generations pays large dividends for the host country.

With regard to unauthorized immigrants, most attempts to calculate their net fiscal impact conclude that they also pay less in taxes than they receive in services, on average (Congressional Budget Office 2007). Like low-education legal immigrants or low-education natives, they receive more in government benefits than they pay in taxes, on average. However, since they are not eligible for most welfare programs, illegal immigrants have a smaller adverse fiscal impact than low-wage legal immigrants. In both cases, the fiscal burden is particularly heavy for state and local governments, which bear a large share of costs for schools and health care.

Policy Implications

The global reallocation of workers from low-income to high-income countries yields very large benefits. Economic opportunity attracts immigrants who take advantage of it and enjoy a higher standard of living as a result. Meanwhile, immigration can boost the economic growth of host countries, which benefits natives. So why is immigration reform so controversial?

The problem with devising immigration policy arises from the fact that the gains from migration or from immigration reform, such as a legalization program, accrue largely to the migrants, with only a small share of gains falling to host country natives. Further, those gains are not distributed evenly, as some native workers are hurt by the migrant influx into the labor market, as noted above. Moreover, the gains for natives are either augmented or reduced by immigration's fiscal impact. For this reason, the calculations of immigration's net benefits for natives depend not only on the volume of immigration but also on its composition. In this section, we briefly review current US immigration policy and some of its problems. We then review possible reform measures and discuss their likely economic impact.

A. Family Reunification Policy

Since the 1965 amendments to the Immigration and Nationality Act, US policy has been based on the principle of family reunification. Immediate relatives of US citizens (spouses, parents, and unmarried children under age 21) are allowed in without numerical limit. Additional relatives, up to 480,000 per year, enter via four capped preference categories. First preference is for the unmarried adult children of US citizens; second, spouses and children of legal permanent residents; third, married children of US citizens; and fourth, siblings of US citizens. After 5 years on a green card, permanent residents can naturalize. Once citizens, they too can sponsor their foreign-born relatives.[8]

Additional capped green card categories include employment-based visas (140,000) and diversity visas (55,000) for immigrants who come from nations with low US migration rates. There is no explicit cap on the number of refugees or asylum seekers who can receive permanent resident status, though refugee admissions are subject to annual limits set by the president.

Under this system, the US annually issues about 1.1 million green cards. About 86% go to family members of US citizens or permanent legal residents, people seeking humanitarian refuge, and diversity immigrants. The remaining 14% go to people who are immigrating for work reasons—but half of these are for workers'

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[8] The concern over chain migration likely spurred lawmakers to draft immigrant admission bars as part of the 1996 immigration reform (IIRIRA). The 3- and 10-year bars prevent unauthorized immigrants inside the US from adjusting status without first spending several years in their home countries. The bars have therefore prevented thousands of immigrants who are otherwise eligible for permanent resident status from receiving their green cards.

Table 1 US lags behind other nations in share of foreign workers. (Source: OECD International Migration Outlook 2010)

Country	Total number (thousands)	Work (%)	Family (%)	Humanitarian (%)	Other (%)
Korea	195	81	17	0	2
Switzerland	139	80	14	5	2
Spain	392	79	20	0	1
Italy	425	65	31	3	1
Germany	228	59	22	16	2
United Kingdom	347	58	31	1	10
Australia	206	42	51	6	1
France	168	34	52	7	8
Canada	247	25	62	13	0
US	1107	7	73	15	5

Only includes OECD countries; work includes free movement migrants; percents may not add to 100 due to rounding

spouses and children, meaning a mere 7 % of green cards go to so-called principal workers, most of whom are high skilled.[9] As can be seen in Table 1, no other major developed economy places such a low priority on permanent employment-based immigration.

The US has created several temporary visa programs in the past two decades to help compensate for the low number of hard-to-get employment-based green cards. Under the well-known H-1B program, about 100,000 workers enter the country in a typical year, many of them high-skilled Indians going to work in the information technology sector.[10] Another important temporary job-based measure is the North American Free Trade Agreement (NAFTA) TN visa, which admits an additional 70,000-plus professionals, mostly from Canada but a growing number from Mexico. The L1 program allows multinational corporations' intracompany transferees (about 75,000 annually), and the O1 program provides visas for a small number of workers of "extraordinary ability."

As temporary visa usage grew in the 1990s and 2000s, quotas for employment-based green cards remained unchanged. The mismatch in the number of immigrants on temporary visas who wished to stay in the US and the number of available permanent residence visas produced unprecedented green card queues. Nearly 1.1 million skilled workers, including family, were waiting for an employment-based green card in fiscal year 2006 (Jasso et al. 2010). Many more have likely given up and left the US or never bothered applying. For those in the queue, green cards typically will not be available for years because of the strict numerical limits on employment-based permanent visas. There also are country-of-origin limits that restrict the

[9] Calculations based on averages over the past 5 years as published in the Department of Homeland Security, Yearbook of Immigration Statistics. See also Jasso et al. (2000).

[10] The figure is the average during the 2006–2011 period and is based on US CIS data on H-1B petitions approved for initial employment.

number of immigrants from each country, making the queues for would-be migrants from populous nations such as India and China even longer.

US immigration policy is even more restrictive with regard to low-skilled workers, who face little opportunity for legal entry. There are two temporary visa programs designed for low-skilled workers, the H-2A (for farm workers) and H-2B (other seasonal workers) programs. Both are for employment stints of less than 1 year. In a typical year prior to the recession, these programs together would bring in 110,000 workers. Meanwhile, about four times as many workers would enter the country illegally (Cohn and Passel 2010).

The US has more unauthorized immigrants than any other nation in the world, although illegal inflows tapered off significantly during the recent recession and housing bust. Still, an estimated 11 million unauthorized immigrants reside permanently in the US (Passel and Cohn 2011). Many of the least-skilled workers depicted in Fig. 1 entered the US illegally at some point. One of the main reasons the US attracts so many unauthorized immigrants is its proximity to Mexico and Central America, where large numbers of workers readily migrate northward to take advantage of what have historically been plentiful job opportunities.

For decades, US policy vis-à-vis unauthorized immigrants consisted of tightening border control. There was little to no interior enforcement (i.e., a crackdown on employers). Illegal immigration flourished under this system since, once inside, unauthorized immigrants lived fairly normal lives. This changed following the 9/11 terror attacks. Conditions for unauthorized immigrants deteriorated significantly as state and federal enforcement intensified. Work-site enforcement and other measures likely forced some undocumented migrants into self-employment or the shadow economy, where wages are lower and fringe benefits are scarce. Others have left states that passed these laws, such as Arizona. Without comprehensive immigration reform, these tough policies are often counterproductive in that they exacerbate the negative fiscal impact of the low-wage immigrant population by reducing the taxes they pay and increasing their need for public assistance. Although unauthorized immigrants are not eligible for any welfare programs outside emergency medical care, their US-born children are citizens and entitled to the full range of public assistance.

B. Immigration Reform

The section above outlines shortcomings of current US policy, including the large undocumented population, shortages of permanent resident visas, and restrictions on high-skilled, employment-based immigration. In early 2013, after a 7-year hiatus, Congress and the White House released preliminary proposals for comprehensive immigration reforms that address the problems in current law. While the two proposals differ on some key details, they both include a legalization program for undocumented immigrants, additional green cards to reduce backlogs and admit more STEM workers, and increased interior and border enforcement. We have already discussed the economic benefits of high-skilled immigration. We turn now to the likely economic effects of an amnesty for unauthorized immigrants.

This time around, a legalization program will far exceed the magnitude of the only other such large-scale effort, the Immigration Reform and Control Act (IRCA) of 1986, which affected about 2 % of the labor force. The undocumented today comprise about 8 million workers (over 5 % of US labor force), including 1.1 million in Texas and 1.9 million in California (Passel and Cohn 2011). The main economic effect of legalization would be higher earnings for those who legalize. Hispanic immigrants' wages increased 6–13 % when they legalized their status after IRCA, with slightly larger effects among women than men.[11] Legalization removes employers' risk of incurring penalties, which may be passed on to workers as lower wages, and allows immigrants to move to better, higher-paying jobs.

The impact of a legalization program on native workers is likely small. Most unauthorized immigrant workers entered the US labor market years ago, and affected employers and native workers have already adjusted to their presence. That said, labor market outcomes may worsen for natives and other immigrants if newly legalized immigrants compete more closely with them for jobs. However, compliance with tax withholding and labor regulations, from minimum wage laws to health and safety regulations, would likely increase, leveling the playing field by erasing some of illegal immigrant workers' current cost advantages.

Some benefits traditionally associated with unauthorized workers would dissipate with legalization. Employers, particularly in sectors of the economy that depend on a steady stream of such labor, currently benefit from the ready availability of people willing to hold any job, even undesirable ones that pay low wages. Consumers enjoy lower prices for goods and services. The immigrant wage gains after an amnesty are effectively a pecuniary transfer to the newly legalized workers from employers and consumers. Another consideration is that legalization and, eventually, citizenship also could lead to additional illegal and legal immigration. This pattern characterized the previous US experience (Orrenius and Zavodny 2012). Reform proposals would likely include expanded border and interior enforcement, such as mandatory electronic verification of work authorization, to combat incentives to illegally migrate. A sizable and user-friendly temporary worker program for low-skilled workers would also be needed to reduce future unauthorized immigration.

Legalization would likely worsen the fiscal impact of low-skilled immigrants, although only in the medium to long term. In the short run, the fiscal impact is likely positive. Income and payroll tax revenues are likely to increase as some workers move onto the books instead of being paid under the table and pay back taxes, as is likely to be required by a new law. Of course, the effect may not be large since estimates suggest that over half of unauthorized immigrants already pay income and payroll taxes through withholding, filing tax returns, or both.[12] On the spending

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[11] See Amuedo-Dorantes et al. (2007).

[12] See "The Impact of Unauthorized Immigrants on the Budgets of State and Local Governments," Congressional Budget Office, December 2007. Unauthorized workers use a variety of means to comply with tax laws. Some have been issued an Individual Taxpayer Identification Number (ITIN) or a Social Security number that is invalid for work, while others use fake numbers or

side, most of the short-run impact would involve the US citizen children of newly legalized individuals. These minors are already eligible for means-tested benefits if family income is low enough, but may not be enrolled because of deportation fears.

There would be an added social benefit from greater family income and stability. Research indicates that Mexican American young adults living in the US complete more years of school, score higher on standardized tests, and learn better English if their parents are able to legalize their status (Bean et al. 2006, 2011; Pan 2011).

Conclusion

Robust labor demand, changes in native labor supply, permissive immigration policy, and a host of willing workers worldwide have combined to produce a large and persistent immigrant flow to the US over the past three decades. Economic benefits accrue from both high- and low-skilled immigration. Both tend to complement the native workforce and bring needed skills and manual labor. Among employment-based immigrants, high-skilled workers, in particular, benefit the economy. In the US, high-skilled immigration alleviates shortages and bottlenecks in key science, health, and technology occupations and spurs innovation and investment in research and development. High-skilled workers also have a positive fiscal impact, contributing more in tax payments than they use in public services. Accordingly, immigration policy that prioritizes education and skills and brings in more high-skilled immigrants enhances immigration's benefits from the host-country's perspective.

There may be additional benefits to high-skilled immigration, although they are not yet well documented. Much of it involves industries that produce tradable goods or services, meaning companies can employ their workers in the US or abroad. Immigration policy that promotes high-skilled immigration may slow outsourcing or offshoring of production. Such policies may also attract foreign and domestic investment, further spurring economic growth. The following specific changes would boost the economic gains from immigration:

- Increase the number of temporary and permanent resident visas available to high-skilled and low-skilled workers. STEM workers are a priority, but other workers also make economic contributions and should be included.
- Simplify and streamline the rules for temporary worker visas to encourage employers to use these programs instead of hiring unauthorized workers.
- Create a legalization plan for current unauthorized immigrants, but also minimize future illegal inflows via increased work-site enforcement and more legal avenues for workers to enter the US

numbers that belong to somebody else. Until the early 2000s, there were few consequences for workers who submitted false or fraudulent Social Security numbers.

The US has a lot to gain from immigration reform along the lines of what is currently under discussion in Washington, D.C. A carefully crafted legalization program can provide an even playing field for native and immigrant workers and boost tax revenue. Additional high-skilled and employment-based immigration will have far-reaching benefits in the form of more innovation and faster growth. Provisions such as mandatory electronic verification of work authorization, as in the president's 2013 plan, or a larger role for low-skilled employment-based immigration, as in the Senate plan, would prove instrumental in reducing unauthorized immigration in the future.

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Workers, Families, and Immigration Policies

Leisy J. Abrego and Shannon Gleeson

Introduction

In his landmark interview with the Spanish-language network, Univision, in 2012, President Obama conceded that one of the biggest regrets of his first term was his failure to enact immigration legislation (The White House 2011). Though President Obama's administration has brought some change, immigrant advocates charge that these changes are not enough. They cite the record number of deportations under his administration as clear evidence of a broken immigration system. Indeed, immigrant advocates decry the administration's deportation of 400,000 individuals a year, push for an end to enforcement programs such as E-Verify and Secure Communities, and continue to rally in favor of the elusive "comprehensive immigration reform"—all of which would strengthen the position of immigrant families in this country.

   With hundreds of thousands of immigrant families forcibly separated over the last several years, and millions more living in fear of possible deportation, stakes are high as we enter discussions about immigration reform. At a time when public discourse more clearly recognizes the presence of women and children in the immigrant community, this chapter aims to shed light on how immigration policies and enforcement practices affect immigrants and their families.

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Unauthorized Immigration in the US

Unauthorized[1] immigration to the US has a long and varied history shaped by a number of shifts in immigration policy. Of the global immigrant stock, 10–15 % is estimated to be undocumented (20–30 million; International Organization for Migration 2008). Today, undocumented immigrants comprise roughly 40 % of the immigrant flow to the US.[2] Although immigrants often come to this country as a result of complex factors that were initiated or supported by the US—including free trade agreements and wars that devastated immigrants' home countries and their national economies—once they become unauthorized, they find themselves in extremely vulnerable positions. Besides being low-wage workers targeted for exploitation, immigrants are also parents raising families and trying to get a foothold in US society.

The last few decades in policy changes and enforcement tactics have been especially harsh toward unauthorized immigrants, as they have led to changes in migration and settlement patterns that make more people vulnerable over longer periods of time. The militarization of the US southern border with Mexico has increased the dangers of crossing so much that the previous seasonal migration of mostly male migrants was slowed down to a trickle. While the economic recession that began in 2007 has slowed the flow of migrants, other factors such as border security have also certainly played a role in the magnitude and method of migration (Wasem 2012). Rather than risk their lives at each crossing, many undocumented immigrants have opted to remain in the US and settle. For those with families, bringing their relatives to settle along with them was the only way to guarantee family unity. This drastic shift in migration patterns has led to previously unseen numbers of unauthorized women and children who must also navigate the consequences of immigration policies in their family life (Hondagneu-Sotelo 1994). The recent surge of undocumented children crossing from Central America has highlighted the urgency of this crisis.

Public debates on immigration, however, have until recently focused exclusively on male adult migrants. As the scholarly literature shifts to examine the patterns and experiences of immigrant families, this chapter reviews the complex and multifaceted consequences of immigration policies for these families. Notably, both the long stalemate of immigration reform at the federal level and the fast pace of policy changes at the state and local levels have had deep repercussions for immigrant families who must navigate policies in a context that heavily restricts their paths to legalization.

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[1] These migrants' presence and labor is unsanctioned by host governments. The terminology used to describe them is a point of major debate amongst academics, journalists, and politicians alike. Here, we opt to use the terms "unauthorized" and "undocumented" to highlight the fluid nature of legal status. We also hold that the term "illegal" is both pejorative and inadequate to address the complexity of these migrants' experiences.

[2] Formal estimates of unauthorized immigrants refer to "foreign-born individuals who entered without inspection or who violated the terms of a temporary admission and who have not acquired LPR [legal permanent resident] status or gained temporary protection against removal by applying for an immigration benefit" (US Department of Homeland Security 2008).

Immigration Enforcement and the Labor Market

Today, new technologies facilitate limitless communication and travel, while integrated markets create global economies. Yet, behind the veneer of seamless economic and cultural integration are millions of undocumented workers who labor in the shadows. While some temporary visas are available for low-skilled migrants, their availability pales in comparison to the size of the unauthorized migrant flow. Though opportunities also exist for family reunification, the wait time can be up to 10–20 years for those immigrants whose countries of origin produce the largest unauthorized migrant populations.

Therefore, the demand for cheap labor in the US, coupled with a lack of employment opportunities in the country of origin, has fueled much of the unauthorized migration we currently observe. The vast majority of these migrants have become integral to local labor forces. The US is home to an estimated 8 million of these unauthorized workers, who make up 5.2 % of the US labor force, and come primarily from Mexico and Latin America (Passel and Cohn 2009; Passel and Cohn 2011).

The majority of undocumented immigrants in the US are men of prime working ages; lower proportions of unauthorized are children or elderly. Yet, these figures are deceiving, given that undocumented status is a fluid state. For example, more than 300,000 immigrants currently live in the US under Temporary Protected Status (TPS)—a deferred action that grants temporary relief from deportation and a work permit to immigrants from recognized countries that have undergone a natural disaster or conflict (Hoefer et al. 2011; Simmelink 2011). TPS typically spans a period of 18 months, and its renewal is left to the whims of Congress. Consequently, these immigrants frequently slip in out of legal status depending on the political landscape. This uncertainty can also facilitate labor exploitation and block social mobility, with particular detriment to women and workers in the informal economy (Salcido and Menjívar 2012).

In addition to being overrepresented in low-wage industries,[3] undocumented workers are among the most vulnerable to workplace violations such as wage theft, sexual harassment, and occupational injury. Of the day labor workforce, 75 %, for example, is undocumented. In a recent survey, half of day laborers reported being denied payment altogether; a third had worked more hours than agreed to with their employer; and more than a quarter had been abandoned at a worksite (Valenzuela et al. 2006). Similar findings have emerged in other high immigrant industries such as domestic work, where a study by the National Domestic Workers Alliance found that "85 % of undocumented immigrants who encountered problems with their working conditions in the prior 12 months did not complain because they feared their immigration status would be used against them" (Burnham and Theodore 2012, p. xii). They also reported lower wages, more severe financial hardships, more problematic working conditions, and higher injury rates (20).

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[3] By far, the occupation with the largest share of unauthorized immigrants is farming (25 %), though significant levels are also found in building grounds-keeping and maintenance (19 %), construction (17 %), food preparation and serving (12 %), and production (10 %; Passel 2009).

Findings from the 2008 Unregulated Work Survey (based in three of the largest immigrant destinations of Los Angeles and New York) confirm that undocumented workers overall are more likely to have even the most basic of workplace protections violated (Bernhardt et al. 2009). The authors found that 47.4 and 29.5 % of foreign-born unauthorized women and men, respectively, reported minimum wage violations. In comparison, 24.2 and 13.5 % of foreign-born authorized, and 16.1 and 14.9 % of US-born women and men reported the same (Bernhardt et al. 2009). In sum, finding work, dealing with exploitation, and securing fair wages are central matters for immigrants and their families.

Indeed, across industries, undocumented workers are disproportionately employed in riskier occupations and industries and suffer a disproportionate share of worker fatalities (Loh and Richardson 2004). The Department of Labor reports that the top wage and hour violators are concentrated in low-wage sectors commonly populated by undocumented immigrants, such as agriculture, restaurants, garment manufacturing, and janitorial services (Department of Labor 2007). Furthermore, a recent report by the AFL-CIO highlights the common practice of employers threatening to call immigration authorities if workers pursue claims (Avendaño and Hincapié 2008, citing Morgan et al. 2006). Unsurprisingly, a number of other studies have found similar patterns of exploitation (e.g., Foo 1994; Gordon 2007; Nissen et al. 2008).

The situation for undocumented workers and their families is especially complex given what Griffith (2012) has dubbed, "immployment law." On one hand, undocumented immigrants are not permitted to legally reside or work, yet most of them find employers ready and willing to hire them. Under the Immigration Reform and Control Act (IRCA) of 1986, which instituted employer sanctions that penalize employers who hire undocumented workers, all employers are required to submit documents to establish the identity and work authorization status of new employees. More generally, a complex set of federal and state laws working at cross-purposes creates a confusing and contradictory context for undocumented immigrants and their families. The last two decades in particular have given way to a considerable number of challenges for undocumented workers. The 2002 Supreme Court ruling in *Hoffman Plastic Compounds, Inc. v. NLRB,*[4] was especially harmful, precluding undocumented workers from receiving key remedies of job reinstatement and back pay within the context of the National Labor Relations Act.

Even though undocumented workers are subject to deportation, they nonetheless are eligible for a limited array of labor protections at both the federal and state level (e.g., the National Labor Relations Act-NLRA 1935, the Federal Labor Standards Act-FLSA 1938, Title VII of the 1964 Civil Rights Act, and the Occupational Health and Safety Act 1970). In 2008, the Supreme Court denied certiorari in *Agri*

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[4] Chief Justice William Rehnquist, writing for the majority, stated that even though the facts in *Hoffman* affirmed the employer's culpability, granting full rights to undocumented immigrants "not only trivializes the immigration laws, [but] also condones and encourages future violations." In his dissent, Justice Stephen Breyer countered that the decision would grant egregious employers "immunity in borderline cases" and ultimately encourage employers to "hire with a wink and a nod those potentially unlawful aliens" (iv).

Processors, Inc. v. National Labor Relations Board, letting the lower court ruling stand and reasserting an undocumented worker's eligibility to participate in union elections. Although this decision affirmed the premise that undocumented immigrants have access to basic workers' rights (Motomura 2010), other actions, such as the 2011 National Labor Relations Board ruling in *Mezonos Maven Bakery, Inc.,* have been more restrictive. In *Mezonos,* the board concluded that undocumented workers were ineligible for back pay remedies even in cases where the offending employer knew about their unauthorized status when they hired them (NLRB 2011). The current environment of "rights without remedies" has created a culture of fear among undocumented workers, furthered their exploitation, and stifled collective bargaining efforts (Berman 2004; Calderon-Barrera 2003; Fisk et al. 2005; NELP and MALDEF 2003; Walsh 2003; Wishnie 2007). It has also permitted major disparities to continue beyond the arena of union organizing.

Memoranda of understanding between federal immigration and labor standards enforcement authorities have attempted to address the interference of immigration enforcement on worker rights. A series of agreements mitigate the sharing of information between agencies, and provide for prosecutorial discretion in cases involving labor rights disputes. However, several Immigration and Customs Enforcement (ICE) operations, such as those that ensnared hundreds of workers at a poultry plant in Postville, IA and another at a transformer factory in Laurel, MS in 2008, have indeed disrupted ongoing labor organizing campaigns and labor violation investigations. In each of these cases, immigrant families bore the brunt of the short- and long-term consequences of such enforcement tactics (Thronson 2008).

Though worksite raids have officially slowed under the Obama Administration, other controversial "interior enforcement" tools such as the "Social Security No-Match letters" (which alert employers to the presence of a worker whose Social Security Number cannot be verified) and the "E-Verify" program (an Internet-based employee eligibility verification system that is currently mandatory for any federal contractor) have contributed to worker exploitation. Critics argue that both programs grant employers considerable power to engage in union busting and deter workers from speaking up about workplace violations.[5] In all of these cases, policies block the ability for immigrant workers to fulfill their responsibilities and goals as parents and family members is made more difficult.

This is not to say that undocumented workers do not speak up. However, those who do are more likely to encounter employer intimidation. To examine this process of claims-making, we draw on an original survey of 453 claimants seeking assistance from one of four workers' rights clinics in the San Francisco Bay Area that served a large immigrant population (Gleeson 2013).[6] The findings revealed

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[5] Though the Social Security No Match Letter program was suspended pending a legal challenge, it was renewed in 2011.

[6] Surveys were conducted from June 2010 through April 2012, and spanned four workers' rights clinics in the San Francisco Bay Area: San Francisco (97), Oakland (61), Berkeley (58), and San Jose (237). Respondents were surveyed while waiting for their consultation, with the understanding that they were free to opt-out and that their participation would in no way affect their claim. A subset of workers were then interviewed 12–30 months following their initial claims. Typical

that structural challenges make it difficult for workers to access workplace rights on
their own due to: (1) disjointed bureaucracies that have few institutional incentives
to coordinate their efforts, (2) a system of employer penalties that incentivizes liti-
gation and does not effectively address repeat employer offenders, and (3) statutes
that leave vast numbers of workers without protection.

The aforementioned survey queried foreign-born respondents about the climate
of fear at their workplace. Almost no claimants (3 % of both foreign-born and un-
documented workers) contended with employers who threatened to call immigra-
tion authorities. A similarly negligible level reported ever experiencing a raid at
their workplace. However, 37 % of those surveyed were undocumented. Of these
workers, 90 %, as well as 80 % of documented respondents, agreed that "workers
who don't have papers are more targeted for workplace abuse."

During this research, we also spoke with a sample of injured undocumented
workers in agriculture, an industry where at least half of workers are estimated to be
undocumented.[7] Many of these workers are seasonal and subcontracted employees.
Undocumented status amplified these and other detrimental workplace dynamics
such as at-will employment, lack of union representation, access to health insur-
ance, and job security. Legal status certainly shapes workers' access to the job mar-
ket, their willingness to speak out against workplace violations, workers' capacity
to navigate the claims bureaucracy, and ultimately the inability to access benefits
afforded to disabled workers who are no longer able to return to work (Gleeson
2010). Each dynamic in turn determines opportunities for well-being and mobility
of immigrant families relying on the wages and consistent employment of undocu-
mented workers.

The Economic Precarity of Undocumented Workers and Their Families

In addition to the 5.2 % of US workers who are undocumented, there are a substan-
tial number of undocumented children in the US, and undocumented workers are
often embedded in mixed-status families. The number of unauthorized children has
declined from a peak of 1.6 million in 2003 to about 1 million in 2010 (Passel and
Cohn 2011). Of the unauthorized immigrants, 13 % are children (as against 27 % of
US-born and 6 % of legal immigrants). However, according to 2010 estimates, close
to three-quarters of the 5.5 million children of unauthorized immigrants (73 %) were
born in the US. Nearly half (48 %) of unauthorized immigrants live with their chil-
dren, and this is true particularly for women. All of this signals the large proportion
of "mixed status" families (i.e., families with immigrants in various legal statuses;

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issues clinic staff frequently see include wage theft, discrimination, sexual harassment, and health
and safety violations—all of which then shapes workers' family lives and mobility.

[7] This demographic reality that is the result of a long history of direct labor recruitment followed
by massive deportation campaigns (Calavita 1992; Zahniser et al. 2012).

Passel and Cohn 2009; Passel and Cohn 2012) that rely on the wages and consistent employment of undocumented workers.

The consequences of the various legal decisions and enforcement practices against undocumented workers we detailed earlier in this report are present in the lives, and directly influence the well-being, of families. Undocumented workers earn far less than their native-born counterparts (a median household income of US$ 36,000 vs. US$ 50,000) and do not experience the same income mobility over time, as do other immigrants (Passel 2009). As a result, a third of the children of unauthorized immigrants live in poverty, nearly double the rates for those with US-born parents (18 %; Passel 2009). While long-time legal immigrants are just as likely as US-born individuals to be homeowners, the same is not true of long-term unauthorized immigrants, which consequently impacts housing stability and wealth accumulation opportunities for immigrant families. Unauthorized immigrants are also at a high risk of being uninsured, with nearly 60 % lacking health insurance in 2007 (nearly twice the proportion of legal immigrants and four times the proportion of US-born adults). While the children of unauthorized immigrants fare better than their parents, they are still significantly disadvantaged compared with their US-born and legal resident counterparts (Passel 2009).

Unauthorized parents are working to raise and support children in what has been an increasingly harsh political and legal context that powerfully impacts their prospects for economic and emotional well-being. Immigration laws passed in the 1990s—particularly, the Illegal Immigration Reform and Immigrant Responsibility Act and the Personal Responsibility and Work Opportunity Reconciliation Act (both passed in 1996)—have drastically reduced immigrants' access to social benefits while blocking paths to legalization and expanding the grounds for deportation of documented and undocumented immigrants (Menjívar and Abrego 2012). Moreover, after the attacks of September 11, 2001, new agreements between the Immigration Customs Enforcement (ICE) agency and local law enforcement spread across the country, facilitating a dramatic increase in racial profiling, while also weakening mechanisms that previously helped maintain community security.

Under these circumstances, immigrants and their families face steep hurdles in their attempts to become upwardly mobile. Here, it is worth underscoring the often-overlooked point in policy discussions that *immigration laws do not only affect unauthorized immigrants*. For example, economic precarity resulting from limited job opportunities and rampant employer intimidation of unauthorized workers, in turn, has multiple and profound consequences for workers' entire families. Not unlike other members of the working poor, therefore, families that rely on the limited income of unauthorized workers can usually only afford to live in areas of dense poverty (Chavez 1998). Low-performing schools, high rates of crime, and few recreational activities are common in these communities, blocking immigrants' paths to positive integration over the long term (Abrego and Gonzales 2010).

Unlike other working poor people, however, undocumented immigrants and their families have few institutionalized resources to help them overcome the challenges of poverty. For example, while undocumented workers are generally eligible for workers' compensation benefits, they are ineligible to access long-term

welfare state benefits such as unemployment and federal social security disability payments. Similarly, while unauthorized children are legally permitted to attend public school in grades K–12, different states have various policies that can prohibit or make college too expensive to access, thereby also blocking the student's (and his or her family's) ability to thrive.

One of the more damaging effects of US immigration policies in immigrant parents' lives is how fear of deportation shapes their decisions not to access resources that would benefit their families. After an ICE raid in their community, for example, parents are likely to keep children home from school and generally avoid interacting with anyone who represents a public agency. The fear of deportation also keeps these immigrant parents from dealing with public health workers who may disclose their status to immigration authorities. In this way, parents risk their own health and, potentially, that of their children, even when the latter are US citizens who legally have access to these very resources. The lack of access to social services is particularly damaging for these families because these immigrant parents' jobs rarely provide benefits, like health insurance.

Immigration policies not only economically impact unauthorized immigrants and their families but also lead to long-lasting challenges in other areas of family life. Given the heavy restrictions for legal migration, for example, many immigrant families face perilous border crossings, and are likely to have spent some time apart, migrating in stages (Suárez-Orozco et al. 2002). In many cases, this is because families can only afford to send one migrant at a time. After one or both parents migrate, it may take several years for them to earn enough money to finance their children's migration (Dreby 2010). Even in cases when immigrants have legal status, the multiyear backlog on immigrant visa applications can take more than a decade to complete (Abrego 2014; Menjívar 2006). That is, even when immigrants do everything in their power to follow the laws, they may be waiting many years before they can legally reunite with their families.

The Effect of Unauthorized Status on Family Relationships

Such restrictive immigration policies and bureaucratic backlogs can also create tension and added burdens for families whose members are already structurally vulnerable. Beyond the usual family challenges of communicating and working together across generations, unauthorized immigrant parents and children may struggle to establish a family relationship after being separated and reunited years later (Suárez-Orozco et al. 2010). In one case, Mario, who came from Guatemala at age 6, still struggled to adapt during his teenage years. He shared the painful unresolved issues he associated with his father's migration when Mario was only a few months old:

> It's not a good feeling. I mean, I knew I had a father, but, it was just, he wasn't there…. It's still not easy getting along with my dad. We disagree a lot…. I was just thinking too highly of my dad, because I never knew him, you know. Things are just not how I figured…. I've never been really attached to my dad because of that reason … I guess he expected me to,

you know, be like, 'wow, my dad' (in dreamy tone). But it was just like, how could I show that if he wasn't there? You know.

In Mario's situation, as in many others, being apart from parents over several years can lead to the development of idealized and unrealistic expectations. It is difficult to establish loving bonds and meaningful communication when parents and children have not been able to reside under the same roof, or even in the same country, for years.

As is evident in Abrego's research, even short separations can be difficult for young children. Luis, whose parents migrated from Mexico to the US during his early childhood, only spent a few months with his grandmother before his own migration at the age of four. He was separated from his father for years, but only apart from his mother for a few months. Still, as a young adult, Luis felt uneasy about his relationship with his mother:

> Those 3 months made a huge difference. I didn't remember her. It felt like she wasn't my mom. You know what I mean? It felt like she was someone else. And it was only 3 months. I remember like when I used to get mad at her, if I was in trouble and she was telling me what to do, in my mind I was like, 'what if she's not my mom? What if she's another person?' … I mean, that's your logic at that age.

These separations, particularly during formative years, can confuse children and make them question their parents' authority. As restrictive immigration policies prolong separation, long-awaited reunifications are likely to involve difficult transitions that further complicate family dynamics. Children often report that feelings of abandonment and resentment surface, as it is easier to blame parents for their decision to leave than to blame legal barriers, particularly when it is not clear that immigration policies and backlogs are more accurately to blame.

After families have spent many years together in the US, there are still specific hurdles that arise when one or several members are unauthorized. In particular, undocumented individuals of one generation (e.g., parents and spouses) may have distinct experiences that differ from those of the next (e.g., children), thus leading to tensions regarding how to approach their lives in the US. These intergenerational conversations must take place in a social and legal context that sets parents and children up for very different socialization experiences (Abrego 2008; 2011; Gleeson and Gonzales 2012). Families with undocumented children who grow up in the US face unique challenges. Undocumented youth who can legally attend public school through the end of high school are socialized mainly through school, where until their late adolescence, they live much like their authorized and US citizen peers. In these cases, their experiences can lead them to develop an understanding of their legal status as a source of stigma, while their parents have a very different perspective.

Undocumented immigrant youth also face numerous challenges throughout adolescence. For example, many struggle with the shame of not being able to drive a car, date, go clubbing, or travel abroad like the rest of their peers (Gonzales 2011; Gonzales and Chavez 2012). Unlike their undocumented parents, moreover, undocumented youth have adapted to US social norms and can more easily fit in.

This prompts them to participate in activities that their parents consider too risky, thereby adding tensions to family dynamics when parents disapprove of their children's behavior. The consequences of unauthorized status—being excluded from otherwise typical experiences for people their age—can be deeply frustrating for young people.

The aspect of this dynamic that can be especially hurtful for families is that sometimes, rather than blaming the legal system that prevents them and their families from thriving, youth are tempted to blame their parents. Ultimately, in these situations, despite their parents' best efforts to provide opportunities for a better life in the US, many young people in immigrant families have a difficult time finding and taking advantage of opportunities for upward mobility.

Debilitating Fear

The most overwhelming repercussions of immigration policies for immigrant families lie in the deep-seated fear that permeates so many of their lives as a result of increased enforcement and changing policies at the federal, state, and local level. Even in the process of daily survival, for example, immigrants' families must often also grapple with changing laws and implementation practices that have the potential to devastate their economic and emotional stability. Before President Obama's administration, the Department of Homeland Security practiced enforcement most commonly through workplace raids. At the height of the raids, mothers and fathers worried daily that they might be detained in the middle of their workday.

In recent years, particularly since President Obama's first administration, the Department of Homeland Security has relied on programs such as 287(g) and Secure Communities to increase communication between local authorities, the FBI, and ICE agencies to ramp up immigration enforcement tactics beyond workplace raids. By deputizing local sheriffs to act as ICE agents and enabling local police to look into the legal status of all those with whom they come into contact, these enforcement practices have led to vastly increased numbers of detentions and deportations. Under current enforcement practices, DHS reports about 400,000 immigrant deportations annually since 2008.[8] These record numbers of deportations, moreover, are taking place alongside a wave of xenophobic and hateful speech, and growing animosity towards Latino immigrants (Chavez 2008; Menjívar and Abrego 2012), all of which inevitably affects families' well-being, whether or not all members are unauthorized, and even when one or more individuals in the family are US citizens through birth or naturalization. The new tactics mean that even routine traffic stops or a phone call to 911 to report a crime can quickly lead to ICE's involvement and, ultimately, to the tearing apart of families.

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[8] See Table 38 of the Department of Homeland Security's Yearbook of Immigration Statistics: 2010 http://www.dhs.gov/files/statistics/publications/YrBk10En.shtm (Retrieved April 24, 2012) for a breakdown of the number of deportees with and without histories of criminal offenses.

Indeed, the wide reach of immigration enforcement practices has been unequivo-cally devastating for families. The fear that these practices generate informs many aspects of immigrants' and their families' lives. For example, outside of formal channels for assistance, it can be very difficult to establish social networks when seeking aid. Not knowing with whom they can trust their secret, the fear of potential detention makes many unauthorized families worry about their everyday interac-tions with strangers and likely prevents greater communication within their commu-nities. In this process, it is easy to develop feelings of exclusion that in some cases can also put these families at risk of being targets of crime (Abrego forthcoming 2014). As Norma, a Mexican first generation undocumented immigrant mother in Los Angeles, sums it up, "we are here and we know this is not our country. They don't want us here, so you have to be careful. Always be careful." Because of the current level of immigration enforcement, immigrants are made to feel constantly insecure, unsure of who they can trust, and unable to rely even on institutions that should represent safety for all.

How US Citizens Also Suffer

Beside the 500,000 undocumented children in the US growing up in families with at least one undocumented parent (Taylor et al. 2011), an additional 4.5 million US citizen children are growing up in mixed status families in which at least one of their parents is undocumented (Taylor et al. 2011). Significantly, for reasons of border militarization and restricted paths to legalization, the latter figure more than doubled between 2000 and 2011. This means that US-born citizens are not entirely protected from the consequences of anti-immigrant laws—particularly when their loved ones are undocumented. By 2011, among the record number of deportees, a full 22 % of undocumented parents who faced deportation were parents of US citi-zen children (Wessler 2011).

Mixed status families not only share many of the same challenges and experi-ences as undocumented families, but also face unique tensions and challenges as a result of the different legal statuses of their members. Immigration policies can play out in numerous ways, partly depending on the role of the undocumented persons and their relationships relative to others. For example, unauthorized status will have different repercussions in a family that includes an unauthorized parent and US citizen children versus a family that includes a US citizen parent and children with various statuses.

Today, with heightened criminalization of immigrants and record numbers of deportation, many families experience associated stress and fear. Indeed, this level of seemingly random and punitive enforcement spreads insecurity through entire families, whether or not all members are unauthorized. This is evident in the narra-tives of children of immigrants who grew up with one or two undocumented par-ents. Even in Southern California, a region generally known to be welcoming to im-migrants, young adults report growing up with great fear. For example, 22-year-old

Mayra was born in the US; as a US citizen, immigration policies should not pertain to her. Yet, the topic made her nervous; her mother is an unauthorized immigrant from Guatemala. As she explained:

> Talking about my mom is hard. It's like there's this whole cloud of, like, a whole heaviness (motions as though she is carrying weight on her shoulders and above her head), I don't know, of things that I was never allowed to say out loud. If she was ever late, if she wasn't back from church or from work right on time, we all worried…. Nobody said anything, but we were all thinking it: what if she got caught? … That weight, it's just fear, I guess … it really sucks to grow up like that.

Experiences like Mayra's are proof of the anguish that citizen children experience as a result of current implementation of US immigration policies. Even though she was born a US citizen, the fear of detention and deportation—some of the gravest repercussions of immigration policies—also affected her throughout her life and in very powerful ways.

These fears are certainly validated by immigration enforcement statistics. Those immigrants who are detained and deported are now likely to include members of mixed status families—particularly the parents of US citizen children. When parents are deported, children are often then placed in foster care with little regard for the principle of family unity that presumably guides both immigration and child welfare policies (Wessler 2011). Such was the case of Encarnación Bail Romero, a Guatemalan immigrant to the US (Brané 2011; Thompson 2009). In 2007, while working at a poultry plant in Missouri, immigration officials detained Bail Romero in a workplace raid. Her son, Carlos, who was then only 6 months old, spent some time with different caretakers, until a couple approached her about adopting him. She was adamantly against this option, but helpless from within a detention center in another state. Her lawyer, who only explained the situation to her in English (a language she did not understand), failed to protect her. Unable to leave detention, she later learned that a judge used her absence in court for a hearing about Carlos' future as evidence of abandonment. In response, the judge terminated her parental rights, and another family legally adopted Carlos, who was a US citizen by birth.

Although Ms. Bail had been trying to regain custody of her son for more than 5 years, immigration laws stood against her and she finally and irreparably lost custody in 2012. Scores of deported immigrant parents have faced similar charges of deserting their children, risking losing them to the foster care system, and ultimately had to face the painful prospect of never seeing them again. Other research has also extensively documented the challenges facing US citizen children whose only chance for family unity required their departure from the US (Dreby 2012; Passel et al. 2012). These cases, while extraordinary, reflect an increasingly common experience in the current historical moment: The legal system denies undocumented immigrants the same parental rights that are guaranteed to other parents—even when US family laws would otherwise aim to keep parents and children together. Understandably, knowledge of cases like these instills great fear in immigrants.

The deeply divisive and largely misinformed US national debate about undocumented immigrants and immigration laws often masks the broad repercussions of ramped up enforcement for immigrant families. Such harshly restrictive

immigration policies are harming individuals and their entire families, whether or not all of the members are unauthorized (Menjívar and Abrego 2012). Thousands of families experience anguish resulting from the current implementation of US immigration policies. Even US citizens, either by birth or through naturalization, live with the fear that their closest family and friends will face detention and deportation—possibly the gravest repercussions associated with undocumented status. Even though they are not the targets of this legal enforcement, entire families have to negotiate these repercussions and face a heavy added burden shaping all of their members. These experiences, moreover, have long-term consequences for family communication, relationships, and well-being.

All of the repercussions associated with immigration enforcement also directly undermine families' efforts to move out of poverty. Like parents in other working poor families, undocumented parents often work in low-paying, unstable jobs, with few to no benefits for long periods of time. And, like other children who grow up in poverty, (documented and undocumented) children of undocumented immigrants also face high levels of danger, few educational opportunities, frequently lack health insurance (Fortuny et al. 2007), and have limited access to bank accounts and other financial services. Due to fear of deportation, undocumented parents also often avoid applying for those benefits they or their children may be eligible for, such as food stamps and Medicaid (Abrego and Menjívar 2011).

Undocumented Status and Family Separation

Immigrants and their families may also experience the harsh consequences of immigration policies that can prevent them from reuniting across borders over several years. Long-term separation of members of transnational families, in which core family members live across borders, is not uncommon among Mexican, Central American, and other Latin American immigrants. In these cases, unable to survive in their countries of origin, parents opt to migrate to the US in search of work to support their children from afar. The vast wage inequalities in the region make this a likely strategy.

Importantly, US foreign policies play an enormous role in pushing people out of their home countries in the first place, although immigration debates typically fail to recognize this. This is true for many sending countries, and especially evident in Central America where massive migration to the US began only after prolonged US funding of wars in the region in the 1970s and 1980s. Today, vast economic inequalities continue to be reinforced and exacerbated through the consequences of the North American Free Trade Agreement (NAFTA) and the Dominican Republic-Central American Free Trade Agreement (CAFTA-DR) that have benefited elites while constricting the masses. Unable to survive on the measly salaries in limited job opportunities that have become the norm since the implementation of these free trade agreements, people feel forced to migrate as their only option. Once they arrive in the US, however, immigration laws restrict their chances for family

reunification, making for prolonged family separations—often at least a decade (Abrego 2009).

It is difficult to enumerate how many people live in these types of arrangements, but it is a notable proportion of families from various countries throughout Latin America (Abrego 2009; Dreby 2010; Hondagneu-Sotelo and Avila 1997; Pribilsky 2004; Schmalzbauer 2005). In El Salvador, for example, it is estimated that anywhere between 16 and 40 % of children in various regions of the country are growing up without one or both parents due to migration (García 2012; Martínez 2006). For these families, US immigration policies are likely to play out differently than for families that are forced apart through deportation or who live together in fear.

Transnational families may be constituted in a number of different ways. Here, we focus on families in which parents migrated to support their children who remain in the home country. In these cases, female relatives—mothers, grandmothers, aunts, or older sisters—typically stay behind to care for children. Parents work in the US to send remittances to families who often rely solely on these monies to survive. Each member of the family, then, experiences illegality differently. Unauthorized migrant parents feel the brunt of the criminalization and exclusion associated with unauthorized status from the moment they leave their home. Once in the US, unable to reach their financial goals, even when they work multiple jobs and overtime, immigrant parents experience illegality as frustration towards stalled economic mobility and fear of deportation.

Meanwhile, back in their home countries, caregivers and children suffer the migrants' absence and lack of resources due to undocumented status. When migrants are separated from their families for years, their relatives must also grapple with the consequences of US immigration policies. Much of the tension for transnational families who rely on undocumented or only temporarily protected family members comes from the limited sums of remittances, which may be a result of being employed in sectors that are dangerous and exploitative (Holmes 2007; Milkman et al. 2010; Walter et al. 2004). For transnational families, these limited remittances provide little support to improve material circumstances in their lives. The results often include continued poverty and increased tension when mothers and fathers cannot live up to their parental expectations. Because separation was supposed to lead to financial stability, children in transnational families can become hurt, confused, and resentful. The severity of suffering stems from a sense of abandonment that many children feel because there is little to show for the family sacrifice of separation (Abrego 2014).

Conclusion

Despite the common assumption that immigration laws target only undocumented immigrants, they in fact intimately and deeply impact a larger proportion of immigrants and particularly Latinos. These policies contextualize immigrants' ability to integrate and be upwardly mobile, and shape their long-term relationships both in the US and abroad. They impact family dynamics as well—forcing parents and children to live across borders over a prolonged period; multiplying families' vulnerability

when they are all undocumented residing together; or complicating family relationships when only one or a few members are in tenuous statuses but they reside with others who have more rights and protections. Fear of deportation limits parents' authority while adding responsibilities for parents and children (Abrego and Menjívar 2011). Consequently, children have to carry part of the burden—sometimes financially, often emotionally—to help the family survive despite the limitations. Immigration policies, moreover, prevent all parents from accessing social services and other resources to help their children achieve optimal well-being.

In the long term, undocumented status keeps families in the shadows, avoiding many of the very institutions that have traditionally benefited immigrant families (Menjívar 2006). In these cases, immigrants and their families experience immigration policies as extreme vulnerability that can penetrate even their most intimate relationships. Moreover, the disenfranchisement of undocumented immigrants from the formal political realm excludes their voice from important policy discussions and leads to political underrepresentation (Montforte and Dufour 2011). This makes immigrants and their families vulnerable, as they must rely on others to represent their interests in policy making.

Policy Recommendations

In many respects, unauthorized immigrants and their families are already important members of US society—even if only on the lower rungs of the economic ladder. They contribute to our economy, their children are educated in our schools, and all family members envision their futures here. However, these families currently have no available structural paths out of poverty. In a cruel twist, parents' efforts to secure their families' survival by migrating are met with legal obstacles. Current policies restrict their ability to thrive in this country and, for transnational families, to pull children out of poverty in the home countries as well. Without full legal rights, these families are barred from the very mechanisms that have ensured high levels of economic and social mobility to other immigrants throughout US history (Abrego 2006; Menjívar and Abrego 2012). A complete path to citizenship, therefore, is necessary to give Latino families a chance at success in this country. Entry policies should also be reassessed to address the reality of a globalizing world and economy.

Short of legalization, there are several significant changes in policy that would improve immigrant families' chances of thriving. Currently, thousands of children of deported parents are being separated from their families and placed into the foster care system without prior notice. To prevent the trauma that likely ensues for these families, Congress should pass legislation to ensure that children are not unnecessarily separated from their families and mandate minimum standards for immigration enforcement when children are involved. Policies should ensure that parents are able to continue making decisions about their family's well-being and take the interests of the children into account in enforcement decisions. Discretion is particularly necessary for the current flood of unaccompanied minors who are being deported from the southern US border.
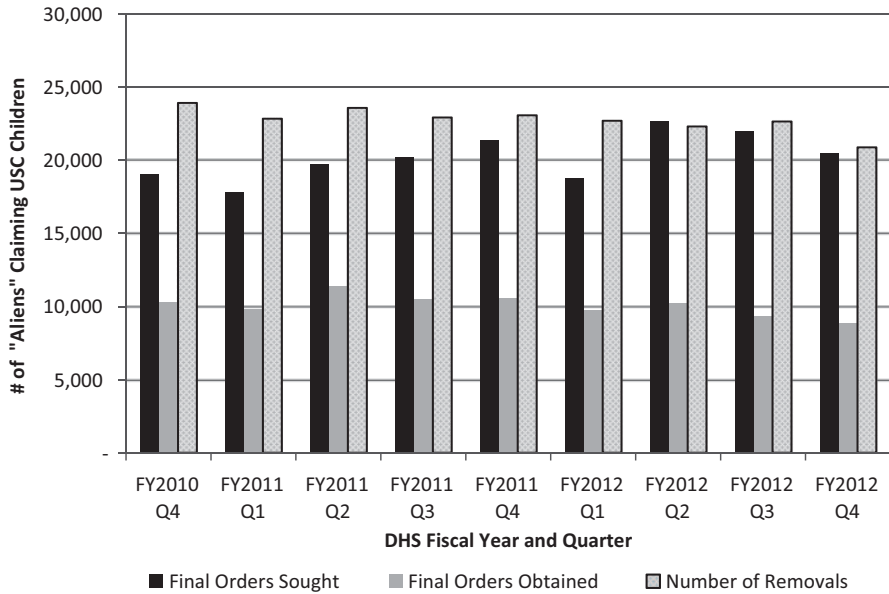
Fig. 1 Removal proceedings for "Aliens" claiming US citizen children. (Source: Freedom of Information Act Request to the Department of Homeland Security by the Colorlines.com and the Applied Research Center (Wessler 2012). Available at: http://colorlines.com/archives/2012/12/deportations_of_parents_of_us-born_citizens_122012.html)

Another small but significant change in policy could greatly improve the situation of many families. Currently, immigrant family members who are adjusting to legal status are subject to the provisions of immigration law that bar undocumented immigrants from reentering the US for 3 or 10 years (depending on how long they were in the country without status). In other words, even when they are married to a US citizen, or have US citizen children, immigrant relatives are required to leave the country for 3–10 years to adjust this status. This is a huge burden on families. Instead, the government should allow these family members to remain in the US while they apply for a waiver of the bar (known as a waiver of inadmissibility).

All families rely on workers for economic survival. To protect immigrant families, therefore, policies that target the improvement of the workplace are also required. Given the continuing attacks on immigrant workers' rights and the increased possibility of exploitation in various industries, the government should ensure that all people in the US, regardless of status, have strong worker protections, and should prosecute employers that exploit immigrant workers. Solutions to legal violence in the workplace should ensure "that workers know their rights, have full status under the law to assert them, have access to sufficient legal resources, and do not fear retaliation" (Milkman et al. 2009, p. 6). When workers are paid fair wages and when their rights are upheld, it is more likely that immigrant families will also thrive (Fig. 1).

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US Children with Parents in Deportation Proceedings

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Introduction

The US conducted almost 400,000 deportations during each of the past 5 years.[1] The increasing numbers of deportations—of both unauthorized immigrants and legal immigrants who have committed certain crimes—are also netting large numbers of parents.[2] An estimated 100,000 parents with US-born citizen children were deported between 1998 and 2008, but this figure is likely an underestimate, as many arrested immigrants do not report children living in the US (US DHS 2009).

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[1] The terms "deportation" and "removal" are synonyms and we use them interchangeably throughout the report; the federal government changed the official terminology from "deportation" to "removal" in 1996. Removals totaled 383,000 in Fiscal Year (FY) 2010, 388,000 in FY 2011, 419,000 in FY 2012, and 368,000 in FY 2013. See US ICE (2013).

[2] These crimes include state and local misdemeanors such as traffic violations and drug possession, as well as immigration crimes such as illegal reentry into the US.

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Recent estimates place the total unauthorized US population at between 11 and 12 million, and the population of US children with unauthorized parents at more than 5 million (Passel and Cohn 2010). About 80 % of these children are believed to be US-born citizens. This significant number of children, mostly US citizens, is at risk for parental deportation under current US immigration enforcement practices.

These deportations have occurred against the backdrop of ongoing public debates and policy deliberations over reforming the US immigration system. The current system grants an inadequate number of legal immigration visas to meet family-reunification and labor-market demands, while failing to significantly deter unauthorized migration. Significant efforts to overhaul the system—including providing a path to citizenship for 11 million or more unauthorized immigrants—failed three times in the US Congress, in 2006, 2007, and 2013.

Absent a resolution to the complex issues surrounding US immigration policy, the federal government has increased its emphasis on finding, arresting, and deporting unauthorized immigrants and legal permanent residents who have committed crimes—especially serious crimes. Immigration enforcement mostly takes place along the Southwestern border with Mexico, but it is also a frequent occurrence across the interior US. In the interior of the country, large numbers of immigrants have been deported following raids on workplaces, arrests at their homes, arrests during immigration appointments and court dates, operations made by federal agents and local police forces working together, and arrests of immigrants by the local police in routine policing operations. Although there have been some significant policy changes under the Obama administration, the overall pace of arrests and deportations continues unabated.[3]

Arrest and deportation have profound consequences for parents and children, consequences which are often overlooked during policy debates. To begin with, unauthorized families tend to be low income, and the parents usually work at low-wage jobs. Families that crossed the US border illegally, or came in on visas and overstayed them, may have been separated for long periods. Parental arrest generally leads to the loss of earnings and increased family economic hardship. Detention and deportation separate parents from each other and from their children for extended periods. Families sometimes split up permanently. Families also face uncertainty while awaiting the outcome of their immigration court cases—which often take months or years to adjudicate. And they may also suffer the stigma of arrest for immigration and related "crimes." As a result, many parents and children suffer significant trauma and stress after immigration raids and other enforcement activities.

This chapter describes some of the consequences for parents and children in these circumstances. It begins with a summary of data collection methods and fol-

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[3] In June 2011, the Obama administration issued guidelines that ICE officers conducting arrests, detentions, and removals should focus on the most serious criminals and that ICE prosecutors should exercise discretion by granting relief from removal to people who are not serious criminals and have factors that prompt "care and consideration." These factors include being pregnant or a mother nursing a baby but do not otherwise include being a parent. See Morton (2011).

lows with findings in terms of family economic hardship, parental mental health, and child behavior. The chapter closes with a discussion of policy issues raised by the research and recommendations for US government action.

Method

This chapter documents changes in the well-being of families, parents, and children following parental arrest for immigration-related reasons. It is based on research conducted by the Urban Institute from 2007 through 2009 and published in two prior studies (Capps et al. 2007; Chaudry et al. 2010). Findings are drawn from a sample of 190 children in 85 families where parents were arrested in one of the following ways:

- A raid on a worksite, in which parents were arrested while at work
- A raid on the home, in which children may have observed their parents being arrested
- Arrest of a parent while at an immigration appointment or court date; or
- An arrest during a routine policing operation, such as a roadblock or traffic stop, that led to referral to immigration authorities for deportation

The sample was collected through in-depth interviews with parents or other related adults during face-to-face sessions in their homes or other safe locations. The sample was based on referrals from local immigrant advocacy organizations, service providers, and churches. Because the sample was based on these types of referrals, it is not a random sample of any group of arrested immigrants. We discuss some quantitative data in this chapter, but our results are primarily drawn from the stories we were told during the face-to-face interviews.

The interviews were conducted in six sites—four sites in which agents from US Immigration and Customs Enforcement (ICE) arrested immigrants at their workplaces; one site where immigrants were picked up at home or at immigration interviews; and one site in which the local police referred people they arrested to federal agents for deportation.[4] Our interviews were conducted over a period of 2 years and included interviews at two time points:

- In the short term, 2–6 months after a raid or other parental arrest; and
- In the long term, 9 months to nearly 2 years after a raid or other arrest

Two of the worksite raids occurred more than a year before the study described in this chapter began, and were the subject of an earlier, exploratory study. The families

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[4] The six sites were Grand Island, Nebraska (worksite raid in 2006); New Bedford, Massachusetts (worksite raid in 2007); Van Nuys, California (worksite raid in 2008); Postville, Iowa (worksite raid in 2008); Miami, Florida (arrests by federal agents in homes and at immigration appointments, between 2006 and 2008); and Rogers-Springdale, Arkansas (arrests by the local police over a 6-month period in 2007 and 2008).

Table 1 Age and citizenship of children in study sample. (Source: Urban Institute interviews with families in study sites)

Child age	All children		US-born children	
	Number	Percent of total	Number	Percent of age group
Total	*187*	*100%*	*124*	*66%*
0–2	46	25%	46	100%
3–5	38	20%	34	89%
6–11	64	34%	31	48%
12–17	39	21%	13	33%

Excludes three children whose parents did not provide age or nativity

in these two sites were only included in our long-term sample. For the two other worksite raids, we conducted two interviews with the same set of parents—in the short and long term. Unlike the worksite raids, the arrests in the other two sites did not all occur at once, and interviews with parents in these sites are included in the short- or long-term samples, depending on when the arrests took place.

All interviews were conducted with arrested parents who had been released, or with spouses or other family members of parents who had been arrested and detained or deported.[5] The study team did not interview parents who were still being detained or those who had been deported. Our sample generally included parents who were appealing their deportation or otherwise had their deportation temporarily postponed. Almost all of them faced eventual deportation, although a small minority eventually gained work permits or permanent legal status after we interviewed them.

The study sample included immigrants from a variety of backgrounds. The largest groups were immigrants from Mexico, Guatemala, other Central American countries, and Haiti. Of the children in the sample, two-thirds were born in the US (Table 1). All children under three and 89% aged three to five were citizens born in the US, while only a third of the adolescents aged 12–17 were US-born. Many families included a combination of older unauthorized and younger citizen children, meaning that the older children would have difficulty returning to the US if they ever left. Thus, the mixed citizenship of children often complicated parents' decisions regarding whether to take their children with them when deported.

Findings: Family Economic Hardship

Loss of Parental Employment

Almost all of the families in our sample lost a working parent, because they were detained, deported, or released but not allowed to work. After the worksite raids,

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[5] About half the sample of parents were detained and separated from their parents for more than a day. Eighteen parents, or about 20% of the sample, were detained for a month or more. By the time of our last interview, 20 families and 49 children had a parent deported.

families lost workers who almost always had full-time jobs, consistent employment histories, and earnings that made their families generally self-sufficient. Families with workers at the meatpacking plants in two study sites averaged US$ 650/week in income (more than US$ 30,000 annually) before the raids. In both sites, almost all families lost all their income in the short term, and even in the long term—9 or more months after the raids—almost all of these families still had no income.

In three sites, most of the parents we interviewed had been released with electronic monitoring devices (EMDs) affixed to their ankles. These devices allowed ICE agents to track their whereabouts. Respondents wearing bracelets were afraid that ICE would find out they were working and arrest them again. One mother with an ankle bracelet said she could not stay in any particular location other than her home for an extended period because ICE might suspect she was working. Respondents felt they could not physically do the work because of the discomfort of the bracelet. In the words of one parent, "In fact, you can't work. It's uncomfortable even just to walk." Others found that employers would not hire them. In the words of another parent, "You want to look for work, everybody knows already that you got picked up, and so they are all afraid and no one wants to give you work, because you, even though you're afraid, go out to look and everyone closes their doors to you." It was particularly difficult for released parents to find any kind of work, even informally, in smaller communities where there were fewer employment options and where most people could identify those arrested in the raids.

Lower Household Incomes

Loss of work led to substantial declines in family income following raids and other arrests. In our long-term sample, family income dropped by about half. In one of the workplace raid sites, average family income had dropped by more than 90 % in our sample, and most families still had no income at all more than 9 months after the raid. In another site, family income was still down about 75 % almost 2 years after the raid.

Most of the parents we interviewed had been released or had a spouse who was in detention or later released. In general, the families in our study were released on bond, with ankle bracelets, or under other conditions pending adjudication of their deportation cases. In some cases, their deportation proceedings had yet to occur, while in other cases, they were appealing their decisions. Many of these cases took more than a year to be resolved, and some took more than 2 years. During these long periods, families were generally left with very low incomes and became reliant on family members, friends, private charity, and in some cases public assistance.

Dependence on Private Charity and Public Assistance

In three of our study sites, communities responded to large-scale worksite raids with substantial humanitarian relief efforts. In one site, a local church conducted a national fundraising drive and raised almost US $ 1 million to support more than

50 families for more than 6 months, and more than a dozen families for over a year. The church provided money for rent, utilities, and other basic necessities, while families were fed through food banks and regularly scheduled free meals. In the second site, the raided employer worked with community organizations to raise more than US $ 100,000 to assist families with rent, food, and other necessities. In the third community, Congressional Budget Office (CBOs) worked with a statewide immigrant coalition, a community foundation, and other groups in the region to raise money to assist affected families. In all three of these sites, the majority of our sampled families were dependent on private charity for at least several months, and a substantial minority relied on such charity for over a year.

Arrests in two of the sites occurred in immigrants' homes, at immigration appointments, and through local policing operations. The arrests in these sites were scattered over time and across geographic areas, and so there was no single "raid" to attract the community's attention. These operations received far less press attention, and communities did not mobilize as rapidly or comprehensively to assist affected families. As a result, the families we interviewed in these non-workplace raid sites did not have access to a privately funded safety net, and instead relied primarily on friends and family members for assistance.

There was substantial use of public assistance in our sample, even though all the parents we interviewed were unauthorized immigrants—who are generally ineligible for public assistance programs in the US. More than 80 % of our sampled families had US-born citizen children, and these children are eligible for public benefits regardless of the citizenship or immigration status of their parents. In our short-term sample, very few families accessed benefits for their citizen children, mostly due to fears about interacting with government agencies and reliance on family, friends, and private charity. But in the longer-term sample, about half of families participated in the Supplemental Nutrition Assistance Program (SNAP)—which gives families money to purchase food at grocery stores. About a quarter of the longer-term families participated in the Temporary Assistance for Needy Families (TANF) program, which provides cash benefits. Together, these programs only provide a few hundred dollars in income monthly, and are inadequate to bring families up to the US poverty level; however, in families with little or no income, they can provide a substantial safety net.

Public benefit use was concentrated in the three sites with substantial private charity efforts. These three sites accounted for all of the TANF cases and 80 % of the SNAP cases in our sample. In all three sites, the churches, CBOs, and other groups providing assistance conducted outreach to let families know their citizen children were eligible for these benefits, and sometimes had government eligibility workers stationed at their service locations. But in the sites where no such linkages were available through private charity efforts, families seldom accessed benefits.

Food Insufficiency

Economic hardship was universally high among our study sample, regardless of whether families were able to obtain private or public assistance. One standard US measure of hardship is "food insecurity," defined as the "limited or uncertain availability of nutritionally adequate and safe foods or limited or uncertain ability to acquire acceptable foods in socially acceptable ways" (Anderson 1990). Measuring food insecurity involves a number of survey questions, of which our study used the following:

- Could not afford enough food
- Were not able to eat (could not afford) balanced meals
- Reduced size of meals
- Adults ate less than before
- Adults experienced hunger

About a quarter of the parents we interviewed in our short- and long-term samples experienced hunger sometimes or frequently after the immigration raids or other arrests. Three-quarters of those interviewed more than 9 months after a parental arrest had difficulty affording food and balanced meals. In overall national comparison samples, the rate of hunger is less than 5 % and rates for the other four conditions are all less than 15 % (Coleman-Jensen et al. 2011).

Like other families on the margins of subsistence, our families generally developed strategies that minimized the impact of food scarcity on children, which meant at times adults cut back on their own consumption. At other times, it meant cutting back on the variety and quality of food, or choosing between food and other necessities. For instance, a single mother of three told us she ate less during the months after her arrest, but that the children sometimes refused to eat when they saw her not eating. She would say "sons, eat," and they would respond, "mommy, you eat first." She would pretend to eat more than she was really eating in order to get them to eat.

In another case, a single mother who had been arrested 3 months before our interview described her coping strategy, "not only did we have to cut the size of our meals, we had to skip meals, because it's not whenever you want a meal that you can have a meal." A third single mother in the sample, who was caring for her two children and her niece after her brother was arrested, told us:

> The kids have a lot of problems because sometimes I have five dollars for whole week and the kids only have noodles and the kids will only eat noodles. And I'll buy a gallon of water and they'll drink water and just go to bed like that.

In yet another case, a mother with two young children whose father was detained for 4 months related her difficulties meeting all of the family's necessities, "sometimes we don't pay the water so we can buy food. Sometimes we don't pay the insurance so we can buy food. Sometimes we don't pay the light so that we can buy food." These kinds of difficult choices in providing their families with basic necessities generated considerably anxiety in our study sample.

Crowded and Unstable Housing

Housing was families' most costly basic necessity, and another area in which hardship was pronounced after the raids and other arrests. In the three sites where families received substantial amounts of charity and public assistance, housing was the biggest ticket item. In one of the sites, the church that distributed assistance negotiated with landlords, sought out lower cost housing, and forced families to move in together to help stretch its resources to serve families for as long a time as possible.

Across our study sample, one in four families moved in with friends or family members, or had others move in with them. In one case, a family of three moved from a one-bedroom apartment into a two-bedroom house with seven other family members. In another case, a mother with four children moved into a house with her parents and two other family members. In a third case, a family rented out a bedroom in their apartment to another couple and their two children. These more crowded living conditions limited the amount of space available for children to play and do their homework; they also led to conflicts among children and parents. Families in our sample also moved frequently after one of the parents was arrested. In one case, a landlord asked a mother who had been arrested to move out of her apartment. In another case, a couple living with a mother who was arrested and released with an ankle bracelet moved out because they were afraid that ICE agents would come to the apartment and arrest them. The mother then moved to another apartment, and there another roommate threatened to move out. The mother and her three children wound up staying in the living room of an apartment they shared with four men. These frequent moves generated instability in families and created further psychological pressure for parents who were also dealing with loss of family income, difficulty finding jobs or other forms of assistance, and frequently, separation from a spouse or partner.

Parental Mental Health

The combination of parental arrest, family separation, lost work and income, food hardship, housing instability, and worries about the future led to increased stress, anxiety, and other mental health challenges in our study sample. Large shares of parents we interviewed reported mental health challenges, both in our short-term interviews (2–6 months after their or their spouses' arrest) and longer-term interviews (9 months or more after arrest). Respondents were asked six items, and a large majority answered all six items—though there were some refusals. Respondents reported whether (and how often) they experienced each emotion, choosing from five answers on a scale (never, almost never, sometimes, almost always, or always). In addition, respondents also described their mental health concerns in responses to open-ended questions.

Table 2 Self-reported parental mental health. (Source: Urban Institute interviews with families in study sites)

	Depressed	Nervous	Anxious	Everything is difficult	Hopeless	Worthless
Two to six months after arrest (N = 52 parents)[a]						
Never or almost never	10%	6%	25%	17%	25%	52%
Sometimes	44%	33%	27%	37%	38%	21%
Always or almost always	44%	60%	46%	42%	35%	21%
Nine or more months after arrest (N = 36 parents)[b]						
Never or almost never	19%	14%	19%	33%	28%	36%
Sometimes	44%	31%	33%	33%	42%	39%
Always or almost always	33%	53%	47%	31%	25%	22%

Respondents included in the table answered at least four of these six items. Percentages may not add up to 100 due to rounding
[a] Excludes three respondents with insufficient data and two caregivers who were not parents. There were nine missing responses among those included
[b] Excludes 14 respondents with insufficient data and two caregivers who were not parents. There were six missing responses among those included

More than 40% of short-term respondents said they always or almost always felt depressed, nervous, anxious, or that everything is difficult (Table 2). A third always or almost always felt hopeless, and a fifth felt worthless. There was little decline in these shares in our longer-term sample (many of whom were interviewed more than a year after arrest), suggesting that such mental health symptoms persist in this population.

We did not randomly sample parents arrested in the sites, and so these rates of mental health problems cannot be extrapolated to the population affected by the raids and other operations we studied. The parents we interviewed, however, had not yet been deported and were not in detention. Most were spouses of detainees or had been released pending their deportation, although a few had experienced detention themselves. If we were to include detained and deported parents, these rates of mental health concerns could arguably be higher.

Stressors Affecting Parental Mental Health

In the in-depth interviews, parents described a number of stressors that affected their mental health after worksite raids and other arrests. Stressors included unpleasant memories of arrest and detention, electronic monitoring via ankle bracelets, lack of work, increased parental duties, uncertainty about the future, and denial of the hopes and dreams that brought them to the US in the first place.

Anxiety was sometimes triggered by interaction with authorities, and this was true both for parents and their children. More than 1 year after being arrested, one parent said she remained anxious, and whenever she spotted a police officer, she recalled her detention. At the time of the interview, she was still checking in with ICE monthly, and told us that these check-ins triggered her anxiety. Another said,

"You're really unsafe, in the park or whatever, because immigration can show up anywhere and they can detain you." A third parent said that every time she sees a police officer or hears a knock on the door she fears that they are coming to take her away:

> I [would see] a patrol car, although it was a police car, I got scared. I would hear a little sound or something and I would get nervous and, naturally, it would scare [my child] because even when someone would come to knock … on my door … I would imagine that it was them, so then I would go to my room, or if I was in the kitchen, well, I would stay there, and I would call my husband … this, this is happening … little by little, it has gone away … I always, always remember that moment … I imagine that they can detain me at any time … and, well, I always live with that fear, with that anxiety "what's going to happen to me? My child?"

Parents who were released with EMDs sometimes had adverse responses to their ankle bracelets. One mother described it this way:

> The life I'm living now is not anything that I'd hoped for. It's not a life for a human being. It's a life for an animal. I feel like I'm living in hell. I can't explain. I can't describe. It hurts me and at night I have to sleep with this thing [EMD] and by day I have to charge it. In the beginning I felt like it was insects walking around me. You see it left this mark. Sometimes I want to give up. I feel like I lost my mind. I get depressed and I start shaking.

Lack of employment also generated anxiety in our sample. One of the mothers we interviewed was released but could not work for more than a year after her arrest.

> I'm someone that likes to work, that has always been working. In fact, right now I feel—maybe because of my anxiety, and I get hungry and eat … I'm too fat right now, and maybe that [then] … depresses me.

Increased family duties generated anxieties in many parents. A father took on extra family duties after his wife was arrested for shoplifting by the local police—who then checked her legal status and took her into custody. At the time of our interview, about a week into his wife' detention, he was responsible for three children, including a newborn, and his elderly parents, both of whom were ailing. He quickly grew depressed and did not know how to respond to the family crisis.

> All the time … now, I'm just looking at my watch; time goes by and I get nervous. Nothing cheers me up but I also try not to be like that [depressed] all the time, when I feel that I won't be able to do something better [for my family]. I see anyone on the street and I tell them, 'I don't know if you know anyone who can lend me money, I live in such and such a place?' 'well, no' [they say] … right now, honestly, I haven't cheered up.

Most of the individuals in our sample waited more than 6 months for their deportation cases to be adjudicated, and some had waited over a year by the time of our interviews. Prolonged uncertainty about whether and when they would be deported increased anxiety for many parents. Sometimes parents could not deal with the uncertainty and left the country voluntarily. In one example, a mother of four was arrested and released with an ankle bracelet. Two months after the raid, she was anxious almost all the time because she did not have a court date and wondered how long she would have to be in the country without a source of income. She was worried about her family's uncertain future:

> Well, the truth is that my nerves have always been with me—nerves, anguish—I think we all have them, a little bit sometimes and sometimes you try to find a way to be calm. Sometimes you can't even sleep. I think that … I'm never going to be thinking about things calmly [or] positively, but instead I am [always] thinking, 'what's going to happen, when are they going to send me a letter, what am I going to do with my children? Am I going to send them away? … I don't want to be apart from them'. I'm going to suffer like when I left them. The day goes by and the days go by, and your mind is always working; the nerves; the anguish.

Feeling constantly nervous hopeless and nervous, she voluntarily left the country with her children in August 2008.

Many families had been working in the US for some time and had dreams of saving and investing in their home countries. One mother, whose husband spent 5 months in detention and was deported, had 4 children in the US and 2 in Guatemala. She told us that after her husband's arrest, they could no longer send money home to provide for the children in Guatemala, or to continue construction on a home there. Additionally, they owed US $ 4000 to smugglers. In her words, the arrest of her husband was:

> A striking blow because we came here to work and make something for our family. But right now it is sincerely like we failed…. I feel hopeless because it's very expensive on your own. Without money, without a job, and, I feel desperate because my children say, 'mommy, I need this' and I can't give it to them…. When we were both here, well, I felt really comforted because at least … we'd worked, but we knew that we could give our children what's necessary. But, like this, not anymore … there's no way out, the children are always asking for things.

After the raid, she had no income and was dependent on a local church for rent, food, and other basic necessities. When her husband was released and deported, she decided to return to Guatemala with the children.

Impacts on Parental Physical Health

Some parents experienced difficulty sleeping in addition to the symptoms listed in Table 2 above. In one case, a couple was arrested in a worksite raid; the mother was released the same day but the father spent 6.5 months in detention before being deported. Immediately after the raid, the mother described how her thoughts keep her up at night. "Sleep won't come for me because of all the thinking—at one, two in the morning I'm awake. I can't sleep unless I take an Advil pill to sleep … I can't sleep from thinking about a lot of things that are going to happen."

In a few cases, parents said their arrest aggravated existing medical conditions. Before one of the raids, an asthmatic mother had been able to stop using her inhaler because her condition improved. After her arrest, she started having attacks every 20 minutes and waking up at least twice a night, gasping for breath. She lamented, "[now] I always need to have inhalers." In another case, a diabetic mother was controlling her condition with diet before she was arrested. After her arrest, her blood sugar rose, and she started using insulin. She went to the emergency room following a diabetic attack. She was released from ICE detention with an ankle bracelet,

which caused swelling, irritation, and numbness in her foot; she worried that her toes were getting infected and could potentially be amputated.

Other interviewees said they had never experienced health problems before their arrest, but developed them afterword. Headaches were the most common complaint. One woman explained that her headaches made her sick for days to the point where she could not walk: "I got a headache … and I couldn't eat and I felt very weak." Another woman said that her headaches got so bad that she cut her hair. She explained: "I can't stand it, I have headaches and I can't stand the weight of my hair, I can't stand anything on my head."

Thoughts of Suicide

In the most extreme cases, parents told us they had contemplated suicide, although no one we know of followed through on these thoughts. One mother told us she was overwhelmed whenever she thought about being deported to Mexico:

> When your nerves get a hold of you, you want to go crazy. What scares me a lot is going [to Mexico] because I don't have anything over there. I don't have a house or savings. I don't have anything … I don't want to go, because I know that I can work [here]. I am a hard working woman, and I know that [my children] won't be lacking anything here but over there they will, and it's a very different life over there, and that depresses me a lot, and here they told me that they were going to help me so I can have a psychologist and I'm waiting.

For weeks after her arrest, she had a difficult time fighting depression and would call her mother to talk about what was happening. She began taking sleeping pills:

> "I could not sleep and when the depression from sleeping got a hold of me I did not want daybreak to come … " Her friends told her to sign up to see a psychologist, but there was a waiting list.

One of the fathers we interviewed twice grew more depressed between the two interviews with him. In the first interview, 2 months after his arrest, he said he had a very difficult time adjusting to life after his weeklong detention. He spent a lot of time in bed and would often not want to get up: "It's difficult … . The raid finishes you, it leaves you at zero, and it's difficult to cheer up because, you see, you're going to lose everything, everything, everything, you're going to lose everything." He found part-time work after his release but was not able to keep the job. Like many other respondents, he bemoaned the loss of his steady paycheck after the raid, "[I felt] desperation about … my job, it's been three, it was, almost four years at this same job and it was a company that gave you opportunities."

During our second interview a year later, he described a series of further misfortunes. He struggled to find work, and lost another job he had secured through a temporary agency. His wife also found work but lost her job after a few months. His wife had given birth to a stillborn baby, and his mother in Mexico died. He blamed himself because he was no longer able to send her money for her diabetes medication. Ashamed that he was unable to provide for his family, he suggested to his wife that they and their son commit suicide by taking poison. His wife refused and talked him out of it. He described his anger:

This country at the beginning gave me a lot but it has taken even more from me. And I don't want it to take anything more from me. It's very ugly. I'm very angry…. Not just me, but so many people they have arrested that had no prior problems with the police.

Support from Family, Friends, Churches, and Mental Health Professionals

Few of the parents who reported mental health challenges had received professional help. Two of our respondents received counseling while still in detention. Others found counseling help through referrals from their lawyers, community organizations, churches, and the schools their children attended.

In one case, a mother was arrested alongside her husband in a worksite raid; she was released to care for her children, but her husband was detained for several months and then deported. In our interview, she answered that she almost always or always felt depressed, anxious, nervous, hopeless, worthless, and that everything she tried to do was difficult. She had been a survivor of domestic abuse and through that experience had learned to build a support system. She said she tried to face the emotional challenges that followed the raid, while keeping her thoughts to herself and shielding her children. "It can be very difficult, but it's just that … to make sure that my children don't go through the same things I am feeling, and I also have to try to cheer up, to cheer myself up a little bit." Her lawyer referred her to a male psychologist, who did not allow her to bring her children to her first (and only) session with him. Later, she sought help from the children's school and was referred to a female counselor, who allowed her to bring her children along to talk about what had happened since the raid. After speaking with the counselor, she said she learned to talk to her children about things and confide in her landlord. Although she would still spend entire days not doing anything, she no longer felt worthless—as she did right after the raid. "I can say that I used to say [that I was worthless] before but not anymore," she said. Referring to her children as the source of her strength, she continued, "I have two very important reasons not to stop feeling valuable." At the time of our second interview, more than 9 months after her arrest, she was still uncertain about whether she would be deported to Guatemala.

Another mother**,** who told us she considered her life worthless after the raid, stopped eating regularly and relied on sleeping pills to fall asleep for months after the raid. Her friends encouraged her to see a counselor and she ended up seeing a female counselor for 8 weeks. She felt the psychologist helped her deal with her depression and her children: "I was kind of depressed. She helped me a lot. [She talked to me] about how to behave, how to understand myself, how to be patient with my girl." After the counseling, she took English classes 2 days a week, and found the classes engaging and relaxing. Almost a year later, although she was still wearing an ankle bracelet and awaiting the outcome of her deportation appeal, she said that she rarely felt depressed and cheered herself up by spending time with her daughters and staying busy: "I want to imagine, well, live the day with my daughters, and the

important thing is to be together …. I clean the house every day, so that I'm not in my head thinking too much."

Others who wanted professional health had trouble accessing it, mostly because of cost. A woman in our sample who was suffering from depression lamented, "[it's available] only if you pay, I don't have the resources and they said here at the church that they were going to bring someone but no, they weren't sure." Another mother who was often paralyzed with anxiety confessed, "But imagine, that is, if I get help, you have to pay and where am I going to go to [get the money] to pay? Maybe I could look to [friend's name] but it makes me sad to bother her …. I'm not one of those people who goes around bothering [people]."

Some of those suffering from health problems associated with their mental health saw doctors who treated outward symptoms with sleeping pills, antidepressants, or other medications. In one of the study sites, a doctor in a nearby clinic prescribed Prozac to over a dozen parents who had experienced headaches, stomach aches, and signs of depression after their arrest.

Other respondents said they relied on assistance from churches or their personal faith to cope with the psychological and emotional problems that followed their or their spouses' arrested. One respondent described her faith in God, "I just trust in God and I know that he is the only hope." Another said, "I always felt very sad, very alone. I would feel that the world had ended, but thanks to God there is a light that shines on you and, like my mother said, 'If you fell once, you're going get up and you're going to come back.'" A third respondent told us that the Bible lifted her spirits, "when I feel downhearted, I grab my gospel and that lifts my spirit, my soul and with that it's like it encourages me to walk over everything and it's what's keeping me standing now."

In some cases, clergy and parish members helped respondents cope. In one case, a pastor took one of our respondents, whose husband was deported, to the emergency room because he was worried about her health. The pastor and her fellow parishioners called her frequently, and regularly came to her house to check on her. She told us:

> He was trying to give me a sense of life. That life is not over. That was good. It was good for my well-being …. I believe more in prayer. Once I pray I'm fine. Now what I do is I'm trying to go to mass every morning. That's better for me. … I feel good when I come here [church].

Some respondents drew strength from their parishes, where many members had experienced similar events. In one such case, a respondent told us:

> The church … had a meeting with all the people who went to confession and almost everyone was saying the same thing: what was happening. So I felt that my heart was cheering up, too because it wasn't just me that was going through this. I felt good and it cleared up my thoughts, my heart to heart all of that. I'm calmer.

Finally, the most frequent source of support parents mentioned were their own families and friends. One interviewee had this insight: "I think that instead of separating us, [the raid] has brought us all together as a family because we've learned that when one suffers, we all do." Many detainees also mentioned that their children,

Table 3 Parents' reports of changes in children's behavior. (Source: Urban Institute interviews with families in study sites)

Behavior change	Two to six months after parental arrest[a]	Nine or more months after parental arrest[b]
Eating	68%	43%
Sleeping	66%	41%
Crying	60%	47%
Being afraid	54%	33%
Being anxious	42%	23%
Being withdrawn	42%	43%
Being clingy	40%	54%
Being angry or aggressive	36%	41%
Three or more changes	68%	36%
Four or more changes	56%	25%
Five or more changes	40%	18%

[a] The percentages exclude missing data and employ different denominators ranging from 92 to 120 (out of 133 children)
[b] The percentages exclude missing data and employ different denominators ranging from 55 to 77 (out of 112 children)

in particular, gave them strength and comfort. "It's because of them that my spirits have risen," confided one mother of three**.** When asked what kept her going, one mother responded: "taking care of my [2-year-old-son] son who's here with me and when he kisses me, he hugs me, and he says 'I love you.'"

Impacts on Child Behavior

The children also suffered changes in their mental health and well-being following the arrest of their parents. We did not directly assess their mental health, but instead asked parents to report any significant changes in their children's behavior since the raids or other arrests. We asked about 8 specific behaviors (Table 3), and then asked parents to describe in more detail how these behaviors changed.

Parents reported significant behavior changes in four or more areas for a majority of children in our short-term sample. By the time of our longer-term sample, this share had fallen to a quarter. On most of these indicators, behavior difficulties subsided over time. Nonetheless, there were significant shares still experiencing these changes 9 months or more after their parents were arrested.

Impact of Family Economic Security

Family economic insecurity was associated with changes in children's behavior in some of the study families. In particular, housing instability and crowding often led to behavior problems. In one case, a mother and 4 children moved into the

grandparents' basement after the father was arrested in a workplace raid. The mother struggled to get the children to go to sleep at a regular time and sometimes had to resort to punishment. At the time of our visit, her oldest son (age 11) was staying up late and would sometimes leave the house and stay out until 10:30 p.m. The eating habits of the oldest daughter (age 9) changed, and despite her mother's best efforts, the girl continued to eat irregularly and lost weight:

> She stopped for a few days after the raid but it was as a result of what was happening…. You would tell her, "do you want strawberries?" And you take them to her but she wouldn't eat them. And she would always say, "I'm not hungry"… and she was the same at school. At school, they also told me, "She's not eating," "We're worried that she won't eat"… I beg her to eat. I tell her, "go eat." She loves peanut butter and jelly sandwiches… and I give her one… [but] she lost her appetite. She's not very hungry.

Fears of Arrest by Immigration Agents or the Police

Families were often paralyzed by fear that immigration agents would come to their homes and arrest people—even in the sites where all of the arrests were carried out in worksites and not in people's homes. Parents and children shared these fears, but children tended to act on them more often. For example, an 8-year old boy whose mother was arrested in a worksite raid was afraid every time a stranger came near his home:

> He always [thinks] that immigration is taking people… He gets nervous, he starts to cry, closes the curtains and when someone knocks he tells me, "Mommy: immigration"…. He sees someone walk by and says, "Mommy, someone went by, hopefully it's not immigration." Yesterday, we were getting ready to go to church—and I don't know how he saw the window—he said, "Mommy, look, there goes someone from immigration. Who are they looking for?" he asked me. He has those moments all the time.

Another 8-year old boy, who had seen his father arrested at gunpoint in their home, no longer trusted the police. According to his father, the son and his friends "see the police and run home…. Sometimes I go to visit them and, well, I'm there and they come in running and shutting the door because they say that the police are coming."

Separation due to Parental Detention or Deportation

Long-term separation from a parent was especially difficult for some of the children in our sample. Children were separated from parents for lengthy periods either because a parent was detained—in some cases for several months—or was deported. Parents often struggled with what to tell children about what happened to the parents who had been arrested and did not come home. In one such case, a mother and father were both arrested in a workplace raid; the mother was released, but the father served 5 months in jail and then was deported. The mother told her 3 sons that the father left to find work and would return home soon; they later found out

he had been arrested and detained. The youngest (age 4) would not talk to anyone, and the middle child (age 5) stayed by himself most of the time. The oldest (age 13) became sad and withdrawn:

> He was sick from depression because he was very sad … and he would tell me, "don't talk to me" and he was like that for almost an entire month. Now [that happens] less because they talk to my partner by telephone and … we talk with him sometimes once a week.

In another family where both parents were arrested and the father was kept in prolonged detention, the boys started fighting. The mother was particularly concerned about the younger boy (age 4):

> Before, they played fine, but not anymore; sometimes they fight. I don't see them being closer; instead, well, we used to support each other and when something would happen my husband would tell them, "don't fight" and now they don't listen and when the little boy fights with the older boy he says, "I want my daddy," and I don't like it.

Reaction to Ankle Bracelets

Women who were arrested and then released with an EMD on their ankles comprised a large share of our study sample. In many cases, these women told us they were stigmatized by wearing these ankle bracelets, and the stigma affected their ability to find housing, secure employment, and interact with people outside their homes. As described earlier, some parents suffered physically and psychologically from wearing bracelets as well.

Having parents wear ankle bracelets also affected children's behavior. For instance, a 2-year-old boy whose mother was arrested at home and fitted with an EMD started behaving more aggressively, and his anger appeared directed toward the ankle bracelet. When the mother charged her bracelet for 2 hours each day, the toddler tried to be patient but soon wanted his mother's attention. He sometimes pulled the cord his mother used to charge her monitor out of the wall. "To begin with," his mother said, "he didn't listen much but ever since that day he's gotten worse. He's more violent and throws stuff on the floor and hits himself. Sometimes he pulls the thing from my foot. But I can't explain it to him because he won't understand."

In another case, 4-year old fraternal boy/girl twins saw helicopters arrive on the day of a worksite raid. Their father was detained and deported, and they had not seen him again at the time of our interview. Their aunt was detained and released with an ankle bracelet. Then their aunt and cousin moved in with them, and the twins began playing with their cousin. Their games included a version of "cops and robbers" where one group played the role of immigration agents and the other(s) pretended they were immigrants fleeing from a raid. They chased each other, as if playing a game of tag, and said, "I'm gonna detain you. Let's take you to jail." Sometimes they used a tool to grab things off the floor to grab each others' ankles while in pursuit.

Conclusion

Our research suggests that immigrant families with children face substantial economic, emotional, and psychological difficulties following the arrests of parents in immigration raids. In particular, parents are separated from children for extended periods when they are detained or deported. Although many of the parents we interviewed had been arrested and released, these parents were generally unable to work to support their families, and their family incomes mostly disappeared as a result. Economic hardship experienced by families included loss of income, difficulty in affording food, doubling up on housing, and moving frequently. Many families we interviewed had virtually no income at all for months—some for even more than a year—after parental arrest, and during this time, they were entirely dependent on their friends and family members, private charity, and public assistance for their survival. The depth of family economic hardship is indicated by the large amount of assistance required—in the most extreme case, almost US $ 1 million to support about 50 families for almost a year. But many families go without substantial assistance, especially in cases where the parents were arrested in their homes or by police on the street, rather than in high-profile worksite raids. In these cases, which comprise the bulk of interior arrests of unauthorized immigrants in the US, the families suffer more quietly and with less visibility.

Separation of family members combined with economic hardship and the stigma of arrest and detention to generate substantial psychological stress for parents and children. Following their arrest or the arrest of a spouse, parents described multiple symptoms including depression, anxiety, and feelings of hopelessness and worthlessness. Parents' symptoms were exacerbated by stress and worry over their inability to provide for their children, prolonged separation from spouses, discomfort and stigma associated with wearing ankle bracelet tracking devices, and uncertainty over whether and when they and/or their spouses might be deported. Children similarly experienced these stressors, which affected their eating, sleeping, and behavior patterns. Children also confronted their parents in various ways—including aggression and withdrawal—and acted out their fears and concerns in creative games.

Taken together, our findings suggest that current US immigration policies, which focus heavily on arrest and deportation of unauthorized immigrants, have widespread and substantial consequences for families with children. The prospects for a major reform of the US immigration system remain uncertain. The most substantial reform, of course, would be the legalization of a substantial share of the estimated 11–12 million unauthorized immigrants currently in the country, focusing on those with extensive work experience, well-settled families, and no criminal history. Such a mass legalization paired with reforms that reduce future unauthorized flows would obviate the need for large-scale arrest and deportation operations, and prevent more immigrant families from being traumatized in the ways we document here.

Absent a comprehensive legalization, smaller policy changes could help prevent arrest and detention of some groups of immigrants, or ameliorate impacts on families. Some of these changes can be implemented administratively. Others will

require legislation by the US Congress, which may be as difficult as or more difficult than comprehensive immigration reform in the political environment prevailing in 2019.

The Obama administration has already made some administrative changes to enforcement policies, which have prevented or ameliorated the scenarios described in this chapter. The administration's most significant policy change was the cessation of worksite raids, with the last major raid conducted in early 2009. Instead of raiding workplaces and arresting large numbers of unauthorized workers, ICE is focusing on auditing employers' records, levying fines against those firms that flagrantly violate the law, improving and broadening the use of a system to verify work authorization electronically, and arresting immigrants with criminal histories after they are booked into state prisons and local jails.

Following the earthquake in Haiti in early 2010, the administration extended Temporary Protected Status (TPS) to unauthorized Haitian immigrants in the SA for a 6-month period, which may be extended as they have been for other recent TPS populations. TPS does not confer a path to permanent residency or citizenship, but it allows immigrants to remain in the US without fear of arrest or deportation and, just as importantly, to seek employment. One of our study populations was unauthorized Haitian immigrants in Miami, where advocates for years had been advocating TPS for this highly vulnerable population based on several recent natural disasters coupled with Haiti's deep levels of impoverishment and political instability.

The administration has also vowed to focus mainly on identifying, arresting, and deporting immigrants who are security threats or who have committed serious crimes. The Obama administration has, over the past 2 years, issued a series of guidelines regarding "prosecutorial" discretion of ICE officers during arrests, detentions, and removals. These guidelines state that ICE officers should focus on the most serious criminals (i.e., those representing security threats, committing felonies, and having multiple immigration violations); this is especially significant for the 287(g) program where state and local police officers can identify criminals, as this program often focuses on people committing less serious crimes such as traffic offenses. The ICE guidelines also state that officers and prosecutors should consider granting relief from removal at least temporarily to people who are not serious criminals and have factors that prompt "care and consideration" including service in US armed forces, being a child or elder, entering the US as a child, being pregnant or a nursing mother, being a victim of domestic violence or other serious crimes, and having a serious disability or health condition. Being a parent per se was not listed among these criteria, except for nursing mothers (Morton 2011).

Another one of our study populations was composed of immigrants arrested by the local police; efforts to reduce or better manage police authority to make immigration-related arrests could help avoid some of the consequences we observed in this population. The 287(g) program has been criticized for casting a wide arrest net that often includes immigrants committing traffic violations and other minor violations, with felons and other serious criminals comprising less than half of the program's arrests and referrals for removal (Capps et al. 2011). Two recent federal government studies were critical of the program for its broad approach to

immigration enforcement and lack of federal controls over state and local police activities (US DHS 2010; US GAO 2009). Since we were in the field for the study discussed in this report, the 287(g) program has been modified somewhat to follow the guidelines for prosecutorial discretion discussed above. Yet, a recent study found that, in some locations, discretion was not exercised by ICE officials or local police in choosing immigrants to refer for removal, and up to 70% of all those referred had not committed serious crimes (Capps et al. 2011). The presence of 287(g) programs, in tandem with state laws criminalizing immigrants and empowering the police to arrest them on traffic offenses and other minor violations, has led to widespread fear of the police and restrictions on immigrant activities in some communities—fear which has been documented in national surveys of the Latino population.[6]

Since we were in the field, cooperation between local police and ICE has been expanded significantly through Secure Communities—a database link between local jails and DHS that allows those jails to check the immigration status of everyone they book. Secure Communities is active in every jurisdiction in the US and has led to the removal of more than 283,000 immigrants since it was created in 2008.[7] Secure Communities now dwarfs the 287(g) program in size and geographic coverage. Thus, despite ICE's guidance regarding prosecutorial discretion, the number of state and local police departments participating in immigration enforcement is increasing, along with the size and scope of these enforcement programs.

Another important policy change is the granting of visas to immigrants who are victims of domestic violence or other crimes. Congress passed legislation authorizing visas for victims of crimes but the US government has been slow to grant these visas. In one of our study sites, a substantial number of immigrants arrested had been subject to sexual harassment, physical abuse, and other serious crimes in their workplace before it was raided. Dozens of immigrants have appealed their deportation and asked ICE for visas based on abuse by their employer, and by 2010—2 years after the raid—more than two dozen had received their visas, which allow them to work and put them on a path to permanent residency and citizenship. Given the widespread exploitation and abuse of unauthorized immigrants across the US, it is likely that a substantial number could qualify for such visas were the crimes against them uncovered. Several immigrants in our sample also qualified for visas because their spouses or partners abused them, and such abuses are also likely to be significantly underreported. The new ICE guidance that prioritizes deferring removal for victims of trafficking and domestic violence is an important step toward protecting this especially vulnerable population (Morton 2011).

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[6] For instance in the 2010 National Survey of Latinos, the Pew Hispanic Center found that 52% of all Latinos (and 68% of foreign-born Latinos) worried that they, a family member, or a close friend could be deported. One-third (32%) knew someone detained or deported by the US government within the past year. See Lopez et al. (2010).

[7] Data on jurisdictions as of January 22, 2013; data on removals as of August 31, 2011. See US ICE (2014).

The Obama administration has also been working with ICE to reform the system for detaining immigrants before their deportation. Such reforms potentially include detaining immigrants in less restrictive settings than regular jails, releasing more immigrants who have not committed serious crimes and are not a public threat, and allowing better communication between detainees and their attorneys and family members. These reforms were proposed in 2009, and in 2011, construction began on a new ICE facility to house immigrants in less restrictive settings (US ICE 2011).

Taken together, proposed reforms such as exercise of prosecutorial discretion, relief for victims of crimes, and less restrictive detention would help ameliorate the stresses parents and children face following arrest and detention of their family members. But the scope of these reforms is not broad enough to remove the threat of removal for most unauthorized immigrant parents in the US.

More substantial changes, however, would likely require Congressional action. One important legislative solution would be to better and more narrowly define who is a "criminal alien" subject to arrest and detention. An immigration reform law passed in 1996 expanded this definition and increased the range of deportable offenses, while restricting the ability of arrested immigrants to appeal their deportation in immigration courts (Illegal Immigration Reform and Immigrant Responsibility Act 1996). The 1996 law narrowed the grounds on which immigrants could appeal deportation based on hardship to their citizen children. Legislation to reverse the policy changes in the 1996 law and allow immigrants to appeal deportation on broader grounds—including a less restrictive definition of "hardship" to children—has been introduced more than once in recent sessions of Congress, but has not been passed. Finally, Congress could prescribe the types of enforcement operations that are permissible and legislate how they should be conducted. In the same 1996 law, Congress authorized the 287(g) program allowing state and local police officers to engage in immigration enforcement operations. Legislation revoking or circumscribing these police powers and requiring ICE to target its operations toward the most serious criminals and security threats could also lessen the scope and impact of enforcement on US immigrant communities.

Despite all the policy changes undertaken recently, the US government deported almost 2 million people over the past 5 years. Absent comprehensive immigration reform, the US government continues to spend billions of dollars annually on arrest and deportation as its primary response to unauthorized migration. More than 5 million children, more than 80 % of who are US citizens, are at risk for separation from their parents, severe economic hardship, and related social and psychological consequences. In the long run, the nation's current focus on enforcement—which includes criminalizing and stigmatizing parents—will have a dramatic impact on a generation of immigrants' children as they grow up separated from their parents or living in another country. Most of these children are future US workers and citizens, and how the nation treats them now will heavily influence how they contribute to the nation in the future.

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Part IV
Resolving the Immigration Crisis

Security and Immigration Policy: An Analytical Framework for Reform

Robbie J. Totten

Introduction

What is the relationship between national security and immigration? What are the security objectives that American leaders have historically attempted to reach with immigration policy? These questions are important because the volume of international migration has been rising in recent decades with approximately 1 million legal immigrants coming to America per year since the turn of the century and approximately 11 million unauthorized immigrants currently residing in the US (US Department of Homeland Security 2013). These statistics have prompted scholars such as George Kennan, Paul Kennedy, and Arthur Schlesinger to predict that migration will pose one of the greatest security challenges of the twenty-first century (Kennan 1993, p. 152; Kennedy 1993, p. 44; Schlesinger 1992, p. 10). Some observers argue that the 9/11 attacks provided a harbinger of the danger they envisaged. The link between security and immigration has prompted the federal government to address the perceived security risks of immigration by enhancing border security and stepping up interior immigrant enforcement. Even so, states like Alabama and Arizona have found these actions inadequate and drafted controversial legislation, making it a crime for an immigrant not to carry immigration documents. The Arizona governor explained it this way: We have been forced to "solve a crisis we did not create and the federal government has refused to fix." This indicates that immigration will remain a hot issue for years to come (Archibold 2010; Alden 2008; Mittelstadt et al. 2011).

In effect, the immigration debate in the US since 9/11 has emphasized the role of security in immigration policy area. Consequently, a number of analyses related to security and immigration have also emerged (Adamson 2006, pp. 165–199; Rosenblum 2004; Rudolph 2006; Freeman et al. 2009). Many of these studies focus on terrorism and immigration enforcement, neglecting the full range of security traditions that have at one point or another underlain US immigration policy since the

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founding of the country. To correct this, we develop a more complete understanding of the relationship between security writ large and immigration policy over time. The intent is to align security interests and immigration policy correctly; that is, protect citizens but also immigrant rights. We seek to understand the relationship between security and immigration through a historical examination of how security interests have factored into the US immigration policy to help expose human rights violations and assist leaders with forming better immigration policies.

The current chapter relies on two security traditions permeating through American immigration policy through time—the national security and the human security traditions. This double focus will reveal that what and who leaders see as requiring security (the nation and its citizens or humankind) can lead to distinct policies. At the same time, the analytical framework presented within this chapter will show three main national security categories related to immigration, domestic/internal security, material/military considerations, and foreign policy. The broad application of this framework to major immigration policy regimes through American history will uncover migration security themes that can help inform contemporary thinking on the subject. We hope this discussion on the relationship between security and immigration can assist leaders to produce better policy.

This chapter has four sections. The first part discusses key terms and issues related to the two security traditions that have permeated American immigration thinking. The second part presents an analytical framework of national security and immigration policy. The third part broadly applies this framework to the three major US immigration policy events in history to help illustrate the role security has played in immigration policy. Finally, the essay examines national security and American immigration policy over the past decade and concludes with some policy implications.

Two American Immigration Security Traditions

Human migration is an ancient phenomenon that has been described since people began to write down history. It refers to the act of moving "from one geographic point to another geographic point" (Demuth 2000, p. 26). A type of migration is internal migration, which occurs when people move within national boundaries. This is of no concern here. A second type of migration is cross-border migration. This type of immigration began with the emergence of the modern nation-state system typically dated to the Treaty of Westphalia in 1648. Nation-states began to develop immigration policies, such as primitive passport and visa systems, designed to keep out those considered hostile. Over the past two centuries, states established even more sophisticated policies and mechanisms designed to accept or turn away foreigners, including programs to temporarily import foreign workers and provide political asylum to those persecuted in other nations (Caplan and Torpey 2001;

Agozino 2000; Torpey 2000). Immigration policy as defined here refers to the entirety of efforts to "regulate…entry into the national territory and to stipulate conditions of residence of persons seeking permanent settlement, temporary work or political asylum" (Freeman 1992, p. 1145).

Human Security, National Security, and American Immigration

A dictionary definition of security describes it as "the quality or state of being secure," as in "freedom from danger" or "freedom from fear or anxiety (Merriam-Webster Dictionary 2013)." But how security is conceptualized in regard to immigration policy is not as clear-cut because it depends on who or what officials see as needing security when they craft policy. In this regard, Americans have tended to view security and immigration in two broad and distinct ways since the founding of the country. One can be labeled national security and the other human security.

These two American security traditions differ in regard to *what* each of them points to as requiring security. For example, national security refers to "the defense and foreign relations of a country" and "the protection of the interests of a country." For leaders of states, obtaining national security generally "refers to the safeguarding of [its] people, territory, and way of life" (Jordan et al. 2009, pp. 3–5; Nye Jr. 1999, pp. 22–35; Graham and Blackwill 2000, pp. 5–8; Williams 2008, pp. 1–10; Dictionary.com 2013). On the other hand, human security as defined by the United Nations includes the protection of "rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status" (Office of the High Commissioner of Human Rights 2012). Thus, human security places "emphasis on [the] security of all human beings, not the more common and limited focus on national or state security" (Bova 2012, pp. 238–239; Biotti and Kauppi 2013, pp. 496–497).

Therefore, policy makers who craft the US immigration policy with national security in mind will construct it in such a way that it maximizes the integrity and strength of the nation-state and may disregard the rights of migrants. This way of structuring the relationship between security and immigration policy is aptly reflected in a private discussion between President Richard Nixon and his Secretary of State Henry Kissinger during the early 1970s on whether the US should offer persecuted Jews in the Soviet Union refuge in America. Kissinger stated that "The emigration of Jews from the Soviet Union is not an objective of American foreign policy." "And if they put Jews into gas chambers in the Soviet Union, it is not an American concern. Maybe a humanitarian concern." Nixon responded to his remark by saying, "I know. We can't blow up the world because of it" (Nagourney 2010). This conversation shows the US leaders thinking of immigration in terms of national security. Nixon and Kissinger prioritized American security over assisting potential refugees.

Alternatively, leaders who craft immigration policy thinking of human security—according to the human security tradition—will construct policy so as to ensure the safety and rights of all people, whether national citizens or immigrants. This type of security understanding is captured in the Emma Lazarus poem verses inscribed on the base of the Statue of Liberty: "Give me your tired, your poor…wretched refuse of your teeming shore." The spirit underlying this message illustrates Americans thinking of immigration in regard to human security in the sense that it extends an invitation to the oppressed of the world without concern over the national interest. Clearly, both traditions have had a place in American thinking.

It is important to underscore the national security and human security traditions of American thought because we often hear leaders talking about security and immigrants in these two distinct ways. These two traditions are not mutually exclusive in the sense that an immigration policy designed for national security can enhance immigrant security and an immigration policy designed with human security in mind can improve national security—oddly, leaders frequently claim they are crafting policy with both goals in mind. Nevertheless, the primary motive (national security or human security) underlying policy makers' intentions will likely lead to distinct immigration policies if not careful. The current immigration debate shows leaders being ambivalent. Some appear to think only of the national security agenda. These would likely change the current authorized immigration system to reduce family reunification immigration and focus instead on attracting immigrants with special skills to keep the US militarily and economically powerful. On the other hand, leaders following a human security agenda would likely alter the current legal immigration system to expand humanitarian migration. These views come to mind in regard to the unauthorized population living in the US. Leaders bent on a national security approach to immigration seek to take steps to account for these individuals, either through a legalization program or deportation since they view them as a threat. This is without regard to the safety or welfare of unauthorized immigrants' situations or families left behind. On the other hand, leaders following a human security approach to immigration would want to take policy measures that include a legalization program to ensure the safety and rights of the members of the undocumented population.

A goal of this chapter is to help leaders to craft policies that maximize both national security and human security. To accomplish this, we need to know the relationship between security policy and immigration policy, something which will allow us to balance both traditions as immigration policy is reformed. Our goal is to assist in reconciling both national security and human security with immigration policy for an overall effective immigration reform. Part of our argument is that an immigration policy that leans on one tradition or the other exclusively will fail to secure both. A national security framework will help illuminate abusive immigration practices. A policy that emphasizes only humanitarian aspects will likely fail to aid in national security policy.

Fig. 1 An analytical framework of national security and US immigration policy

National Security and US Immigration Policy

This section details the strategic logic of immigration by presenting an analytical framework of national security and American immigration policy in three general dimensions: (1) domestic security, (2) material and military interests, and (3) foreign relations. As shown in Fig. 1, the framework has three general categories of national security objectives that US leaders have attempted to reach in immigration policy from the founding of the country to the present day. Domestic security interests combine with immigration policy to prevent crime, espionage, terrorism, epidemics, and ethnic violence. Material and military considerations combine to ensure American advantages as a global power. And foreign policy combines to achieve specific objectives in influencing another nation-state one way or the other. The brief analyses accompanying each of these categories of our framework specify the relationships between security and immigration (Totten 2012a).

Material and Military Objectives and US Immigration

Leaders are concerned with the material and military power of their states to ensure security in an anarchic international system (Totten 2012a, pp. 102–157). They focus on material/military strength to remain competitive and secure in the international arena. The core building blocks of the material and military strength of a state is related to the size and skill of its labor force and population—a large, efficient, and technologically advanced population has the capacity to produce great wealth and a formidable military. Historically, leaders have gone to great lengths to ensure that their states are endowed in these areas. One way that they have done

this is through immigration, which can affect the size and skill level of the state's labor force and military. Additionally, immigrants provide a state with people to settle and secure territory, workers to build fortifications and infrastructure, and of particular importance in the modern era, scientists and specialists with the expertise to build and operate the cutting-edge technologies needed for economic production and weaponry.

The types of immigration policies that American officials have implemented do fall into this category: policies that attract skilled immigrant labor, policies that increase population size, and policies that set up foreign worker programs during wartime to cover man-power shortages. In different geopolitical settings, policy has enhanced US material and military strength. The policy instruments that US leaders have used to carry out this objective include allocating percentages of available immigrant visas for skilled foreign laborers, granting exemptions in restrictive legislation for immigrants with special skills, instituting an "open-door" immigration policy to invite large numbers of foreigners, sending agents to foreign countries to recruit immigrants, offering special inducements such as tax incentives or cheap land to attract foreign numbers, setting up temporary guest worker programs, and more recently through "virtual immigration," which uses technology to allow American corporations and organizations to utilize foreign labor from abroad without the expense of incorporating them in the polity (Totten 2012a, pp. 115–157; Cornelius 2001, pp. 351–372; Rosenblum 2001, pp. 390–391).

There are historical examples of US leaders devising these types of immigration policies for material and military gain. American officials, primarily during the eighteenth and nineteenth centuries, sought to increase population to bolster the material and military strength of the country by leaving the borders largely unregulated so nearly anyone could come to the US. American leaders have also sought skilled labor by granting exemptions in "restrictive" clauses within legislation (e.g., the Quota Acts of 1921 and 1924 and the McCarran-Walter Act of 1952) for immigrants possessing desired skills. This has been done through designating visas within legislation for immigrants with skills seen as important for the national interest (e.g., Immigration and Nationality Act of 1965 and Immigration Act of 1990), and by creating "special," one-time legislation to permit entrance of immigrants with needed skills (e.g., H-1B visa legislation of 2000 that allowed entrance of skilled technology workers). Lastly, American officials have designed temporary foreign worker programs during the Civil War, WWI, WWII, and the Korean War to recruit immigrants to assist in the battlefield and with domestic war production (Totten 2012a, pp. 115–157).

Foreign Policy Objectives and US Immigration Policy

The foreign policy of a state deals with its interactions with nation-states and organizations in the global community (Totten 2012a, pp. 49–101). The diplomatic objectives of states vary, but they commonly seek preservation and most of them strive for influence. A state can use its immigration policy as a foreign policy instrument

in large part by directly involving the people of another state, and targeting them for migration. The immigration decisions made by states regarding the people of other states are often construed by foreign leaders as either hostile or perhaps a goodwill gesture and can sour or improve diplomatic relations.

US leaders have used immigration as a foreign policy tool to accommodate, sanction, and bargain with other nations. Officials have attempted to foster, initiate, or improve relationships with foreign states by inviting their people to immigrate to America. American leaders have also punished adversary nations by permitting entrance to citizens prohibited from exiting them, by mistreating immigrants of foreign states, and by training immigrants to return to their home country to overthrow the regime. Leaders have linked the immigration issue to issues in other policy areas to serve as a bargaining chip in negotiations with foreign states. The instruments and vehicles used by leaders to carry out these policies include diplomatic agreements, displaced persons and refugee laws, executive decree, or preventing the passage of immigration legislation for diplomatic purposes, stipulations or omissions within major immigration legislation, and "one-time" laws (Totten 2012a, pp. 52–100).

There are historical examples that show that US leaders have devised policies to reach foreign policy objectives. American officials have used immigration to foster or improve relations with other countries, exemplified by the exemption of the western hemisphere from the restrictions of the 1920s quota legislation, which closed the borders to the rest of the world for five decades but allowed unlimited migration from certain countries because of its "Good Neighbor" foreign relations policy. US officials have used immigration as a discomfiting or ideological "weapon" against foreign states, particularly during the Cold War, as exemplified by the Refugee Relief Act of 1953, ostensibly designed to serve as a humanitarian instrument. A National Security Council memorandum, however, identified that the act was created to "encourage defection of all USSR nationals and 'key' personnel from the satellite countries" in order to "inflict a psychological blow on Communism" by encouraging their high-skilled labor to leave the country (Zolberg 2006, p. 322). Officials have also tied immigration to other issue areas in diplomatic negotiations, as seen in the Jackson–Vanik amendment to the 1974 US Trade Act, which explicitly linked trade and migration by denying most-favored nation status to countries that restricted the emigration rights of their citizens (Totten 2012a, pp. 52–100).

Domestic Security Objectives and US Immigration Policy

Immigration has wide-ranging effects on domestic security in regard to crime, epidemics, espionage, ethnic violence, and terrorism (Totten 2012a, pp. 102–157). Criminals and drug traffickers can enter the US as authorized or unauthorized immigrants. Epidemics have posed perhaps the largest security threat to mankind through history, with many of them rapidly and indiscriminately claiming lives at a faster pace than even the great wars of the twentieth century (Totten 2012). Spies and terrorists can infiltrate the US through immigration, exemplified in that all 48 of the

terrorists who were convicted of acts of violence against the US since 1993 entered the country legally (Graham Jr. 2004, p. 65). Lastly, a rapid influx of immigrants can change the cultural, demographic, and ethnic composition of the polity, which could lead to domestic uprisings and violence (Totten 2012a).[1]

American leaders have attempted to protect against domestic threats through measures such as border monitoring systems and interior enforcement policies to remove and prevent the entrance of criminals, spies, terrorists, and people with contagious diseases. Prior to WWII, US officials also enacted racist measures restricting the entrance of specified ethnic groups, perhaps with the intention of preventing domestic conflict and violence. American officials, for example, have included stipulations and measures in nearly every major piece of immigration legislation to prevent the entrance of anarchists, criminals, spies, terrorists, and those suspected of carrying certain types of contagious diseases (e.g., the Immigration Act of 1917, the 1921 and 1924 Quota Acts, the McCarran-Walter Act of 1952, the Immigration and Nationality Act of 1965, and the Immigration Act of 1990). US officials have also repeatedly passed legislation designed to improve border security to prevent the entrance of unauthorized immigrants, such as the Intelligence Reform and Terrorism Prevention Act of 2004 (Totten 2012a, pp. 166–175, 179–187, 196–201).

Meta-Security Themes and American Immigration Policy History

The history of American immigration policy can be divided into three broad eras based on general openness to immigrants: an aggressively open era (1776–1921), a selectively closed era (1921–1965), and a cautiously open era (1965–2001), with a new area of ambivalence since 2001. Each of the security categories (material/military, domestic/internal security, and foreign policy) of our analytical framework has defined the main orientation of immigration policy during each of these periods. As specified below, the security category of the first period was centered on material and military considerations, the second period was based primarily on domestic or internal security considerations and to a lesser extent foreign policy considerations, and the third period was centered on foreign policy considerations.

The matrix that emerges is, of course, not perfect—the individual immigration policies of each period were more complex and nuanced than our general characterizations, and the policies designed by American leaders during each of the periods were often geared toward reaching a wide range of security objectives. But we claim that one or the other weighed more heavily on US immigration policy in one period or another. Our broad characterization of a long stretch of American im-

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[1] For example, many analysts attribute the 1992 Los Angeles Riots, arguably the worst civil disturbance in US history since the Civil War, to tensions amongst those born in the US and those born elsewhere.

migration policy history, however, gives us a sense of the ways that security helped shape American immigration decisions over time as well as place into context the immigration reform debated today. The purpose of this section is to illustrate some of the ways in which security objectives factored into American immigration policy rather than put forth a new periodization scheme of US immigration policy history.[2]

Aggressively Open Period: The "Open-Door" Federal Immigration Policy, 1776–1921

The federal government from the Revolutionary War through approximately 1921 did little to substantially restrict immigration to the US. The individual states tried to regulate immigration during the period and the federal government began in the last decades of the nineteenth century to increasingly pass racially motivated legislation to keep out specified ethnic groups as well as those deemed criminal, diseased, or poor, but neither state nor federal actors took measures to significantly impede the flow of immigrants to the US until the 1920s Quota laws (Hutchinson 1981; Neuman 1993, pp. 1833–1901; Tichenor 2002, pp. 211–218; Zolberg 2006). The result was mass migration. This period is referred to as the "Open-Door Era." Over 20 million immigrants came to the country at that time (Lemay 1987). Material and military considerations played the primary role in the orientation of the immigration policy regime, with the main policy consisting in attracting large numbers of immigrants to serve as soldiers and workers to assist in securing and settling territory, building infrastructure, and making America powerful in the international community. America was a fragile and growing state during the eighteenth and nineteenth centuries and immigration was used as a tool to help secure its place and safety in the competitive international system.

The population surge from the open immigration policy of this period helped boost the material and military strength of America. In regard to economic power, one study estimates that by 1912 immigrants contributed as much as 42 % of the country's gross physical capital production in large part because most foreigners arrived as young adults, saving America the costs associated with child rearing (Neal and Uselding 1972, p. 87; Gallman 1977, pp. 27–31; Hirschman and Mogford 2009, pp. 897–920; Uselding 1971–1972, pp. 49–61; and Higham 1955, pp. 14–19). Similarly, work by Hatton and Williamson on the Atlantic economy indicates that US economic gains from migration were higher than those from trade during the nineteenth century (Hatton and Williamson 1998; Rudolph 2003, pp. 14–15). Immigrants also contributed to US military power. Approximately one-third of the nation's regular army in the early 1840s was composed of foreign-born persons and the percentage of immigrants serving in many state militias in the Northeast and

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[2] One more note on the periodization scheme may be helpful before we proceed. While I have ended the third period with 2001, it is difficult without further hindsight to know if the system set up under the Immigration and Nationality Act of 1965 has ended with immigration policies enacted after the events of the September 11, 2001.

Midwest during this period is estimated to have been even higher. Many of these immigrants fought in the Mexican War and the Civil War (Briggs Jr. 2003, p. 52; Lonn 1940, 1952).

These statistics are not "accidental" and numerous private and public comments by early American leaders indicate they sought immigrant manpower to boost the material and military strength of the country (Totten 2008, pp. 37–64; Totten 2012a, pp. 97, 104, pp. 113–114). As just one example, consider that George Washington privately recommended that the Western states should "admit such emigrations… not only from the several States of the Union but from Foreign Countries" to help secure border territory. "Measures of this sort," he noted, "would not only obtain Peace from the Indians, but would, in my opinion, be the means of preserving it" (Evans 1908, p. 480). Accordingly, the US Bureau of Foreign Commerce printed a report after a century of mass immigration in the late 1880s that concluded that "owing exclusively to its enormous alien population…the US is at the present day in a position to take rank with the great European powers" and the report also noted that international migration was weakening foreign states because they were losing men to America who could be used in "the military services, and the numerical strength of their armies is by so much diminished, which will be seriously felt in the hour of danger" (Abbot 1926, p. 398). American policy during the aggressively open era thus illustrates a way in which US leaders used immigration for material and military gain.

The Selectively Closed Era, 1921–1965: The Restrictive and Discriminatory Quota Laws

Domestic security concerns and to a lesser extent foreign policy considerations influenced the 1921, 1924, and 1929 Quota Acts, which sharply reversed the federal government's "open-door" policy in place since the founding of the country and substantially limited immigration to the US until their repeal four decades later (Ngai 2004; Higham 1955). These laws created an immigration system based on the "percentage quota principle," which in its final form limited the number of immigrants admitted to the US from any country to 2 % of the number of people from that nation who were living in America according to the 1890 census (Lemay 2006, p. 118). The restrictive nature of the legislation was quickly realized and while the US admitted over 650,000 immigrants in 1921 only 8 years later the country admitted less than 160,000 immigrants (Lemay 2006, pp. 112–113; Zolberg 2006, pp. 243–244). The Quota Acts, however, exempted countries from the Western hemisphere from their restrictions (Divine 1957, pp. 62–63; Zolberg 2006, p. 257).

The Quota legislation is frequently and correctly explained as a manifestation of pronounced xenophobia, and while the content of the laws as well as comments by leaders of the era are undeniably racist, domestic security concerns also played a role. Contagious disease claimed large numbers of American lives during the first half of the twentieth century, exemplified by the fact that typhoid killed an estimated 1 million lives from 1880 to 1920. The Spanish Influenza, the deadliest disease

in human history as measured by the absolute number of lives it claimed worldwide, struck soon after WWI and killed an estimated 500,000 Americans in a few short years (Doull 1952, p. 86; Barry 2004, p. 4). Similarly, many anarchist/terrorist attacks (primarily bombings and assassinations) were carried out by immigrants (or their recent descendants) on American soil during the first two decades of the twentieth century (Avrich 1991; Lemay 2006, pp. 88, 103, pp. 106–107; Totten 2012a, p. 183, 183*n*). Third, the Ku Klux Klan was particularly active before the 1921 quota act and its violent activities as well as the retaliations of the groups it persecuted perhaps stirred up a national sense of intensifying ethnic violence (Higham 1955, pp. 286–293; Totten 2012a, pp. 183–185). These three domestic security concerns—epidemics, terrorist/anarchist attacks, and ethnic violence—were perceived as associated with immigrants and many in the US feared these security problems would be exacerbated if action was not taken to prevent the arrival of millions of Europeans displaced by WWI. The result was the passage of the 1921 Quota Act which along with related legislation created a restrictionist immigration policy that remained in place until the Immigration and Nationality Act of 1965.

In addition to domestic security concerns, foreign policy considerations also played a role in the immigration policy regime of this period. The Quota Acts exempted the Western hemisphere from its restrictions because doing so was antagonistic to foreign policy objectives of the period (Divine 1957, pp. 62–63). The US foreign policy establishment during the 1920s for reasons related to the Monroe Doctrine pursued what has been referred to as Pan-Americanism and emphasized foreign policies that promoted positive relations with neighboring countries (Grieb 1977; Ellis 1968; Totten 2012a, pp. 55–59). As such, immigration legislation that restricted the residents of these countries contradicted the spirit of the policy. Private correspondence between President Calvin Coolidge and Secretary of State Frank B. Kellogg noted that it is "inconceivable that for the sake of preventing a relatively insignificant migration from Mexico [a primary reason that some leaders were calling for restricting Western Hemisphere immigration], the undesirability of which is at least questionable, we should endanger our good relations with Canada and all of Latin America" (Divine, 60). The 1920s Quota Laws and the immigration system, which remained in place until 1965, illustrate how domestic security concerns and foreign policy considerations have factored into US immigration policy.

The Cautiously Open Era, 1965–2001

The Immigration and Nationality Act of 1965 abolished the quota system, reopened the nation's doors to immigrants, and laid the broad framework upon which the US immigration system still rests today. As a result of the legislation, the number of immigrants who came to the US doubled between 1965 and 1970 and then doubled again between 1970 and 1990. The new system also changed the source countries from Europe to Asia and Latin America, significantly changing the ethnic composition of the US over the past decades. The post-1965 American immigration policy is significantly more open than the one under the Quota laws, but there are

numerical limitations to the numbers of immigrants who can come to the US. It is not nearly as "open" as the immigration policy stance of the early American period, thus the "cautiously open era" label (Tichenor 2002, pp. 211–218; Lemay 2006, pp. 109–114).

Interpreters of the 1965 law often argue that ideological factors such as those underlying the Civil Rights Movement were a primary motivation for restricting immigration (Chin 1996, pp. 273–345). While perhaps true, many American leaders who played large roles in its creation also argued vigorously for the repeal of the quota laws and the formation of a new immigration system based on foreign policy grounds. The US emerged from WWII a dominant world power and along with other leading Western states competed against the Soviet Union and its satellite states in the economic and political conflicts and proxy wars of the Cold War. The quota system was a major impediment to postwar US foreign policy objectives, such as fostering good relations with allies in the fight against the Soviet Union and extending a welcoming hand to those fleeing Communist rule. Public and private comments by officials responsible for writing and passing the 1965 immigration law support the foreign policy origin of the contemporary American immigration system (Skrentny 2002; Wolgin 2011). For example, Secretary of State Dean Rusk explained to other leaders that,

> What other peoples think about us plays an important role in the achievement of our foreign policies. […] More than a dozen foreign ministers have spoken to me in the last year alone, not about the practicalities of immigration from their country to ours, but about the principle which they interpret as discrimination against their particular countries. […] I would think that it would be possible for the Congress to devise a policy that would be good for us internally, and welcomed and respected by countries all over the world. (Rusk 1964, pp. 385–408)

Emanuel Celler, Chairman of the Committee on the Judiciary, a key player in immigration policy during the period, privately wrote Kennedy that a new immigration law was needed, one "best suited to serve our national interest and the basic objectives of our foreign policy" and please "our foreign friends and Allies" (Celler 1963). The 1965 Immigration Act and the immigration system it erected remain in place today and illustrate how foreign policy considerations can play a role in US immigration policy.

Conclusion and Policy Recommendations

This chapter described the distinction between structuring US immigration in regard to national security and human security, specified an analytical framework of national security and American immigration policy, and broadly applied the framework to three major US immigration policy eras. This final section will describe immigration policy developments in regard to national security since September 11 and conclude by making broad policy suggestions for contemporary leaders considering immigration reform.

Post-2001 US Immigration Policy

The 9/11 hijackers entered the country legally, which caused many leaders and public commentators to associate immigration with terrorism, but also point to the lack of border security and the presence of undocumented immigrants. Consequently, the post September 11 immigration debate has largely been viewed through the lens of security. President George W. Bush and Congress attempted but failed to enact major federal immigration reform in 2006–2007, in part to tackle the "security risks" of migration. Consequently, US immigration policy since 2001 has been characterized by four broad security-minded emphases: (1) The structure of the federal immigration bureaucracy has been reworked to combat terrorism; (2) border security measures have been enhanced; (3) interior enforcement policies such as deportation have been reinforced; and (4) state and local actors have proliferated, in part to address perceived security concerns unaddressed by the federal government (Alden 2008; Mittelstadt et al. 2011).

The federal immigration bureaucracy was reorganized in 2002 under the Department of Homeland Security (DHS), which is an agency initially founded to assist with preventing another September 11. It should not be surprising therefore that a department with *security* in its name and centered on preventing terrorism has tended to think of immigration policy in security terms. Second, the federal government has spent billions of dollars on new infrastructure, man power, and technologies to secure American borders, characterized after September 11 as porous and easily penetrable by terrorists. Third, there has been in recent years a renewed enforcement of immigration laws in the interior of the country, increasing deportations to dissuade unauthorized immigration and identify criminal migrants. Finally, absent strong and effective federal action regarding perceived immigration problems (notably the presence of 11 million unauthorized immigrants within the US), a large number of state and local actors have arisen since September 11 to enforce immigration policies. Most infamously, states such as Alabama, Arizona, and Oklahoma have passed controversial immigration laws making it a crime for an immigrant to fail to carry documents (Alden 2008; Mittelstadt et al. 2011).

Policy Implications

The US immigration policy debate since 2001 has tended to emphasize a few select issues pertaining to national security, notably those related to unauthorized immigration and terrorism. This chapter has shown there is more to the national security and immigration story than this focus suggests. The chapter outlined an analytical framework of national security and US immigration with three dimensions that capture a wide range of security issues relevant to international migration for states: (1) domestic security (prevent crime, espionage, and terrorism; epidemics; and ethnic violence), (2) foreign policy, and (3) material and military interests. Our histori-

cal analysis shows that American leaders have attempted to reach these types of national security objectives since the founding of the country when crafting immigration policy.

There are at least five broad implications drawn from this study. For one, the immigration policy debate and response since September 11 has overfocused on national security. Leaders need to be mindful that immigration relates to other security areas as well, including human security. Second, officials should be aware that an immigration policy made for national security in one realm may inadvertently affect another national security realm. For example, a policy devised to more ably screen immigrants for terrorist activity may end up alienating allies if foreign leaders see their citizens mistreated. Third, American leaders need to remain cognizant that an immigration policy decision made for a solely domestic purpose may jeopardize US national security. For example, a seemingly "benign" immigration policy designed to please an interest group within may anger a foreign ally or expose America to a domestic security risk. Officials should consider all of the security areas as they pass and implement immigration policy. Fourth, from a national security perspective, leaders must remain cognizant that the legal immigration system needs to attract foreigners with skills important for the US to remain militarily competitive in the twenty-first century.

Finally, leaders must remain mindful that there are two broad ways to think of the security dimension of US immigration policy: the national security and the human security traditions—both found in American immigration policy. The competitive international system has a tendency to "pressure" leaders into forming immigration policies in the national interest opposed to ones that maximize the safety of citizens and immigrants. This chapter reveals the national security objectives that American leaders have historically sought with immigration so informed observers and the public can raise alarms when leaders devise policy for national purposes that jeopardize human security. It has also done so to assist leaders who are perhaps strapped by domestic political constraints to perhaps try to choose "goldilocks" policy options that produce outcomes favorable to national and human security.[3]

Implications for 2013 Proposed Immigration Reform

The national security framework presented here has a few implications for the "Bipartisan Framework for Comprehensive Immigration Reform" proposed by the Senate's "Gang of Eight" (Plumer 2013). From a national security perspective, the Senate would be prudent to make plentiful legal immigration visas available to those in the international community possessing skills required to keep America economically and militarily powerful in a competitive twenty-first-century global

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[3] An example of a "goldilocks" policy is an immigration policy that humanely screens immigrants for contagious disease (and provides treatment for anyone found infected) can protect US citizen and national security as well as immigrants from infection (and provide medical care to those suffering from an ailment).

environment. While caps are required on the number of legal immigrants permitted per year, it is also prudent to write a bill that includes a procedure to make additional spots available for times (such as a military event) in which large numbers of foreigners with special skills may be needed.

Congress should also consider how changes in the legal immigration system may affect US foreign relations and, if needed, suggest diplomatic measures to prevent irritating foreign states. The new system would be more consciously oriented toward attracting foreign talent, and the business and political leaders of other states may be irritated that the US is taking away their high-skilled workers. More generally, Congress needs to remain sensitive to how changes in existing law may affect foreign relations.[4]

Lastly, the proposed plan should address the undocumented immigration issue in America through a legalization program that addresses the domestic security risk of having a large segment of the US population not officially known. From a national security perspective, however, Congress must ensure that border security is also properly enhanced so that the US does not have a large undocumented population again in the future. It is important to reemphasize that these policy suggestions are from a national security perspective of US immigration. As previously suggested, US leaders should not forget the human security implications of policy decisions either.

American leaders face difficult decisions in regard to immigration reform but whatever they pass should enhance US citizen *and* immigrant security. This chapter has provided them with a basic conceptual and empirical guide to assist with this task.

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[4] For example, Japan listed American immigration law as a grievance for attacking Pearl Harbor. While this is an extreme example, it is used here to emphasize that the foreign policy implications of immigration decisions made for domestic reasons need to be carefully considered before hastily passing laws.

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Ctrl+Alt+Del: Rebooting Immigration Policies Through Socio-technical Change

Rodrigo Nieto–Gómez

Introduction

The concept of socio-technical systems has emerged in the systems theory literature to bring attention to the interdependencies between humans and technologies and the need to design policies that incorporate the interaction between social and technological conditions. I will use socio-technical systems as a framework to analyze the influence of technology design within immigration policies. US immigration policy has become a dysfunctional socio-technical system deprived of clear purpose, in part because an escalating law enforcement narrative for the border region has created systemic conditions for a design that favors aspirational technologies over effective ones. This narrative encourages the research and development of linear, simple technologies to try to solve adaptive, complex situations. This process neglects the evolving nature of immigration and focuses instead on the static technological fortification of the border. Consequently, immigration policies suffer a technological disconnect between the real nature of immigration trends, patterns, and behaviors and the deployment of technology developed to regulate interactions. Deployed immigration technology has demonstrated limited capacity to pivot, that is, to react to strategic failure by changing behavior and leveraging lessons learned in order to adapt to social changes. When it has done so, it has provided examples of technologies that can scaffold well-designed immigration policies to make the US more secure, innovative, and user friendly. One example is the trusted-traveler programs that leverage technologies designed to build trust in supply lines and among international travelers.

Rebooting US immigration policy is critical to sustain the country as the global hub for entrepreneurship, innovation, free thinking, and progress. Rebooting the system, however, must involve creating a socio-technical architecture where technology design responds to real evidence of performance instead of aspirations about how the social component of the system ought to behave. In this section, I will

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present a framework of analysis to understand the role of technology in the immigration policy space, with the objective of making an explicit connection between technological innovation and immigration processes, providing policymakers with a new frame of reference to make sense of the limitations of the current system.

This chapter is divided into three parts. The first part will define the terms "socio-technical system" and "socio-technical regime" in the context of innovation for immigration policymaking. The second will apply that framework to the immigration system. Finally, the chapter will provide some policy alternatives to radically improve[1] the immigration system through a better technology design and an explicit understanding of the interdependencies and counterintuitive forces affecting the immigration socio-technical system.

Socio-technical Systems and Regimes: A Public Policy Issue

The technology evolution and adoption cycles are forces that shape the strategic landscape in which public policies are designed and implemented. This observation is often neglected during public policymaking because the ability of stakeholders to understand technology lags behind the impact of technological innovation. This is especially true when policymakers legislate or regulate not thinking about high tech (e.g., mobile technology, the space industry, Internet, etc.) and where technology is thought of as a tool rather than a central component of a socio-technical system. Immigration policy of the US falls into this category.

While immigration policy is affected by technological innovation, the public policy debate around it ignores the consequences of social changes produced by the adoption of new technologies. Immigration is, after all, a subsystem of a larger socio-technical system. It responds to inputs like access to money (labor and business), entertainment (tourism), love (marriages or divorces), and fear and need for protection (asylum), among others. Technology is deployed on top of these social phenomena and interacts in complex ways with them. Public policies are undertakings within socio-technical systems that emerge from the complex adaptive interactions among social agents, regulatory efforts, and technological artifacts. They are complex because "large networks of components with no central control and simple rules of operation give rise to complex collective behavior, sophisticated information processing, and adaptation via learning or evolution" (Mitchell 2009, p. 13) and they are adaptive because "they do not, like a game of chess, simply wait for the players to make moves. They move on their own, whether the players take that movement into account or not" (Dorner 1997, p. 420).

Thus, technological innovation is relevant to the analysis of public policies because "technology plays an important role in fulfilling societal functions, but artifacts only fulfill functions in association with human agency and social structure"

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[1] What innovation theory would call "disrupt," as in Clayton Christensen's disruptive innovation concept. In innovation theory, the term disruption does not have a negative connotation.

(Geels 2005, p. 445). The design, research, development, and adoption of technologies transforms human environments and behaviors iteratively, and public policies emerge also iteratively to regulate (often with unintended consequences) and influence (in nonlinear ways) environments and behaviors. For example, no public policy for law enforcement, public safety, and policing can ignore the fact that weapon technologies and ballistics are able to multiply the force of individuals well beyond their biological capacities. Therefore, a series of regulatory efforts have created coercive and facilitative norms and guidelines to influence individual and social adoption of weapons technologies. In fact, much legislation in the US has been created to influence the way in which individuals and social groups adopt these technologies, including the Second Amendment. But while hardly anyone would negate the fact that handguns and rifles are technological in nature, few would consider the Second Amendment a technology adoption roadmap.

The study of socio-technical systems provides a complexity-based approach to understanding interdependencies among public policy formulation, human behaviors, and technology in the immigration public policy space. It provides a way to describe how the different parts of a complex adaptive system interact among themselves and with the environment. It is also an appropriate framework of analysis to study the evolution of technology that keeps altering the policy landscape. This study also signals that policymakers need to improve their understanding of technological evolution.

The history of the study of socio-technical systems shares with the field of immigration policies a special interest in the workplace and the labor environment. Eric Trist has traced with great detail the evolution of the concept to a series of field projects "undertaken by the Tavistock Institute in the British coal mining industry." He explains how "the idea of separate approaches to the social and technical systems of an organization could no longer suffice…work organizations exist to work—which involves people using technological artifacts…to carry out a set of tasks related to specified overall purposes" (Trist 1981, p. 7). Accordingly, a conceptual reframing was proposed in which organizations were envisaged as socio-technical systems rather than simply as social systems. The definition of socio-technical system has been expanded from its original context in the workplace to any other social environment where technology, rules, and human behaviors interact forming a complex adaptive system and the concept "has developed in terms of systems, since it is concerned with interdependencies" (Trist 1981, p. 7). These interactions among different components of socio-technical systems have been described by Hughes as a "seamless web" and shared with many other complexity scientists; "analytical categories—such as technology, science, politics, economics and the social—should be used sparingly if their use leads to difficulty in comprehending interconnection." Innovators who play the role of system builders are "no respecters of knowledge categories or professional boundaries," (Hughes 1986, p. 285) as they will mix all these categories to make sense of this seamless web.

The actions of system builders "travel between domains such as economics, politics, technology, applied scientific research and aspects of social change" and therefore, "new technologies and the user environment are constructed in the same

process" (Geels 2004, p. 898). The role of these system builders in socio-technical systems is not unlike that of what Thaler and Sunstein recently labeled a "choice architect." For them, the role of a choice architect is to be the stakeholder who "has the responsibility for organizing the context in which people make decisions" (Thaler and Sunstein 2008). Legislators are key choice architects in the immigration public space as they regulate the socio-technical environment, but behavior by other agents involved in the immigration process brings nonlinearity to the way the system behaves. What this means is that an immigration rule created by a legislator does not automatically mean that the human agents of the socio-technical system will behave as intended. For example, interdiction policies that affect the immigration environment do not mean that people will not attempt to cross the border, but instead the policies trigger a series of innovative adaptations in the behaviors of individuals that may seek alternative methods to accomplish what they want. This then produces nonlinear ripple effects that affect the entire socio-technical system.

Changes in the immigration regime produce adaptation because migration is an adaptive phenomenon. The shape of the immigration system is frequently very different from what the rules intended. In fact, as Massey and Pren state, "paradoxical as it may seem, US immigration policy often has very little to do with trends and patterns of immigration. Even when policies respond explicitly to shifts in immigration, rarely are they grounded in any real understanding of the forces that govern international migration." They add that "intervening forcefully in complex social and economic systems without understanding their dynamics can lead to unintended consequences and unanticipated policy feedbacks" (Massey and Pren 2012, p. 2). Not surprisingly, it is quite common for socio-technical systems to evolve faster than the rules that regulate them because the innovation process is designed to keep testing the limits of those rules. The failure of immigration policies to adapt to socio-technical changes is often remarkable. Immigration policymakers and stakeholders are choice architects, but they have not demonstrated a good sense-making capacity to understand how their actions (or lack of action) affect the socio-technical system.

Geels' (2005, p. 449) three dimensions of the sociology of technology help understand this. These dimensions are:

1. Socio-technical systems, i.e., the tangible elements needed to fulfill societal functions
2. Social groups who maintain and reproduce the elements and linkages of socio-technical systems (making them adaptive)
3. Rules (understood as regimes) that guide and orient activities of actors and social groups

Using these three dimensions, socio-technical systems can be defined as a seamless web of complex adaptive interactions among technological components, social agents, and the reward and punishment regime that shapes the forces affecting the system iteratively. Choice architects attempt to bend the regulatory dimension of socio-technical systems to their preferences, but they are often unable to identify the system's leverage points to effect changes in behavior. They see technology as a tool instead of as a dimension of the system. This is risky. Social systems, as

Forrester (1971, pp. 120–122) demonstrated, often show counterintuitive behaviors that make linear policymaking part of the problem and not the solution. Forrester (1971) describes the following three characteristics of social systems that make them counterintuitive and are relevant to the study of socio-technical systems:

1. Social systems are inherently insensitive to most policy changes selected to alter the system's behavior. In fact, a social system tends to draw our attention to the very points at which attempts to intervene will fail.
2. Social systems seem to have a few sensitive influence points through which the behavior of the system can be changed. These influence points are not in the locations where most people expect. Furthermore, if one identifies in a model of a social system a sensitive point where influence can be exerted, the chances are still that a person guided by intuition and judgment will alter the system in the wrong direction.
3. When it comes to social systems, there is usually a fundamental conflict between the short-term and long-term consequences of a policy change. A policy that produces improvement in the short run, within 5–10 years, is usually one that degrades the system in the long run, beyond 10 years.

Regulatory efforts are oriented to affect the regime dimension of socio-technical systems, because their policy process naturally responds to challenges through linear changes of rules. In fact, leverage points susceptible of being affected by changes in public policy are not intuitive, and this makes policymaking part of the problem and not the solution.

I define the immigration socio-technical regime as the set of rules that govern behavior in the immigration system. While the immigration socio-technical regime is a subsystem of a larger socio-technical complex adaptive system, it is a very important one as it provides the explicit and implicit rules that stabilize (or destabilize) the whole system. Socio-technical regimes are fundamental structures that provide resilience to the system by perpetuating system behaviors through regulation, thus providing resilience to the system. The immigration regime is no exception.

As Rip and Kemp (1998) argue, socio-technical regimes are relatively stable configurations of institutions, techniques, and artifacts, as well as rules, practices, and networks that determine the normal development and use of technologies. Socio-technical regimes emerge around socio-technical systems in the form of laws, regulations, contracts and problem definitions, political positioning, monopolistic concentrations, etc. Socio-technical regimes have become a focal unit of analysis for which a central public-policy challenge is "to transform them into more sustainable configurations" (Berkhout 2002, p. 3). They reinforce certain behavioral patterns and stabilize the system, making it resilient and resistant to change. Understanding the immigration socio-technical regime involves studying the ways in which institutions, techniques, rules, and technological artifacts have self-organized to provide resilience to that regime. Scholars and policymakers must also consider if that resilience is beneficial or harmful to the overall policy objectives of the socio-technical system. The socio-technical regime for immigration is formed by many parts that interact with each other. Some of the most important ones are:

1. The immigration laws and other rules that affect the immigration system (e.g., identity rules and mechanisms, traveling rules, custom rules, aviation rules, etc.) and regulate the legal flow of people and the operation of points of entry
2. The moves by stakeholders in their role as securitizing actors (Buzan et al. 1998) framing the immigration dynamics as a security threat (e.g., a demographic threat, Kaplan, 2012; a national identity and assimilation challenge, Huntington, 2004; and economic risk; a spillover of violence; an operational control of the border need; terrorism, etc.)
3. The contracts with private companies to "solve" those security problems (e.g., the contract awarded to Boeing to build SBInet, the so-called virtual wall)
4. Scientific grants, requests for information (RFIs), requests for proposals (RFPs), or any other mechanism that funds research and development (R&D) of technology "solutions" to the immigration problems as defined by the funding agencies, or solicits the procurement of a particular technology to deal with the immigration process
5. The political stance of legislators, lobby groups, and the different branches of federal, state, and local governments, which triggers social behaviors and technology responses within the socio-technical system (e.g., Arizona Gov. Janice Brewer's support for the SB1070 law or President Barack Obama's policy of deferred action for the so-called DREAMers)

When socio-technical regimes are mature, innovation in a given socio-technical system occurs incrementally and disruptive change is hard to accomplish. This is exactly the state of the immigration socio-technical system today. Factors such as barriers to exit (e.g., rejection because of policy change is viewed as soft on immigration), personal or institutional commitment to certain projects (e.g., the Prevention through Deterrence strategy of the Border Patrol), or sunk costs and loss aversion (e.g., support for the security fence/wall and SBInet in spite of failure) are elements of the regime that provide stability to the system, directing policymakers to follow the same technology paths that reward individual past success, even at a cost of systemic dysfunction. The resilience of socio-technical regimes has no relation with the stated goals of the policy trying to affect a socio-technical system. Like the rest of the complex adaptive socio-technical system of which it is part, a socio-technical regime is dynamic; while resilience of the regime may indicate in some cases a capacity to adapt to changing policy environments, it can also indicate that the regime is capable of resisting change as forces perpetuate its current shape. When this happens, a divergence between the stated policy and social behavior emerges.

The socio-technical regime can increase resilience by adapting to changes in the policy space (i.e., adaptive policies) or it can build resilience by resisting and openly opposing changes in patterns and in the environment with the assistance of other forces operating in the system. In such case, policymakers "double down" on failed policies by using more resources to try to force the socio-technical system to behave in the linear way the regime describes. This kind of policy regime shows no understanding of the counterintuitive forces affecting systems. From a systemic perspective, this explains why failed policies persist, despite being ineffective. In the case of immigration, the constant escalation in security measures

as the dominant solution to the immigration "problem" is a good example of this persistence of failed socio-technical regimes.

Clandestine innovation is one of the most interesting responses to this kind of resilience in socio-technical regimes. This innovation happens when social components of the system change to counteract the inflexible structures of the regime. This is one of the most important sources of nonlinearity in the immigration socio-technical system, as clandestine technologies emerge to circumvent limitations in public policies, reinforcing in the process the escalation arguments that created the regime's inflexibility in the first place. The more the clandestine actors circumvent the stated rules and regulations of the socio-technical regime, the more reasons policymakers will have to insist on them.

The methods employed by human smugglers to pierce the security measures deployed by the Department of Homeland Security are technological responses to the set of rules created by the socio-technical regime. The construction of a Microsoft Campus in Canada (an organizational innovation, not unlike an "intellectual maquiladora"), near its headquarters in Redmond, Washington, built in order to respond to what the company labels the "challenge we have in the United States of hiring very qualified people, many of whom are graduating from schools in the US, but who cannot acquire the necessary documentation to work in the US" (Fried and Broache 2008), is also an innovation to respond to the limitations of the regime.

What these adaptive forces demonstrate is that socio-technical regimes not only produce the behaviors they are formally meant to encourage but also produce unexpected ripple effects that may reward different and often undesirable behavioral patterns that are opposed to those officially stated in public policies. In another application of the so-called Schrinky principle that, "Institutions will try to preserve the problem to which they are the solution" (The Technium 2010), socio-technical regimes often preserve the problems they were created to eliminate.

This chapter advances three central arguments vis-à-vis the socio-technical regime that currently surrounds immigration policy in the US:

1. The regime has self-organized to its current form and its technology legacy hardens its current shape.
2. The regime encourages deviant innovation and clandestine technologies to be developed to respond to the challenge created by its technology.
3. The regime has not adapted to changes in the socio-technical system it scaffolds. Innovation impacting the immigration socio-technical system has modified the environment, but the regime lags behind.

The Socio-Technical Regime and the Immigration System

Using the framework of analysis explained above, the next section examines some components of the immigration socio-technical system. It explains how an escalating law enforcement narrative for the border region has created systemic conditions for a technology design that prefers aspirational technologies over effective ones.

Aspirational technologies are defined as the result of a design that responds to different goals than those stated in the official objectives. It is meant to send a strong message regarding social values or political narratives. Aspirational technologies play a symbolic role important to stakeholders, often disconnected from the real capabilities of the artifact. For example, the stated goal of the tactical technology deployed by the Border Patrol is to obtain "operational control" of the border (US Congress 2006). While the border wall does not accomplish this, the militarized landscapes of the border territories communicate a visual technological commitment to law enforcement and border security and are used as part of what Andreas calls "border games." Andreas states (2000):

> The politics of opening the border to legal economic flows is closely connected to the politics of making it appear more closed to illegal flows…the escalation of border policing has ultimately been less about deterring the flow of drugs and migrants than about re-crafting the image of the border and symbolically reaffirming the state's territorial authority. Indeed, border policing has some of the features of a ritualized spectator sport, but in this case the objective of the game is to tame rather than inflame the passions of spectators.

If public policy for border security and immigration management is a kind of symbolic game, then aspirational technologies are the artifacts used to play it. It is a process that neglects the evolving nature of immigration, insisting on the technological fortification of key territories (geographic borders and points of entry) as the main design feature of immigration technologies.

The aspirational fortification of the national territory through the use of tactical infrastructure and other technologies has failed to affect the immigration socio-technical system in the way that the policy desires, but the regime keeps encouraging research, development, and deployment of technology, including walls, sensors, unmanned arial vehicles (UAVs), Tethered Aerostat Radar Systems, surveillance technology, etc., to manage the "immigration problem." These technologies in the immigration socio-technical system perpetuate geopolitical conflicts in the borderlands and reinforce the political representation of immigration as a threat that has to be neutralized, instead of a human behavior that has to be managed through a good technological design.

Legacy Technology: The Immigration Socio-technical Regime of the US

Outdated technologies have important effects in the way socio-technical systems and regimes coevolve. Legacy technologies stabilize the system and reward a continuation in past decision making because the rules that surround legacy technologies are mature and proven. There is no learning curve in adopting them, as users have already developed the necessary skills and mental models to interact with these technologies. Legacy systems reinforce previous behavioral patterns and limit the sense-making capacity of stakeholders to perceive environmental changes (i.e., future thinking skills), producing rejection of radical (disruptive) innovations in the system. This is what Christensen called the innovator's dilemma (1997). Designing

a system from scratch, meaning questioning the need for each and every techno-logical artifact, is complicated and often unfeasible because of organizational con-straints. For immigration reform to be comprehensive, legacy systems (including sense-making models) must be replaced by a new technological design that scaf-folds the goals of the new policy.

Many of the technological artifacts and responses employed in the immigration policy space today are legacy technologies, resulting from the way the system has self-organized. Politics helps define the specifications for technological responses of that legacy technology through laws, securitization moves, public contracts, or scientific grants. These technologies in turn influence the political environment (e.g., stakeholders could not ask for the construction of a border wall if we did not know how to build walls), thus building feedback loops between technological de-sign, adoption of immigration technologies, and the political process. Therefore, the legacy system is perpetuated by a socio-technical regime that, due to risk aversion, avoids radical systemic changes and encourages instead slow incremental updates, most aspirational in nature.

For example, the introduction of radio frequency identification (RFID) in pass-ports is an incremental and aspirational update to the travel document, instead of completely rethinking identity management at international border crossings. The so-called e-passports or biometric passports allowed policymakers to frame RFIDs as a high-tech solution to increase the identity security of the travel document, fulfilling the aspirational role of the technology in the context of the post-9/11 border game. In fact, RFIDs also created a series of new vulnerabilities for passports. They became remotely readable (e.g., with the right technology, an identity thief can extract infor-mation without ever being in contact with the document), without providing any sig-nificant update to identity management, data protection, or an answer to the question: Are RFID passports the best technological response to improve the socio-technical system? (Meingast et al. 2007). RFID tags were hacked and cloned even before the Department of State had issued the very first e-passport (Lyman 2006).

Because of its complex adaptive nature and its close association to the human condition, immigration behaviors touch multiple socio-technical systems. How-ever, it is possible to identify some of the most important subsystems directly as-sociated with immigration governance and the public debate, but it is important to understand that, like any other effort to reduce complex systems to their parts, immigration patterns transcend the limits of those subsystems all the time and have unexpected second-degree consequences throughout multiple social environments.

The three subsystems are formed by government, business, and clandestine technologies. Intervening in any of these subsystems will provoke counterintuitive ripple effects on the others (Fig. 1).

A good socio-technical approach to immigration needs to integrate systems thinking practices to understand how to better intervene in all these systems to ob-tain the desired policy objective. As Meadows (2008, p. 169) explains:

> Systems can't be controlled, but they can be designed and redesigned. We can't surge for-ward with certainty into a world of no surprises, but we can expect surprises and learn from them and even profit from them. We can't impose our will on a system. We can listen to what the system tells us, and discover how its properties and our values can work together to bring forth something much better than could ever be produced by our will alone.
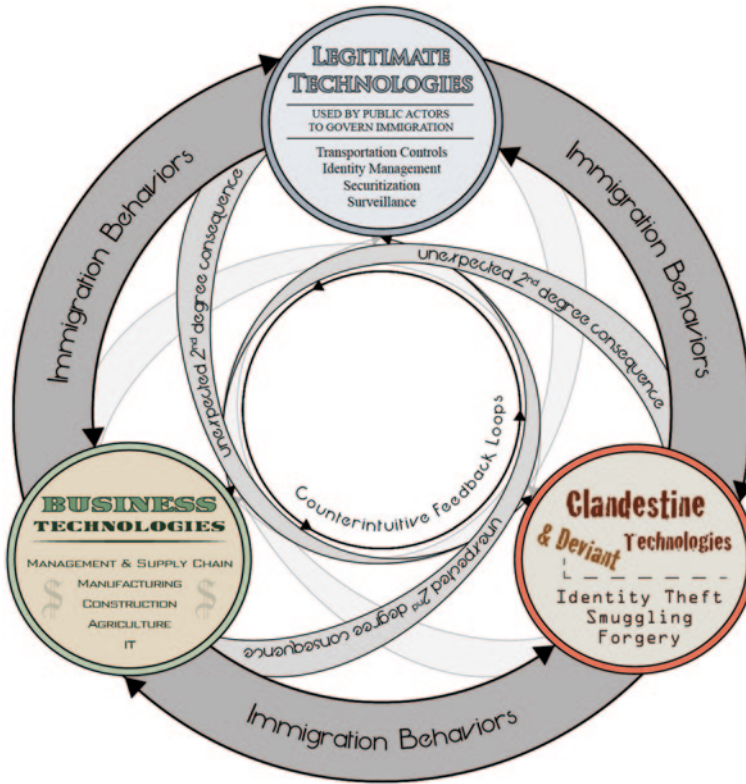
Fig. 1 Different subsystems that interact to form the immigration socio-technical system

A. Subsystem 1: Government Technologies

The first socio-technical subsystem consists of technologies governments use to manage immigration flows. Transportation control, identity management, surveillance, and securitization artifacts constitute the majority of them. The immigration experience is defined by this group of technologies. Legal migration (permanent or temporary, including international travel of short duration for tourism or business) happens in the context of governmental technologies and the socio-technical regime that makes them legitimate. Illegal migration, on the other hand, has to defeat one or more of them.

The geopolitics of how technologies are deployed parallels the geopolitics of migration. As individuals or groups move from one territory to another, they interact with three singular spaces: the country of origin, the borderlands, and the destination country. In the borderlands, there is an important differentiation between the planned, organized, surveyed, and controlled points of entry and the rest of the border territories that in the case of the US–Mexico border are at the same time

represented as vast, empty, and chaotic, but also as a place where a heavy deployment of tactical technologies has to take place.

In each of these territories, governments deploy technologies that affect immigration behaviors. The immigration experience starts far from the border and before the decision to migrate has been made in the country of origin. In fact, the first technologies of the immigration socio-technical system are deployed into the social environment of a human being just a few hours after having been born, in the form of identity documents, birth certificates, databases, and biometric technologies to manage identity. Identity management is an essential component of the immigration socio-technical system, as the main role of the technologies deployed in points of entry is to control the flow of individuals and discriminate between the right and the wrong identities. This decision follows two steps:

1. Determine if the person trying to gain access to the national territory of a state is the same person identified in the documents being used to demonstrate identity.
2. Decide if the information provided by the travel documents and other supporting information to which the border agent may have access (visa databases, paper bank statements brought by the migrant, terrorist lists, vehicle transponders, etc.) authorizes the migrant to cross the border.

Each nation manages identity differently. This is one of the reasons why nations have agreed to certain standards in passport design that allow for what technology developers call interoperability. That is, passports allow for the different socio-technical systems that manage identity in different nation states to interact with each other using a common protocol. For example, the requirements to obtain a passport in the US and the requirements to obtain a passport in Mexico are different because of the different socio-technical identity systems in each country. Nevertheless, the authorities of each country do not have to be aware of the different rules that govern identity in the other country as long as they can assess that an individual in possession of a passport is, in reality, its lawful holder. Passports make the legal identity systems of Mexico and the US interoperable.

Identity mechanisms are deployed for all individuals and not only immigrants, but they have particularly important effects on the behaviors of migrants in the territory of the destination country. In the US, the identity mechanisms that citizens, naturalized citizens, and legal residents (permanent and some temporary) use to demonstrate that they are who they say they are depend on the de facto national identification number and ID mechanism the Social Security number (SSN) and the driver's license, respectively. The illegal immigration experience is defined by not having these tokens or by the need to obtain them through illegal means. The lack of a national identity card system in the US increases the complexity of interaction between law enforcement agencies and legal migrants as more identity rules are imposed on permanent residents than on citizens (i.e., permanent residents are legally mandated to carry their immigration tokens all the time). On the other hand, nothing in the driver's license distinguishes a permanent resident, a naturalized citizen, or a US-born citizen. So, while a naturalized citizen has no need to carry a "green card" as he or she is a citizen of the country, the same person the day before he became

a citizen would have the obligation to carry that identity token all the time. This ambiguity creates niches for legal definitions like "reasonable suspicion" to emerge as a socio-technical rule in some states, like in Arizona, producing ripple effects in the way immigrants, naturalized citizens, and US-born citizens of Hispanic descent interact with identity issues.

From a technology perspective, the only differentiator between who has to carry an identity token (a permanent resident) and who does not have to carry it (the same permanent resident the day he becomes a citizen) is not naturally mapped into the system. This is because a naturalized citizen looks and talks exactly like the permanent resident he once was, but his technological requirements and obligations are different. Law enforcement agents are now being mandated to make sense of those differences without any tool to allow them to visualize the necessary information for them to replace "reasonable suspicion" with the better standard of "informed decision." In countries where all citizens carry a national ID card that establishes the immigration or citizenship status, reasonable suspicion is an irrelevant concept because the socio-technical regime that creates the rules of the system is in agreement with the way the technological artifacts for identity are deployed. This is a clear example of how design choices of socio-technical systems and the political environment shape each other, sometimes in counterintuitive ways.

The specification requirements for identity technologies are complex. How to determine that a person is whom he or she says he or she is without any previous contact, and what access rights does he or she have? The progression is the following, according to Schneier (2003):

1. They have to identify a user from other users of the system. (Who are you?)
2. They have to authenticate the identity. (Are you who you say you are?)
3. They have to provide authorization. (Can you do what you want to do?)

Current technologies approach this challenge using one of three methods—knowledge based, token based, or biometrics (Clarke 1994, p. 14), or a combination of them. In knowledge-based technologies, the individual has to provide a piece of information that only he or she has (e.g., Internet passwords, ZIP codes at gas station pumps, SSN, etc.). In token-based technologies, the individuals must show an artifact (a passport, a visa, a driver's license, etc.) that provides information that may or may not be complemented by access to databases. Biometric authentication is based on information that physically identifies an individual and cannot be changed (e.g., a fingerprint), which is supported by a database that stores and compares the information. This entire technological infrastructure deployed at points of entry serves one purpose: access control. Identity-management technologies control the flow, while surveillance technologies provide response and deterrence capabilities for those trying to break the rules of the system.

A well-built point of entry is almost inexpugnable using a brute force approach (i.e., trying to outrun or defeat customs guards) because of the overwhelming force that governments deploy in those territories. That is certainly the case of the legal point of entries of the US. Instead, organized crime designs and deploys technology solutions to counteract governmental technologies, e.g., smuggling and

concealment. They are constantly adapting their methods, producing deviant innovation. In response, the government also has to develop and deploy new surveillance technologies in the points of entry in an escalation process.

When that process neglects or ignores risk-management principles, the point of entry can rapidly become inefficient, aggravating unnecessarily the migration experience for the millions of lawful users who have to be served by those technological deployments. Border management, like risk management, is about trade-offs between security and performance. A border without bridges and with antipersonnel mines, armed robots, and other lethal technologies would arguably provide a higher degree of security. It would also create a self-imposed embargo and challenge the principles of an open and democratic society as well as the heritage as a nation of immigrants. Risk-management assessments can and should be made when deploying immigration management technology. Any inclusion or removal of a technological artifact will have an impact in other aspects of the performance of the socio-technical system and cause ripple effects in the way clandestine and business technologies coevolve.

Nowhere are these considerations more evident than in the adoption of trusted-traveler programs, e.g., Global Entry, Nexus, or Sentri. All of these migration technologies combine risk-assessment methodologies and identity technologies to preapprove low-risk travelers, improving the quality of the travel experience.[2] In theory, the other positive consequence is that trusted-traveler programs liberate scarce law enforcement resources that can then be used to inspect more extensively high-risk flows. Border flow-control mechanisms are unique because, while the great majority of system users are lawful citizens, residents, or visitors, the system assumes that each and every entry is unlawful. The individual must demonstrate the contrary. As a consequence, visas do not guarantee entry into the US, and further evidence may be requested at a time when the migrant is hundreds of miles from his records. This introduces a high degree of uncertainty into the process of land-based travel to the US.

Between points of entry, border technologies serve a different purpose. If the main challenge of points of entry is access control, the technology deployed between points of entry has a different objective, interdiction. The re-bordering of North America is a direct consequence not of 9/11 as it is often assumed but of the change of strategy by the Border Patrol, called "prevention through deterrence." Walling technologies are aspirational technologies of border games. They are visual artifacts providing a narrative of law and order, of control and surveillance, which is more important than their real capacities to interdict or deter illegal immigration flows. Andreas describes the counterintuitive effects of the deployment of border technologies as follows:

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[2] The Electronic System for Travel Authorization (ESTA) would be an exception to this pattern. ESTA is another risk-management tool used to determine in advance the admissibility of citizens from countries in the Visa Waiver program before they initiate their trip; but in this case, the system increased the burden of traveling to the US.

The border crackdown fueled the emergence of more skilled and sophisticated transna-
tional migrant smuggling groups, creating a more serious organized crime problem along
and across the border. Drug smugglers also responded to law enforcement pressure by
integrating more with legitimate cargo, using the NAFTA-encouraged boom in trade to
more effectively camouflage their illicit shipments. One negative unintended result was
to create closer ties between licit and illicit trade. After years of intensified enforcement,
the tasks of drug and immigration control at the border had actually become harder. New
law-enforcement initiatives were systematically countered by new law-evasion techniques.
(Andreas 2003)

This codependence between the deployment of border technologies and evasion
techniques developed by criminals is the reason why the second socio-technical
subsystem for immigration is formed by clandestine technologies.

B. Subsystem 2: Clandestine Technologies

Clandestine technologies are developed as second-degree consequences of govern-
mental technologies. In a kind of border grand challenge, finding innovative ways
to "hack" governmental interdictions through technological design is rewarded with
a "prize" in the form of big profit margins. Clandestine innovations in the border-
lands are a technological response to a human desire limited by a socio-technical
regime. In this case, the human desire can be a product, as in the case of smuggling
drugs or weapons, or it can be access to a forbidden territory, as it is the case of hu-
man smuggling and illegal migration.

In fact, the designs of legal and clandestine technologies are codependent on
one another, as legal contractors and deviant entrepreneurs constantly innovate in
a competitive environment to neutralize the capacities of each other. Deviant en-
trepreneurs are economically rewarded every time they successfully impose their
will to the migratory and customs system. This creates a market for their counter-
interdiction products. Those deviant technologies can assume many forms. For ex-
ample, they can be a successful concealment technique to smuggle individuals or
products through a legal point of entry, or they can be a research effort to exploit
geographic advantages and organizational behaviors of the border patrol, creating
new smuggling routes.

Deviant technologies are developed using success-driven metrics in a process
that is not centrally planned, and it rewards and punishes in real time. What this
means is that bad technologies (e.g., a concealment compartment easily found by
custom agents) or neutralized technologies (e.g., a smuggling tunnel) are rapidly
replaced by new approaches, some of which will be successful and subject to incre-
mental innovation. Governmental technologies react to clandestine technologies,
and clandestine technologies react to governmental technologies. This interplay has
a big role in shaping the user's experience. This codependent innovation creates
tension and constant fluctuation in the socio-technical system, often decreasing the
performance of governmental border technologies.

C. Subsystem 3: Business Technologies

Given the critical role that the workplace environment and the job market have in shaping immigration patterns, the business technologies that are used in the workplace for manufacturing, construction, agriculture, information systems (IT), management and supply chain technologies, among others, impact the migratory socio-technical system. The rapid pace of innovation in the past 20 years in workplace technologies has often been ignored by stakeholders when debating the state of the labor environment. Instead, they use twentieth-century sense-making models to debate workplace enforcement, guest-worker programs, and labor-based migration.

Historically, labor and territory have been directly correlated. For example, a worker could not operate heavy equipment without being physically present in the factory. Sales would always occur in a brick and mortar shop. Government agencies were not legally mandated to have a tele-work policy (US Congress 2010). Thanks to some recent technologies deployed in socio-technical work environments, geographic location is no longer a requirement for work and the relation between the migratory experience and labor has changed. While offshoring and outsourcing are well-studied consequences of this separation of work and territory, transformations in the job markets and the supply, production, and distribution chains are still ongoing phenomena with unpredictable ramifications.

The Future Freight Flows project of the Center for Transportation Logistics of the Massachusetts Institute of Technology (MIT) produced a scenario-planning tool to increase the future thinking capabilities of decision makers and stakeholders involved in the deployment of infrastructure technologies in this unpredictable environment. The project identifies "small changes in technology, demographics, regulations, economics, or a myriad of other factors have dramatic and unintended impacts on how companies source, manufacture, distribute and operate in general. These non-linear impacts are very difficult to predict using traditional forecasting methods and techniques since they, by definition, do not follow any historical patterns" (Massachusetts Institute of Technology 2010).

Work availability and the geographic distribution of available jobs impact immigration patterns more than any other factor, with the exception of family reunification. Therefore, workplace technologies like robotics, 3D printing, or the virtualization of work environments, to cite a few examples, will influence the future shape of the immigration socio-technical environment as much as the governmental and the clandestine technologies previously described.

The level of uncertainty introduced by the current state of development in workplace technologies makes it impossible to forecast what the nature of the job market will be in the near future. Even so-called low-tech jobs are transformed by the changes that happen at the top of the job market. For example, urban planning may be very different if intelligent manufacturing or the virtualization of office space becomes a reality, affecting the job market for construction, altering the kind of skills required to build the houses of the future, and potentially the geography of where those houses would be built.

There is another way in which immigration and business technologies are correlated. As Wadhwa and Salkever (2012) state:

> Immigrants occupy founding or key managerial roles in the highest-impact startups at a rate far disproportionate to their share of the US population. A 2011 National Foundation for American Policy (NFAP) study of founding and management teams at the Top 50 venture-backed companies in the United States, as ranked by VentureSource, found that immigrants started nearly half of America's 50 top venture funded companies and are key members of management or product development teams in more than 75 % of those companies.

The impact that an immigration-friendly environment has on the creative economy is well established as a key factor that has made the US an innovative nation (West 2010). It produces a kind of self-selection where entrepreneurial or highly skilled individuals migrate to the US and contribute to its prosperity. Through this link between innovation and migratory patterns, the immigration socio-technical system impacts other components of the American experience.

Nation of Immigrants 2.0? Some Policy Recommendations

Many policy recommendations can be made to improve the immigration socio-technical system. New identity technologies could be used to update the international immigration regime and replace passports in the same way that airlines replaced the paper ticket with e-tickets. Also, it would be simple to remove the uncertainty of the visa regime by changing the relation of the customs agents with the traveler, so the visa actually guarantees access to the country unless some supervening evidence is found by the customs authorities after the visa was granted. A national ID system could provide better information to employers and law enforcement agencies about individuals legally residing in the national territory, including permanent and nonpermanent residents and citizens. However, the most important changes to the socio-technical immigration regime will not come from incremental changes like these, but from rebooting US immigration policy through a better socio-technical design, combined with a system thinking approach. The current state of the immigration system is the result of the unintended and counterintuitive consequences of laws promulgated without a real understanding of the systemic forces that the laws were trying to affect, and compounded by the recent acceleration in the pace of innovation that has created the most dynamic environment in the history of the immigration policy regime.

Effectively managing this socio-technical complexity should be a central objective of immigration reform. Public policy design is no different from other technological design challenges. When initial poor design choices are made, unnecessary complications will render the technology complicated or ineffective. A good way to identify how well designed a policy is involves looking to see if it understands the way the human agents interact with the technical components of the socio-technical system. Good design accepts the shape of a system. For example, in neighboring countries with friendly international relations and strong trade ties, people from

both sides of the border interact with each other, get married, have kids, travel for business or pleasure, and migrate to where the jobs are. No technology solution deployed in the context of a democracy will stop people from forming a family with the person they love, wanting to be reunified with their mothers, or providing for their children. Those are human needs that drive human behaviors. In the same way, regulation that gets in the way of the innovation capacities of the country is not only counterproductive but also has negative ripple effects on the systems that support the creative economy of the US. Finally, policies that fail to be adaptive will not be able to respond with enough velocity when confronted by clandestine innovation that produces technological adaptations to hack governmental interdictions.

For all these reasons, an effective immigration policy will necessarily be complex, because immigration is a complex activity. As multiple components evolve, self-organize, and change, they will continue to render the policy environment unpredictable, counterintuitive, and prone to unintended consequences. But good design practices provide some effective principles to deal with the challenges of complex technology systems, and some of those principles may prove to be an effective meta-strategic guide for a new adaptive immigration socio-technical policy. Below are nine policy recommendations based on some of these principles.

Leadership for Sense-making

Because the leverage points in socio-technical systems are often counterintuitive and provide little political gain to policymakers, good strategic leadership must arm public opinion with sense-making tools to improve understanding of the inherent complexity that immigration systems must manage. Disruptive innovations are rarely understood by the majority of the people before they are adopted and tested, and incremental innovation (the only kind in current management of the immigration policy) can lead to failure when environmental conditions have evolved but the regime has not.

Strategic leadership needs to lead the way when disrupting a socio-technical environment. When Steve Jobs said, "It's really hard to design products by focus groups. A lot of times, people don't know what they want until you show it to them" (Reinhardt 1998), he was referring to this important design challenge. Innovation theory explains it as, "a disruptive technology is initially embraced by the least-profitable customers in a market. Hence, most companies with a practiced discipline of listening to their best customers and identifying new products that promise greater profitability and growth are rarely able to build a case for investing in disruptive technologies until it is too late" (Christensen 1997, p. 2). Public policies are technology products that have to be accepted by a large percentage of the population in order to affect in any meaningful way the socio-technical system. Public opinion polls, the equivalent in politics to the focus groups Jobs was talking about, are not going to lead the way to any disruptive transition.

Adaptive Designs

A sustainable and resilient socio-technical policy to deal with the complexities of immigration would have to be adaptive, responsive to environmental and contextual transformations, and sensible to human requirements and the technology adoption cycle that transforms the labor environment and the flow of people. It would also have to factor the unpredictable ripple effects the deployment of new technologies would have in the workplace, in the border zone, and in clandestine technology responses. Technology should be considered a central element of engineering change in the immigration regime and not just an accessory of border policies left in the hands of engineers.

Technological Transition is Negotiation

The challenges of intervening in socio-technical systems to produce a transition have been explained by Smith et al. (2005, p. 1498) in detail:

> Interventions have to be negotiated through governance processes involving multiple agents, none with decisive power. These networks of actors include regime members and other actors seeking to influence regime transformations.… Governance is therefore carried out through negotiation and bargaining between interested state and non-state actors with interdependent resources relevant to maintenance and change of the regime. Impulses for change, especially major, long-term shifts, will often fail because they represent uncoordinated interactions between shifting, poorly articulated selection pressures and struggling adaptive capabilities.

Data, Not Aspirations

The design of aspirational technologies should be replaced by a technological architecture where real performance data are displayed clearly in immigration "dashboards" that provide information in real time about the state of the immigration socio-technical system. New computational social science tools can assist in the process of building these sense-making capacities. That said, certain human concerns such as family reunification, asylum, love, and the natural curiosity and risk taking that drive human movement cannot be, and should not be, reduced to quantitative measurements or computational analysis.

A Chief Information Officer to Adapt Immigration Flows

Under current policies, the Chief Information Officer (CIO) position does not exist in the immigration subsystem. There is a need for an authority that could fulfill that role for immigration with power to deploy technologies to support efforts to

manage the complexity of immigration behaviors. Responding to changes in human flows is as challenging as responding to changes in financial flows, but the effort to understand the movement of people pales in comparison to the resources deployed to make sense of capital movements. A good socio-technical design for immigration would need to reverse that trend because managing immigration is about managing changing flows and patterns and not about building rigid policy structures. Immigration technologies in the border and elsewhere produce counterintuitive feedback loops among multiple components of society that must be actively managed.

Risk Management Approaches

Risk management for immigration is a technology design challenge. Immigration technologies look for anomalies among a large amount of legitimate and desired interactions. A risk-management design must balance the need to detect unlawful behaviors with the necessity of efficiently managing legitimate flows.

Future Thinking Capacities for the Age of the Unthinkable

New technologies, like intelligent manufacturing, artificial intelligence, robotics, communication, and computing, are opening the doors to unforeseen public-policy possibilities that will continue to change the strategic environment of the immigration policy space but will also empower policymakers to reframe the narrative in new ways. What would a labor policy for international tele-work look like when more bandwidth becomes available in the developing world? What happens to immigration if three-dimensional printers replace an important percentage of manufacturing being done today in production lines? How will robotics and precision agriculture impact the countryside job market? How will behavioral recognition systems alter our tolerance to profiling as an identity tool? New technologies create affordances that allow us to do things not thought possible in the past. Stakeholders and policymakers should improve their imagination and future-thinking skills to understand different plausible scenarios in an unpredictable world.

Zero-Day Vulnerabilities and the Obsolescence Path

Technological transformations will provide new alternatives for clandestine actors to hack government technologies in unthinkable ways. What happens if biometric identity is stolen, given the fact that we cannot "change the password"? How will human smuggling change if the immigration socio-technical regime becomes skill based? A socio-technical system that is complex is also hackable at multiple levels, constantly exposing unknown vulnerabilities of the system (i.e., zero-day attacks).

A good public policy for immigration needs agility to deal with those unpredictable challenges and to "pivot" whenever systemic conditions change. What this means is that immigration technologies should be designed thinking about when they will become obsolete. For example, the technology designer of immigration security systems should be asking the question: "What happens when this technology is penetrated?" instead of "What happens if this technology is penetrated?" A clear obsolescence path should be embedded in the policy for when a security layer is no longer effective or when conditions change.

Immigration is the product of systemic patterns that can be reframed as a positive consequence of a strong socioeconomic model. Those patterns have to be scaffolded, not stopped, by an intelligent, adaptive socio-technical regime. High-skilled and entrepreneurial migration is the best antidote to any population imbalance that may affect the competitiveness of the US in the future, but all migrants demonstrate a desirable risk tolerance just by making the difficult decision to migrate from their home country to look for better opportunities. Explorers, adventurers, and pioneers have always been, by the nature of their actions, migrants. This behavior, coupled with a good socio-technical design, should be encouraged and not punished, as it is directly correlated to the innovation capacities of the US to imagine and build the future.

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US Immigration, Demography, and Citizenship in a Digital Age

Jason Ackleson

Introduction

In the nation's early days as a republic, immigration played a critical role in determining the demographic fabric of the US. This is no less the case today: demographers predict that the US will have a minority–majority population by 2050 (US Census Bureau 2008). A sizable segment of this population will be foreign-born or second-generation immigrants. American demographic change due to immigration, while remaining fairly constant in general terms, has always shifted in the particular: Early waves of northern European immigrants gave way to southern Europeans, which in turn gave way to Latin Americans, notably many from Mexico. This trend appears to be changing yet again: For example, contrary to popular perception, the share of the foreign-born population from Mexico migrating to the US peaked in 2007 and has, in fact, declined marginally in recent years (Passel et al. 2012). New sending countries, many of which are in Asia, promise to redefine the demographic fabric of the US.

The political, sociocultural, and economic implications of these demographic shifts are both highly complicated and critical for the nation's future. This is particularly the case during a period of intense policy debate about the future of the US immigration system. To explore some of these dynamics, this chapter begins by exploring selected research highlights on demography, immigration, and citizenship in order to paint a broad picture of the current profile of foreign-born individuals residing in the US. "Foreign born" is generally defined as those individuals who do not acquire US citizenship at birth, and thus may include legal permanent residents (LPRs or "green card" holders), nonimmigrants (such as temporary workers), the unauthorized, refugees/asylees, and others. In this regard, it is important to note that the term "foreign born," as used in Census data, is not perfectly analogous to "immigrants," particularly as the latter refers in a legal sense to a broad category of individuals who seek permanent legal status. Moreover, this chapter does not consider

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the issue of unauthorized immigration per se. However, it should be noted that while the number of the unauthorized remains large—estimated at approximately 11.1 million (approximately 59 % of whom are from Mexico)—the growth rate of this group (including among those born in Mexico) has dramatically slowed (Hoefer et al. 2012; Passel and Cohn 2012a). This is a trend that, if sustained, should amplify some of the implications outlined below—especially regarding the increased heterogeneity of the foreign-born population in the US.

To explore these issues, this chapter draws on several primary sources, notably publicly available data from the US Census Bureau (primarily the Bureau's American Community Survey, ACS) and the US Department of Homeland Security's (DHS) Office of Immigration Statistics (OIS). Where appropriate, this chapter presents secondary analysis of this data from immigration scholars and research institutes like the Pew Hispanic Center. The emphasis here is not on providing new tabulations of these data, but rather on offering a streamlined presentation of the key trends within the data to set the foundation for a conceptual and policy-focused discussion about citizenship and immigration reform.

This chapter begins by providing a brief descriptive summary of the foreign born in the US at present, and analyzes a set of trends that have led up to the composition of the country's current immigrant communities and may continue to shape it in the medium to long term. The second section of this chapter focuses on the issue of integration of the foreign born, which is understood here to be largely represented by the acquisition of citizenship through the naturalization of LPR immigrants. Data describing the naturalization patterns of select LPR populations are presented, with a particular focus on the largest foreign-born group of LPRs: individuals from Mexico. With these patterns in mind, the third section of this chapter explores trends and barriers to citizenship. The conclusion of this chapter considers these trends within the framework of new scholarship on "digital citizenship." Finally, with an eye toward contemporary debates on US immigration policy reform, the conclusion also sketches out two additional components: (1) future policy scenarios for immigration and citizenship policy in the US and (2) research needs required to support, reform, and bolster our understanding of demography, immigration, and citizenship in twenty-first century America.

Research Highlights on Demography, Immigration, and Citizenship

A. The Foreign Born in the US: Overall Numbers and Share of Population

The most authoritative source for estimates of the size of immigrant communities in the US is US Census Bureau data on the foreign-born population, primarily collected from the ACS. The ACS is a regular, monthly sample used to create annual

Table 1 The foreign born: Percentage share of the US population. (Source: US Census, 2000 and 2010; American Community Survey (ACS), March supplements)

1850	9.7%	1910	14.7%	1970	4.7%
1860	13.2%	1920	13.2%	1980	6.2%
1870	14.4%	1930	11.6%	1990	7.9%
1880	13.3%	1940	8.8%	2000	11.1%
1890	14.8%	1950	6.9%	2010	12.9%
1900	13.6%	1960	5.4%	2011	13.0%

data for certain geographic areas, traditionally sampled using an extended decennial census form. Overall, the 2011 ACS indicates approximately 40.3 million foreign-born individuals were resident in the US; this is approximately 12.9% of the total US population (US Census Bureau 2011b). Growth in this population was particularly sharp between 1990 and 2000, with 11.3 million new foreign-born individuals, which, as the Census Bureau notes, is "the largest numeric increase of any decade in US history" (Grieco et al. 2012a).

The current percentage of foreign born (relative to the overall US population) is high, but not at record levels: Historical census data suggest that the percentage of foreign born peaked around 1890, at 14.8% of the US population. Nevertheless, as a percentage of the total population, the trend for the foreign born since the 1980s has been markedly upward; as Johnson (2012) reports, in the 1990s, the expansion of the US immigrant population was twice as high as it was during the 2000s (see Table 1 and Fig. 1; Johnson 2012). This population growth rate, however, has leveled off in recent years: Current analysis and revision of census data conducted by the Pew Hispanic Center confirm that growth of the immigrant population between 2009 and 2011 was relatively limited (approximately 2%; Passel and Cohn 2012b).

Represented graphically, the peaks and valleys of this population flow become quite apparent over time. Despite this recent trend of stable (or more limited) growth among this population, the available data still make it clear that immigration has—and will continue to—remain a very important factor in driving the size and composition of the overall US population. This will likely be the case even if the relative foreign-born share of the US population continues to stabilize, or even drop (which is plausible should current trends sustain themselves).

The absolute flow of the foreign born legally admitted to the US is, of course, dependent on the parameters of US immigration policy. As will be discussed in the conclusion of this chapter, different policy scenarios may impact the size of this flow, as well as its character. To better understand how, the following section explores some highlights about the current demographic profile of the foreign born in the US.

B. The Foreign Born in the US: Demographic Snapshots

The demographic and geographic dimensions that characterize the foreign-born population in the US are constantly in flux. To describe these dimensions at a broad
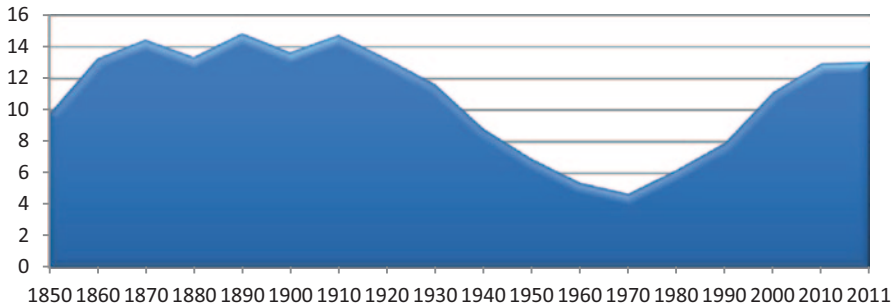
Fig. 1 The foreign born: Percentage share of the US population. (Source: US Census, 2000 and 2010; American Community Survey (ACS), March supplements)

level and at discrete moments in time, the US government collects limited survey-based data that describe certain categories of the foreign born, including country of origin, age, geography, economic status, and several other variables. While a full review of these demographic features is beyond the scope of this chapter (and is available elsewhere),[1] snapshots of several key variables—specifically country of origin, age, and geography—are provided at a high level of description for the analysis that follows. This sets the stage for a discussion of key demographic variables impacting the questions that drive the balance of the chapter, namely how patterns of immigration impact citizenship, integration, and the basis for potential policy change.

Specifically, this section examines select highlights of country-of-origin changes that have occurred over the past ten years, using base census data and tabulations thereof provided by the Pew Hispanic Center (Patten 2012). A note of caution on the data that follows, however, is Perez and Hirschman's notion that "the boundaries between racial and ethnic groups are becoming blurred by high rates of intermarriage and the growing number of persons with mixed ancestry" (Perez and Hirschman 2009, p. 1). Indeed, issues with census data on matters of race and ethnicity are a known challenge (Hirschman et al. 2000). Thus, while we can characterize the foreign born demographically in fairly broad strokes, the fine detail on the picture often remains undefined and complex—and this is an area, as the conclusion of the chapter notes, which requires additional research investment.

US census data include region of birth for those identifying themselves as foreign born. An October 2012 paper published by the Census Bureau provides a compilation of this data over the longer term, describing the foreign-born population from 1960–2010 (Grieco et al. 2012b). Over this period, the paper identifies and traces the distribution of region of origin among the foreign born.

The data makes two shifts clear: first, that the absolute number of foreign born by region of origin has shifted, and second, that the relative distribution of the foreign born by region of origin has altered. Specifically, recent waves of immigration

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[1] See, for example, Eileen Patten, "Statistical Portrait of the Foreign-Born Population in the United States 2010," Pew Hispanic Center, February 21, 2012.
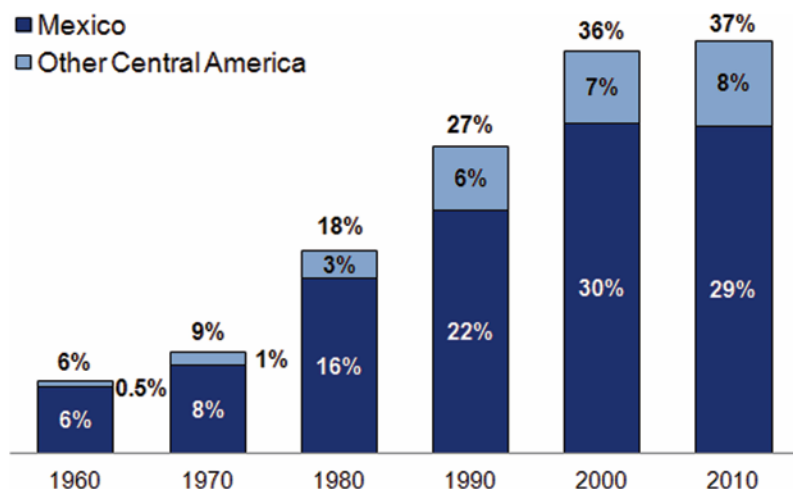
Fig. 2 Percentage of the foreign-born population from Mexico and other parts of Central America: 1960–2010. (Source: US Census Bureau 2010 ACS)

indicate the growth of Latin American and Asian-born populations, relative to past trends centered on sending countries in Europe. In fact, the share of the foreign born from Europe has declined markedly, from 75 % in 1960 to approximately 12 % in 2010. Foreign-born groups from Latin America (as a region) have increased their share of the foreign-born population from 9.4 % in 1960 to 53.1 % in 2010. Asian-region-origin populations have shown similar growth patterns. According to 2011 ACS estimates, the top countries of origin, following Mexico, are China (5 %), India (5 %), and the Philippines (4 %), with Vietnam, El Salvador, Cuba, and Korea each accounting for approximately 3 % of the foreign born in the US.

When one extracts the largest subset of the foreign born responsible for the high growth rates—those from Central America and Mexico—it becomes clear that the share of the overall foreign born from both Mexico and Central America has dramatically increased from 1996 to 2010 (Fig. 2).

C. More Recent Trends: 2000–2010

Drilling down into the more recent data from 2000 to 2010, Table 2 elucidates a noteworthy set of trends in changes among foreign-born individuals' countries of origin.

Among the more notable data points in this table is the growth of the Mexican-born population, which has slowed relative to other groups and in relation to trends since 1960 (as represented in Fig. 2). While Mexican-born immigrants still represent the largest share of the foreign born in the US at approximately 29 % of the nearly 40 million foreign born, more recently their share has stabilized and even declined

Table 2 Change in the foreign-born population, by region of birth. (Source: Pew Hispanic Center; tabulations of 2000 Census and 2010 ACS)

	2010 population	2000 population	Change, 2000–2010	Percent change, 2000–2010	Share of total change (%)
Mexico	11,746,539	9,163,463	2,583,076	28.2	29.4
South and East Asia	9,930,118	7,195,764	2,734,354	38.0	31.1
Caribbean	3,730,817	2,954,820	775,997	26.3	8.8
Central America	3,007,288	2,029,383	977,905	48.2	11.1
South America	2,739,594	1,920,007	819,587	42.7	9.3
Middle East	1,421,063	1,137,898	283,165	24.9	3.2
All other	7,341,456	6,732,146	609,310	9.1	6.9
Total	39,916,875	31,133,481	8,783,394	28.2	100.0

relative to other national groups. For example, Mexicans who arrived before 2005 were 30.4 % of the total foreign-born population. Mexicans that arrived from 2005 to 2007 were 28 % of the total foreign-born population, and Mexicans that arrived in 2008 or later were only 19 % of the total foreign-born population. A shift (in relative terms) away from Mexico and toward Central America and Asia is clear.

Age

Today's foreign-born population in the US is relatively young. While the native-born population's median age is 46, the foreign-born median age is 41.4 years (US Census Bureau 2011b; Grieco et al. 2012a). The age distribution of the foreign born is decidedly centered on those between 18 and 44 (50 %); 80 % of the foreign born are between 18 and 64 (Grieco et al. 2012a).[2] Furthermore, when age is cross-tabulated with region-of-origin data, strong patterns of relative youth emerge in the newer foreign-born populations (from Latin America and Asia), relative to the foreign born from past traditional sending regions, such as Europe.

D. The New Geography of Immigration

Empirical evidence validates the widespread anecdotal and media reports about changes in the geographic distribution of immigrant populations across the US in recent years. Scholars such as Massey and Zúñiga, among others, have documented and analyzed the new geographic patterns of immigration settlement in the US.

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[2] As the authors note, in more recent years, the median age of the foreign born has increased slightly (in 2000, it was 40 and 2010, 41.4). This may be due to the relative decrease of foreign-born immigrants from Mexico and other Latin American states, relative to other sending countries, which tend to have older foreign-born immigrants.
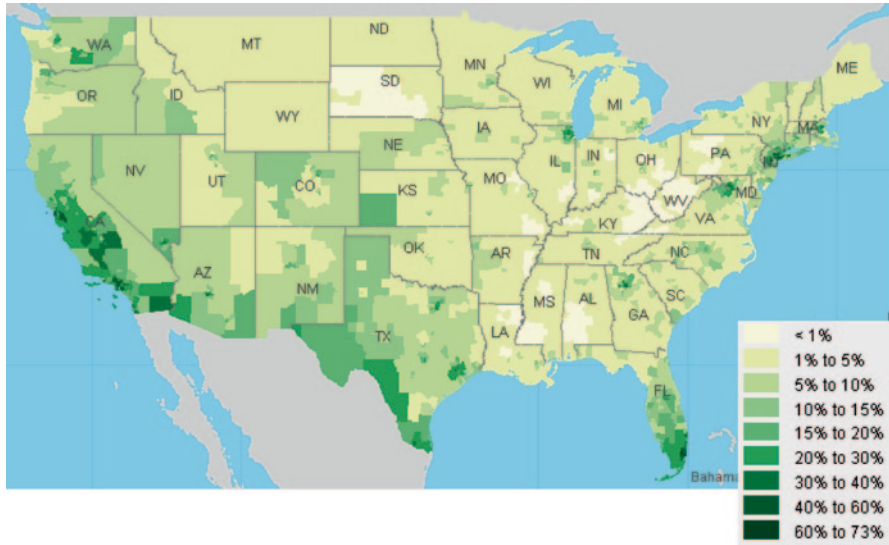
Fig. 3 US counties by foreign-born population. (Source: ACS 2008–2010 PUMA)

Their work, combined with primary census data, makes it clear that while the absolute number of immigrant populations in each region or state of the country has shifted, so too has the demography of foreign-born populations within these geographic locations (Massey 2008; Zúñiga and Hernández-León 2005).

Specifically, census data reveal that the foreign born are distributed widely throughout the US, while also being clustered in key geographic locales (see Fig. 3). Many of these are traditional destinations for immigrants (for instance, the US–Mexico border states and New York) while others (Kansas, North Carolina, and others) are relatively new hosts to the foreign born in comparison to past census enumerations that reflected a much smaller percentage of foreign born in these state's population.

The key point to be drawn from this snapshot is that immigrants are increasingly settling in nontraditional localities. This fact poses a variety of economic and sociocultural issues, especially regarding immigrant integration and the receptivity of immigrants among native-born community members. Immigrants may have unique challenges, or possibly even advantages, in nontraditional areas of the country regarding civic participation compared with those in traditional gateway communities. This trend also has a set of key political implications, as new immigrant communities alter the electoral picture in many states.

E. Other Socioeconomic Issues: High-Speed Internet Access and Language Proficiency

Numerous census data and secondary analyses describe the education, occupation, economic status, and other demographic features of America's immigrant populations. A review of this data is beyond the scope of this chapter. However, two key socioeconomic variables that are of particular interest here, as they pertain to communities with high numbers of the foreign born, are high-speed Internet access and English-language proficiency. This chapter argues that these two variables are particularly important in helping to explain immigrant integration outcomes, and that they are central to the full realization of American citizenship (both in terms of representation and economic opportunity) in a digital age. Addressing gaps in Internet access and language proficiency are key elements in one of the policy trajectories sketched out in the conclusion of this chapter.

1. Internet Access

Information technology (IT) is widely recognized as a key driver of economic growth and opportunity. IT is responsible for much of the productivity growth in the US since the 1990s; future economic growth and investment is likely not only across "new" IT enterprises, but also through IT deployment across "old" economy sectors such as manufacturing (Mossberger et al. 2008). The US Bureau of Labor Statistics (BLS) projects growth rates for all occupational categories. Those occupations requiring IT skill levels will be among the fastest growing over the next decade, expanding at rates that exceed the average rate of all US industrial sectors. Moreover, as the conclusion of the chapter argues, access to IT resources such as high-speed Internet services is crucial to effective "digital citizenship."

Overall rates of Internet access continue to rise in the US. According to research by the Pew Internet and American Life Project, while 81% of American adults use the Internet—a rate that has risen significantly in the past ten years—significant gaps in Internet access remain among certain population groups, including the foreign born. Among foreign-born Latinos, for example, only 51% use the Internet and only 45% have a home Internet connection (rates that are dramatically below native-born Latinos, which are 70% or higher; Livingston 2010a, b). Of the Mexican-born population, less than half have Internet access at home (US Census Bureau 2010).

An often interrelated set of variables (Table 3) helps explain the likelihood of an IT access barrier. Access barriers include income, education, language, geography, and foreign-born status.

Even if Internet access is available, fluency and use of the technology are not guaranteed: Research indicates that due to limited language skills and different cultural experiences, Internet experience does not directly translate into confidence in one's public "e-government" skills, such as applying for social service or immigration benefits online.

Table 3 Barriers to high-speed Internet access for immigrants. (Sources: US Census Current Population Survey, 2010; Pew Research Center Internet and American Life Survey, 2010; US Department of Commerce National Telecommunications and Information Administration "Digital Nation" Project, 2011)

Income	Many new immigrants are in low-income brackets, which positively correlates with low Internet access and use. Trend data indicate that in the next five years, the income gap in Internet access will be narrow but not entirely eliminated (Hassett and Shapiro 2009)
Education	A large portion of the foreign born have a high school education or less, making Internet usage a high hurdle
Language	Limited English Proficiency (LEP) is correlated with less Internet access and use
Geography	Many immigrants reside in areas where high-speed broadband access is still limited
Country of origin	Across nationalities, data indicate an increase in access and usage. However, up to 28% of recent family-based and employment-based immigration benefit petitioners are from countries where historically there are few home PCs or PCs with Internet access (US Census Bureau 2003, 2010)

2. Language Proficiency

English-language proficiency is a persistent integration challenge for a significant share of the immigrant community in the US. Foreign-born individuals who are not fluent in English may struggle with myriad integration issues as they have difficulties communicating with employers, neighbors, health-care providers, law enforcement officials, landlords, teachers, and others.

The data on language proficiency among the foreign born is primarily available through national survey projects (such as the 2007–2009 ACS 3-year estimates reported here). Note, however, that in the ACS, language ability is a self-reported item and thus may or may not accurately reflect actual proficiency levels. Moreover, the ACS explores language proficiency only through categories or levels such as speaks "only English," speaks English "very well," speaks "well," speaks "not well," or "does not speak at all." This structure creates challenges in determining an accurate estimate of Limited English Proficiency (LEP) populations among immigrant communities.

Using census data, a 2011 Migration Policy Institute analysis suggested that "LEP individuals accounted for 25.2 million or 9% of the US population over age five" (Pandya et al. 2011, p. 1). ACS data also suggest that the LEP population is growing in both absolute and relative numbers: The estimated LEP population grew by approximately 80% between 1990 and 2010 (Ono and Zavodny 2008; Pandya et al. 2011). As Ortman and Shin report: "The number of people five and older who

spoke a language other than English at home has more than doubled in the last three decades and at a pace four times greater than the nation's population growth" (Shin and Kominski 2010, p. 1). When combining the key categories of the ACS data that connote LEP status, among the approximately 17 million foreign born who spoke a language other than English at home, over half (8.6 million) spoke English not well or "not at all" (US Census Bureau 2011a; Shin and Kominski 2010). Among Spanish speakers, the numbers are starker: Of approximately 11 million foreign born whose first language is Spanish, 7 million (62 %) speak English "not well" or "not at all."

As the LEP population grows, so does linguistic diversity (i.e., the heterogeneity of languages spoken in the US). In addition, while linguistic diversity is projected to continue, "English is expected to continue to be the only language spoken by a substantial majority of all US residents five years and over"—reinforcing its role as the gateway language to economic and cultural integration (Shin and Ortman 2010).

F. Implications

It is important to note that analyses of the foreign born based on census data are conditioned by definitional challenges (as noted above) as well as survey limitations. With this caveat in mind, the above-documented trends make several things clear about immigration to the US in the early twenty-first century. First, immigration will continue to play a vital role in shaping the demographic future of the US. As Grieco makes clear, the impact on population growth alone due to the growth of the foreign born (and their children) is significant: "over one-third of the growth in the total population of the US between 1970 and 2010 was due to the increase in the foreign-born population and their native-born children" (Grieco et al. 2012b). While birth rates are generally on the decline, this trend is reasonably expected to be sustained.

A second feature of immigration in the US in the early twenty-first century is the shifting diversity of the foreign-born population: We are experiencing a change in the flow from major sending countries as increasing heterogeneity in US immigrant communities (and languages) emerges. These immigrants retain a youthful profile, important for labor market and entitlement policy discussions.

Third, the foreign born appear to be settling increasingly in nontraditional localities, posing new challenges to their reception and integration. Finally, while the data are incomplete, significant gaps in broadband Internet access and language proficiency appear to pose socioeconomic challenges in some foreign-born populations. When these two challenges are combined in one group—i.e., the foreign born who are LEP and do not have Internet access or technological fluency—especially significant socioeconomic and political barriers exist. Taken together, these implications have a direct bearing on immigrant integration, an issue explored in the next section of this chapter.

The Integration of the Foreign Born: Toward Citizenship

A full review of the literature on immigrant integration is beyond the scope of this chapter. However, on a broad and basic conceptual level, a good general starting point is Brown and Bean's (2006) formulation of immigrant integration as a process by which the characteristics of immigrants and host societies come to resemble one another. Other scholars have examined the integration process and prepared models that explore a set of demographic, economic, behavioral, sociocultural, and other variables to explain integration outcomes (Chiswick and Miller 2002; Borjas 1999; Jasso et al. 2000; Bloemraad 2000; Alba and Nee 1997; Portes and Borocz 1989; Woodrow-Lafeld 2009).

For this chapter's purposes, civic integration—the process of educated engagement and participation as a US citizen—is the primary integration component of interest. This is because the US currently lacks a broad federal immigrant integration policy beyond the promotion of naturalization. Indeed, integration has been largely understood, at the federal level at least, as tantamount to citizenship—and has accordingly been fostered mainly through the promotion of naturalization. While certain programs to promote English and American culture were initiated as the naturalization process became standardized and federalized in the early twentieth century, most programs were eventually discontinued. This has left federal policy centered on the naturalization process itself and the conduct of naturalization ceremonies that convey citizenship.

Naturalization represents perhaps the strongest indicator of civic integration and also is often correlated with higher levels of educational, economic, and social success for the foreign born; it may "be considered a measure of assimilation and adaptation in the United States" (Baker 2007, p. 1). As Sumption and Flamm put it, citizenship provides a "premium" to immigrants, bolstering their chances of stronger economic, social, cultural, and political outcomes in their new country (2012). Indeed, citizenship continues to be seen by many US policymakers as important for political, civic, social, and economic integration; as Young has persuasively argued in a broader, more theoretical sense, citizenship signals important and universal relationships of equality between all members of the political community (Young 1989).

Consider the legal representation of citizenship as the administrative conveyance of naturalization. The rate of naturalizations in the US has oscillated over time, but expanded dramatically in the latter half of the twentieth century, when larger immigrant inflows became a reality, partly due to reconfigurations in US immigration policy. Figure 4 depicts this pattern by presenting US naturalization rates from 1910 (an early bookend for consistent federal records) to 2011.

Many scholars have done important work on explaining trends in these flows (Passel 2007; Bittle and Roch 2009). Passel, for instance, points to a set of variables that can predict the odds of naturalizing, including time in the US, gender, education levels, the availability of "dual" citizenship and legal rights, age, political climate, and country of origin. In addition, Internet access and English proficiency appear
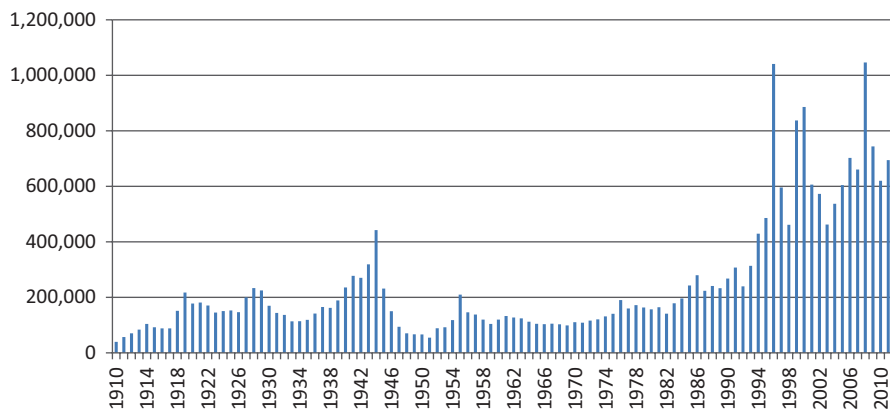
Fig. 4 US naturalizations, 1910–2011. (Source: DHS Office of Immigration Statistics, Yearbook of Immigration Statistics, various years)

to be other key variables associated with the propensity to naturalize (Passel 2007). Conversely, these variables suggest political representation challenges for those immigrants who do not naturalize.

Despite the relatively large absolute number of naturalizations in the US—reaching over one million in 2008, for example—there is still a sizable population of LPRs in the country who are eligible to naturalize, but who have not: 8.1 million LPRs (out of a total LPR population of 12.6 million) were eligible to naturalize in 2010 (Rytina 2012). The naturalization rate of the US falls below other similar English-speaking immigrant destination countries, such as the UK, Canada, and Australia, where up to 80 % of eligible (comparable) populations tend to naturalize (Sumption and Flamm 2012, p. 3).

Even within the group of eligible LPRs who do not naturalize, significant differences by country of birth emerge. As Fig. 5 illustrates, certain Asian-region-origin LPRs, such as those from Vietnam and the Philippines, naturalize at higher rates than others.

Notably, while their share of the overall foreign-born population is the largest, Latin American-born LPRs naturalize at a significantly lower rate than others. According to recent Pew Hispanic Center analysis, "the naturalization rate among legal immigrants from Latin America and the Caribbean trails that of other legal immigrants by a sizable margin—49 % versus 72 %" (Taylor et al. 2012).

The Mexican-born population is, in relative terms, especially less likely to naturalize. From 2008 to 2010, Mexican naturalizations decreased from 23 % to 13 % of total naturalizations. In a 2007 analysis, DHS's OIS concluded that, "the comparison of 10-year naturalization rates to cumulative rates reveals that Mexican LPRs were slower to naturalize than European or Asian LPRs" (Baker 2009, p. 2). These trends are illustrated in Fig. 6.

These gaps, in both the specific instance for certain country-of-origin populations and the general rate of uptake in naturalization, pose important conceptual and
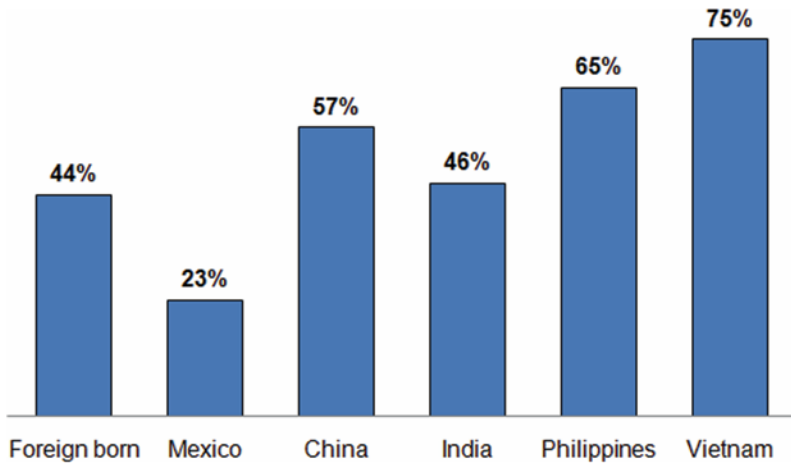
Fig. 5 Percentage of the foreign-born population who are naturalized citizens by country of birth: 2010. (Source: US Census Bureau, American Community Survey, 2010)
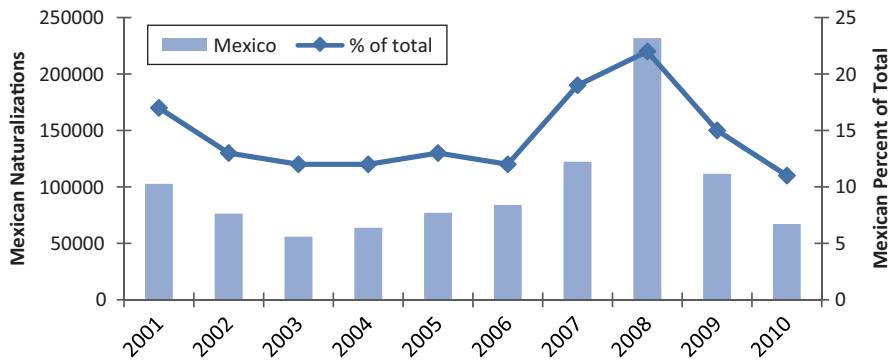

Fig. 6 Mexican naturalizations as a percent of total naturalizations. (Source: DHS Office of Immigration Statistics, Yearbook of Immigration Statistics, 2010)

policy questions. For instance, do they reflect larger challenges to the traditional models of citizenship—such as increased global mobility, migration, identity shifts, group representation, or changes in territoriality—or increasing mistrust of traditional political institutions? Alternatively, do naturalization decisions rest less on the meanings of citizenship and instead primarily on pragmatic reasons such as the time required, the naturalization test, or the cost to petition? A variety of hypotheses exist. Passel, for instance, found that immigrants who travel back and forth to the US from nearby countries have lower rates of naturalization (2007). Others have pointed to barriers such as language access, naturalization fees, income, and other variables to explain these gaps (Ramirez and Medina 2010; Bergeron and Banks 2008; Sumption and Flamm 2012). However, in general we do not yet have

adequate empirical data, such as a nationally representative survey of LPRs, to fully explain these gaps.

Thus, while a full exploration of these questions is beyond the scope of this chapter, the key point is that gaps in naturalization rates, especially among key immigrant groups, remain an important barrier to fuller integration of immigrants in the US. When this fact is coupled with other factors, such as the high undocumented population currently residing in the US or deficits in resources for certain foreign-born populations (such as LEP and access to high-speed Internet resources), the goal of fully realizing engaged citizens is put at risk.

Discussion: Alternative Policy Paths in a World of "Digital" Citizenship

Consistent with traditional liberal views of citizenship and broad, inclusive social rights, T.H. Marshall famously argued in 1949 that, "citizenship is a status that is bestowed on those who are full members of a community" (Marshall 1994). In light of this important definition, the data presented in this chapter make it clear that while the foreign born in the US are an increasingly diverse, youthful, geographically diffuse, and growing group, barriers to citizenship mean that a significant portion of their numbers remain less-than-full members of the (American) community and thus are at risk for being suboptimally integrated.

With Marshall's notion in mind, this conclusion makes the case that, while naturalization is a significant indicator and realization of integration and citizenship, two other interrelated resource issues—particularly deficits in digital and linguistic capital—remain problematic for key segments of the foreign-born population in the US. Combined, these deficits pose an interdependent risk to both immigrants and the US: They hamstring immigrants' ability to not only naturalize but also to achieve stronger social, economic, and political opportunities in a "digital age."

To explore this idea, consider the concept of "digital citizenship:" the ability to regularly and actively participate in society online. The notion, as developed by Mossberger and others, includes two main components (Mossberger et al. 2008). The first concerns "civic republicanism," or civic and political engagement—notably the ability to participate fully in society online in the information age. This idea developed as some scholars began to rethink the meaning of participation and civic engagement in a digital age where traditional notions of "citizenship as participation" (such as in as religious groups, associations, neighborhood groups, and other settings) have declined in favor of "virtual" engagement through online means and sources. This is not necessarily a deleterious trend: Evidence exists that Internet use, for example, has positive political effects on matters such as voter turnout, feedback to elected officials and government agencies, issue awareness, and general political mobilization (Krueger 2002; Bimber 2001; Thomas and Streib 2003). Online media is correlated with greater political knowledge and civic engagement. Civic republicanism as digital citizenship is also represented in the trend for governments

to provide services online to increase public sector access, efficiency, and effectiveness. These "E-government" services (for instance, filing for social services online or, as is currently underway, petitioning for immigration benefits online) have been growing for at least a decade. It seems clear that in the twenty-first century, civic republicanism—for both native-born individuals and immigrants—will increasingly be realized over a high-speed Internet connection.

The second component of digital citizenship involves a variant on liberalism, namely the ability to achieve equality of opportunity in an economy whose growth and productivity depends on ever-higher degrees of "digital capital," the skills and intellectual creativity required to work in a digital environment (Stiroh 2001). Globally, the Internet is estimated to have produced 21 % of the gross domestic product (GDP) growth in mature economies from 2006 to 2011 (Manyika and Roxburgh 2011). In the US, IT is responsible for much of the economy's low-inflation development in the past 20 years; IT knowledge and skills are strongly correlated with higher wages, education levels, and greater job mobility. Technological change has been demonstrated to impact wage disparities, especially between low- and high-skilled workers (Brauer and Hickok 1995).

As technology use accelerates in all sectors of the US economy, "digital capital" will increasingly become a prerequisite for full digital citizenship. Indeed, the realization of digital citizenship, in both its civic and economic dimensions, requires the regular and effective use of technology resources. This, in turn, requires both digital capital and related-linguistic resources. However, because of the existing disparities in Internet access previously noted, as well as persistent LEP challenges, disparities and divides remain among major segments of the immigrant community in America.

Toward the Future: Two Divergent Policy Paths

This discussion leads to at least two divergent paths for US immigration policy, each with important implications. Manifestations of either approach are apparent in contemporary debates about policy reform, and both offer starkly different outcomes.

A. Policy Pathway #1: Immigration and Citizenship Status Quo

The first pathway continues the immigration and citizenship policy status quo. This would, at least in the short and medium term, provide an increasingly diverse foreign-born population flow into the US and would sustain at least some of the trends about the foreign born discussed in this chapter. While flows from Mexico may stabilize, or even decline under this scenario, groups from emergent sending countries in Central America and Asia will likely increase (the long-term picture about these flows is less clear given declining birth rates among immigrants; Liv-

ingston and Cohn 2012).[3] Nonimmigrant and immigrant admission policies would remain misaligned with many US labor needs, particularly in a sharpened context of global competition for high-skilled labor. As status quo visa backlogs and limits persist, some of the foreign born may increasingly turn to other competing destination countries, leaving the US at a disadvantage in an increasingly competitive global economy driven by ever-higher skills. A major diversion of flows, coupled with high deportation rates, would potentially make the country less able to support its aging native population.

In this scenario, the approximately 11 million undocumented individuals in the US would remain unauthorized, in limbo, and unable to realize citizenship and full integration in American society. In addition, the key segments of the foreign-born population without high-speed Internet access, technological fluency, and sufficient English proficiency would continue to face an uncertain future, lagging behind in digital citizenship in both its civic and economic integration dimensions. Their exclusion from dominant digital and linguistic capital resources and opportunities, coupled with lower-than-ideal naturalization rates, would present significant economic, political, and social challenges to the US.

B. Policy Pathway #2: Alternative Futures for Immigration and Citizenship

An alternative pathway offers a different vision: The US undertakes a significant reform to its immigration policy to advance citizenship in a digital age. This path would include major changes in both immigrant and nonimmigrant visa policies to better meet labor market needs at both the high and lower ends of the skill spectrum, thereby better matching the skills and talents with demand and bolstering economic growth. The policy would continue the country's tradition of family reunification and reform nonimmigrant programs that provide temporary labor. It would regularize the status of undocumented workers and extend a framework of citizenship to all eligible persons within US borders. While illegality in the system cannot not be eliminated, it can at least be blunted in this scenario if reform also addresses backlogs and lags in the legal immigration system. This pathway's changes may also help provide a younger labor force that can help support the country's growing elderly population (through, for instance, contributions to Social Security). The future demographic implications of this pathway are unknown but deserve exploration.

This pathway would also involve a stronger national resource commitment designed to bolster digital and language capital resources for LPRs. This would potentially not only increase naturalization rates but also better optimize the chances that LPRs can achieve stronger economic, social, and political success and integra-

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[3] The Pew Research Center recently reported that immigrant births in the US fell from 102 per 1000 women in 2007 to 87.8 per 1000 women in 2012; the overall US birthrate is at approximately 64 per 1000 women, a rate below replacement level.

tion in a largely service- and IT-driven American economy. Also, as this chapter points out, because some segments of the foreign born are settling in nontraditional areas of the country—some of which lag behind on broadband Internet access—addressing digital capital gaps geographically may also reduce disenfranchisement and advance economic growth. This component of the alternative pathway would require bolstered national leadership and investment in legal and digital citizenship to advance key civic and economic integration goals. This pathway offers the ability for newcomers to the US to join as community members under a legal framework that applies to all.

Regardless of which of these two paths (or variants thereof) policymakers in Washington choose to follow, a better research foundation is required to bolster our understanding of demography, immigration, and citizenship in twenty-first century America. While the ACS and other census resources provide the basis to tell rich stories of the foreign born and their experiences in America in broad terms, they are limited in a number of ways, including the number and depth of questions on the immigrant experience that can be posed.[4] Scholarship on immigrant integration would benefit by a new effort to mount a large, nationally representative survey of LPRs that explore their naturalization decisions. Comparative analyses of integration outcomes by visa class, generation, country of origin, and other variables would be very useful to policymakers. A new focus on "digital citizenship" as well as evaluations of proven, innovative programs to address digital and linguistic capital deficits and promote integration would also be welcome. While some of this research may not be available in time to inform rapidly evolving policy debate, it will be critical to any implementation of immigration policy reform, either whole scale or confined to the margins.

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[4] For example, no question on parental birthplace appears on the ACS; the inclusion of such an item would offer researchers important insights into generational immigration impacts.

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The Path to US Immigration Reform

Susan F. Martin

Historical Patterns of Immigration Reform

Comprehensive immigration reform is the exception, not the rule, in American politics[1]. Until 1875, there were few laws regulating immigration to the US. Over the next 46 years, until 1921, Congress enacted a series of rules that restricted immigrants from certain countries or races (primarily Asian countries), as well as on the basis of their health, morals, likelihood to become public charges, and other similar factors. During the last decades of the nineteenth century and early into the twentieth century, debate on immigration heated up as the numbers of southern and eastern European immigrants increased dramatically. At first the debate focused on a literacy test that proponents thought would restrict immigration to those with higher levels of education. After passage of the literacy requirements in 1917 failed to shift immigration origins and numbers as expected, opponents of mass migration turned to a more comprehensive approach that resulted in the national origins quota system, which was passed in 1921 and refined in 1924.

   The national origins laws stayed in place until 1965, despite great criticism in the period after World War II and a series of bills that enabled admission of refugees and displaced persons outside of the quotas. President Harry Truman established a commission that issued a report, "Whom Shall We Welcome," which recommended elimination of national origins and establishment of criteria based on broader US interests (President's Commission on Immigration and Naturalization 1953). Nevertheless, the Congress, over Truman's veto, renewed the national origins quotas in the 1952 McCarran-Walter Act. It was not until 1965 that a comprehensive overhaul of US immigration policy took place. Trumpeted as a civil rights initiative, the 1965 amendments eliminated national origins quotas and rescinded the various Asian exclusion acts that had been enacted in the nineteenth century.

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[1] For further information on the history of US immigration reform, see Martin 2011; Tichenor 2002; and Zolberg 2006.

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Similar delays in enacting legislation for admission of refugees can be seen. During the 1930s and early 1940s, many refugees were rejected for admission to the US. The most extreme case was the *St. Louis,* the ship of Jewish refugees that was turned back by the US and forced to return to Nazi-controlled Germany, where many passengers died in the Holocaust. After the war, the US admitted thousands of displaced persons via a series of presidential rulings and laws that, in effect, mortgaged the national origins quotas. In 1951, the United Nations Convention relating to the Status of Refugees was adopted, but the US did not ratify the convention despite its participation in its drafting. Only in 1969 did the US ratify the 1967 Protocol to the Refugee Convention. It was not until 1980, however, that the US passed legislation that adopted the UN refugee definition and put in place a permanent system for refugee resettlement and asylum proceedings. Previously, refugees from Hungary, Cuba, Indochina, and the Soviet Union were admitted through the parole authority of the attorney general because those emergency programs exceeded the 17,000 refugee visas included in the regular immigration legislation.

When unauthorized migration grew in the 1970s, Congress considered legislation but failed to reach consensus. Instead, it formed the bipartisan Select Commission on Immigration and Refugee Policy (SCIRP), a time-honored way to navigate the complexities and emotions in immigration policy. SCIRP included four cabinet officers, four senators, four representatives, and four public members. The final report issued in 1981 recommended a three-pronged policy that included enhanced enforcement, particularly in the form of sanctions against employers who hired illegal workers; legalization for the estimated 3 to 6 million unauthorized migrants already in the country; and reforms in legal admission programs that would increase dramatically the number of immigrants to be admitted on the basis of their skills. The basic recommendations of the SCIRP proposal were taken up by successive Congresses. The employer sanctions and legalization recommendations were enacted in the 1986 Immigration Reform and Control Act (IRCA) by a narrow vote in the lame duck Congress. The legal admission reforms were not enacted until the 1990 Immigration Act.

The 1990 Act created the US Commission on Immigration Reform (USCIR), which was to monitor implementation of the new legislation and report to Congress on changes that would be needed. Although originally established to assess the legal immigration system,[2] persistent undocumented migration soon grasped the attention of Congress and the commission itself. USCIR's first report, issued in 1994, made the point that unauthorized migration undermined the credibility of the legal admission system. It urged Congress to enact legislation to improve worksite enforcement, including a secure employment verification system, along with the enhancements already undertaken in beefing up border security. The commission's recommendation was taken up in 1996 as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, with a requirement that the administration pilot test new forms of electronic verification. Almost 20 years later, the pilot testing continues, and Congress has been deadlocked on legislation to mandate its use.

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[2] The name of the commission was originally the Commission on Legal Immigration Reform.

Recent Efforts at Immigration Reform

The most recent round of serious debate on immigration began in 2000 with the inauguration of George W. Bush. Bush campaigned for the presidency with a pledge to make immigration reform a top priority of his administration. He had served as governor of Texas, a border state with close ties to Mexico, where over one-third of the population is of Hispanic origin. Texas also depends heavily on cross-border trade with Mexico for its economic livelihood, especially after the launch of North American Free Trade Agreement (NAFTA) in 1994. Familiarity with US–Mexico issues thus predisposed the new Bush administration to place immigration at the forefront of the political agenda.

In the aftermath of September 11, serious discussion of immigration reform languished in the US, although some progress was made in achieving agreements with Canada and Mexico on border security strategies. The Summit of the Americas held in Monterrey, Mexico, from January 12–13, 2004, provided the opportunity for President Bush to return to the issue of immigration reform. Less than a week before the summit, he unveiled his proposal for a new temporary worker program, titled the "Fair and Secure Immigration Reform." The temporary worker program outlined by President Bush on January 7, 2004, sought to provide a broad framework for resolving some of the many problems that plague the US immigration system. Chief among these was the need, in his words, to better "match willing foreign workers with willing American employers, when no Americans can be found to fill the jobs" (Bush 2004).[3]

The dynamics of a presidential campaign year impeded the immigration reform agenda. Efforts to curry favor among voters in the battleground states of the upper Midwest refocused the political debate on issues other than immigration, most notably the war in Iraq and the US economy, for fear of alienating critical undecided voters. After the presidential election, the Bush administration indicated that it planned to return to the issue of immigration reform. Secretary of State Colin L. Powell and Secretary of Homeland Security Tom Ridge announced on November 9, 2004, while attending meetings of the US–Mexico Binational Commission in Mexico City, that moving forward with a temporary worker program was a "high priority" for Bush in his second term. Still, Ridge cautioned that disagreements within Congress could block achieving such reform in the near term (Shane 2004).

The president's proposal for "Fair and Secure Immigration Reform" at its most basic was an uncapped temporary worker program. Although the program would provide status as a temporary worker, it would not lead directly to citizenship. Temporary workers would be eligible to apply for permanent residency, but only through the existing application process and without any preferences over other applicants for citizenship. De-linking the temporary worker program from citizenship status within the proposal was intended to deflect criticism from conservative political groups that oppose amnesty for immigrants illegally in the country. Instead,

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[3] Also see Jachimowicz (2004).

program participants would be eligible to work in the US for an initial period of 3 years, with the possibility to renew their temporary worker visa for an unspecified number of 3-year periods. Without renewal, return to the country of origin would be required at the end of 3 years.

The primary incentive for individuals to come forward and participate in the guest worker program was the guarantee of the right to live and work in the US. It would eliminate the risk of deportation for 3 years or longer if the visas were renewed. A related benefit of the temporary worker program, according to the proposal, was that it would assure "circularity," or freedom of travel between the US and the temporary worker's country of origin. Program participants would no longer have to fear being barred reentry to the US after a visit to their home community.

The Bush proposal was criticized widely. At the conservative end of the political spectrum, critics voiced concern that the temporary worker proposal amounted to an amnesty for unauthorized migrants (Antle 2004). While the Bush proposal did not provide an automatic path to citizenship for unauthorized aliens currently in the US, it nevertheless would have allowed temporary workers participating in the program to apply immediately for a green card if they had an employer's sponsorship for the very limited number of visas available for lesser-skilled workers.

Equal criticism of Bush's proposal emanated from the liberal side of the political aisle. After the plan was unveiled in January, Senator Edward Kennedy disparaged the temporary worker proposal for being grossly inadequate to resolve the nation's broken immigration system.[4] Senators Tom Daschle and Joe Lieberman specifically criticized the proposal for failing to offer guest workers a direct path to citizenship, such as through an earned legalization process (CNN News 2004).

An additional concern was that most of the onus of reforming the immigration system was placed on the immigrant guest worker, not the employer that hired the worker. Despite calls for increased workplace enforcement and verification of compliance with other labor laws, the proposal earmarked very little funding to verify that employers were hiring only those individuals with temporary worker cards and were complying with fair labor standards. While the President's proposal designated US$ 2.7 billion for border security inspections in the Fiscal Year 2005 budget, the funding for worksite enforcement was increased to a mere US$ 25 million (US Department of Homeland Security 2004). The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) asserted that the president's proposal did nothing to strengthen protections for wages, benefits, and other rights for either immigrants or domestic workers. Instead, the proposal would create a permanent, and larger, underclass of workers in the US economy. According to the AFL-CIO, the plan would reward large corporations and employers with a steady stream of vulnerable and underpaid workers, while weakening the rights of workers and exacerbating disrespect for individual's rights within the immigration system (Sweeney 2004).

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[4] Subsequently, he and Senator McCain introduced their own version of comprehensive immigration reform.

Several legislative alternatives to President Bush's temporary worker proposal were introduced but not enacted during the 108th to 110th Congresses. Two bills, AgJOBS and the Dream Act, had bipartisan sponsorship in Congress. AgJOBS, introduced by Senator Larry Craig, was the principal legislative effort to reform the system for admitting temporary agricultural workers. It focused on the reform of the H-2A visa category and proposed two basic reforms. First, it would grant legal residence, on a one-time-only basis, to unauthorized migrants who had worked in the agricultural sector for the equivalent of 100 workdays, during any 12 consecutive months, of the 18-month period ending on August 31, 2004. This would apply to approximately 500,000 foreign farm workers in the US at the time of the bill's introduction, in addition to their spouses and minor children. Adjustment to permanent residency (green card) would be possible if the migrant performed an additional 360 days of agricultural work over the following 6 years. Second, AgJOBS would streamline the H-2A temporary, nonimmigrant guest worker program. It would make the hiring process more similar to the expedited hiring for H-1B high-tech workers. The H-1B process only requires an "attestation" that the employer has complied with the requirements, as opposed to the much lengthier certification process that is required to obtain an H-2A visa.

The DREAM Act (Development, Relief, and Education for Alien Minors Act), originally sponsored by Senator Orrin Hatch of Utah, sought to facilitate the entry into institutions of higher education of those illegal immigrant minors who have obtained a high school diploma. These students were barred legally from seeking employment and were constrained from pursuing additional education because of the high costs of out-of-state tuition. The DREAM Act would authorize states to determine residency for higher education purposes, regardless of an individual's immigration status. It also would suspend removal of students who were admitted to an institution of higher education or joined the military. After a 6-year wait, the immigrant could adjust to permanent residence.

Despite their bipartisan support, AGJobs and the Dream Act languished as Congress considered more far-reaching reform. In the 109th Congress, the Senate and the House of Representatives took very different approaches to the issue of immigration. The House focused primarily on enhanced enforcement while the Senate tried for comprehensive reform. The "Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005," which passed the House in December 2005, was roundly criticized because it included what were widely seen in immigration circles as draconian measures and lacked any legal alternatives to unauthorized migration. The bill's border security provisions included increased staffing and training for the Border Patrol, technology to be deployed along the border, and physical infrastructure to deter unauthorized crossings. The bill also required development of a national strategy for border security. It expanded the scope of and enhanced the penalties for smuggling and trafficking offenses.

In a particularly criticized provision, the bill increased the penalties for "harboring" an unauthorized migrant in a manner that would risk imprisonment of staff of religious and social service organizations that assist immigrants. As described by the American Immigration Lawyers Association, "this incredibly overbroad definition

of smuggling would criminalize the work of social service organizations, refugee agencies, churches, attorneys, and other groups that counsel immigrants, treating them the same as smuggling organizations. In addition, family members and employers could be fined and imprisoned for 'harboring,' 'shielding,' or 'transporting' undocumented family members or employees, filling our prisons with people who have done nothing more than try to reunite their families, or help a worker, friend or client" (American Immigration Lawyers Association).

In an equally criticized provision, the bill created a new felony offense—unlawful presence in the US. Traditionally, simple violations of immigration law have been treated as civil offenses, not criminal ones. Other provisions enhanced the use of mandatory detention, expanded still further the definition of aggravated felonies that would result in mandatory removal, put into place new definitions of terrorist-related reasons for inadmissibility and removal, and eliminated or reduced access to the courts to hear certain immigration-related cases. It also made changes in the burden of proof for an asylum seeker. It required such a person to establish that "his or her life or freedom would be threatened in the country in question, and that race, religion, nationality, membership in a particular social group, or political opinion would be at least one central reason for such threat" (American Immigration Lawyers Association 2005). A number of these provisions overturned federal court rulings.

In addressing the work magnet for unauthorized migration, the bill required the secretary of Homeland Security to implement an employment eligibility verification system, building on the pilot program already in use to verify work authorization. The system would become mandatory for employers. Employers would need to verify not only new hires but also their existing workforce.

The House-passed legislation created uproar among immigrant advocacy organizations, businesses, and civil rights and civil liberties groups. Opponents argued that enforcement-only approaches would not solve the immigration problem, but would further criminalize individuals whose main purpose in violating immigration law was to work. Demonstrations across the country showed the depth of concern, particularly within ethnic communities with large immigrant populations. These demonstrations, along with the concerns of business that immigration reform must address their legitimate need for foreign workers, paved the way for a radically different approach in the Senate.

Senators John McCain and Edward Kennedy and Representatives James Kolbe, Jeff Flake, and Luis Gutierrez introduced the Secure America and Orderly Immigration Act. The bill addressed a wide range of issues ranging from legalizing unauthorized migrants and creating temporary work programs to increased border security and new employment verification provisions. It attempted to provide answers to three aspects of reform: (1) what to do about the existing unauthorized migrants, (2) how to meet the legitimate needs of employers for foreign labor and families for reunification, and (3) how to deter future unauthorized migration. Senators John Cornyn and Jon Kyl introduced a competing bill, the Comprehensive Enforcement and Immigration Reform Act of 2005, in the Republican-controlled 109th Congress. It too provided a mechanism to legalize the status of unauthorized migrants in the

US, but it was far more restrictive than the McCain–Kennedy approach. A compromise was then negotiated by Senators Chuck Hagel and Mel Martinez, which paved the way for the passage of the legislation by the Senate. There was no prospect for agreement with the House enforcement-only approach, and the bills died with the elections and the turnover of the Congress to Democratic Party leadership.

In the 110th Congress (2007–2008), immigration reform once more came on the political agenda but again died before enactment of legislation. The Senate and the House once more took different approaches although both bodies were under Democratic control. In the Senate, closed door discussions between senators from both parties and the administration led to the introduction of a bill that lifted elements from each of the previous legislative attempts and introduced new policies not previously considered. The bill was comprehensive in scope and radical in many of its strategies for curbing unauthorized migration and reforming legal admissions. The House, by contrast, held numerous hearings on immigration reform issues, but the leadership decided to defer action until the Senate debated its legislation. When the Senate failed to end debate on the bipartisan bill supported by the president, the House also deferred action.

The most controversial element of the Senate bill was its legalization provisions. The legislation included what was called an earned regularization program (Z visa) that was at the same time more generous and more restrictive than previous versions. It was more generous in its scope, providing a route to legal status for all unauthorized migrants in the country as of January 2007. Eliminating a tiered system used in previous legislations, the provision would treat all unauthorized migrants similarly. They would regularize their status with a new nonimmigrant visa that could be renewed every 4 years, with additional fees and with English and civics testing requirements applied at the renewals. While providing eligibility for eventual permanent residence and citizenship, the Senate bill put new restrictions on access to these benefits. The persons granted the new Z visa would be at the back of a long waiting list, estimated to take about 8 years to clear. Moreover, the Senate bill would require what is referred to as a "touch back," in which the heads of all regularized families would have to return home to reenter as permanent residents. They would also have to meet the requirements of a point system. While unauthorized migrants would immediately find relief from deportation, the full regularization program would only go into effect when certain benchmarks were met in the enforcement of immigration laws.

The Senate bill also included a new temporary worker program (Y visa) that would introduce a rotational requirement. Workers would be granted an initial 2-year visa, renewable twice more. What made the Senate version of a temporary worker program a radical departure was the requirement that workers return home for 1 year between each renewal. After three rotations, they would not be eligible to reenter. A ceiling of 200,000 Y workers was approved by amendment on the floor of the Senate, but a mechanism remained to permit increases in the ceiling if demand was high.

Also included in the Senate legislative initiative were major changes in the program for permanent admission. After clearing the backlogs of current applicants,

the legislation would eliminate the extended family and employer-petitioned and diversity visa categories for admission. While immediate family (spouses, minor children, and parents) of US citizens and permanent residents would still be eligible, all other immigrants would be admitted on the basis of a point system that would reward education, English language ability, and qualifications in occupations with a shortage of workers. A small number of points would be awarded for family ties if the applicants amassed a minimum number of points in these other areas.

Most of the enforcement provisions were lifted in their entirety from previous bills or represented a variation on the themes of already negotiated provisions. The legislation emphasized both border security and interior enforcement. With regard to worksite enforcement, the bill included provisions for mandatory electronic employment verification as well as increased penalties for illegal hiring of unauthorized workers.

As negotiations over the Senate bill continued, provisions were added that troubled the proponents of comprehensive reform without satisfying the opponents. The agreement began to unravel in its own bipartisan way, with some Democrats peeling off over concerns about the open-endedness of the temporary worker programs and the lack of labor protections, the new enforcement measures, and the elimination of many family categories. Many Republicans remained opposed, and they were joined by some newly elected Democrats from typically Republican-leaning districts, because of what they called an amnesty program that, to their supporters, signified a reward for illegal activity. When the Senate leadership tried to end debate over the legislation, it failed to garner the 60 votes needed for cloture. With the 2008 elections looming, few members expected immigration reform to regain any momentum until a new administration was in place.

The economic crisis that arose just before the Obama administration was elected made comprehensive reform even more elusive. Supporters of reform feared that a new Congressional debate would inflame sentiments against immigrants in a period of already heightened anxiety about high levels of unemployment. Relieved that immigrants had generally not been scapegoated for the country's economic woes, advocates for legalization of undocumented migrants were wary of raising the visibility of immigration. The 2010 elections, which brought a new Republican majority to the House and reduced the Democratic majority in the Senate, spelled an end to any hope that the gridlock of previous Congresses about core elements of immigration reform could be overcome.

In the absence of legislative changes at the federal level, much of the attention shifted toward action at the state and local levels as well as executive branch changes that required no congressional ratification. The state and local laws and ordinances fell into two distinct categories. Some were aimed at helping newcomers integrate into local communities even if they did not have full legal status. These included provisions making it easier for unauthorized migrants to obtain driver's licenses or qualify for in-state tuition at public colleges and universities. Others were more restrictive—for example, making it mandatory for employers to use the E-Verify program operated by the federal government to obtain business licenses, authorizing police to check immigration status of persons stopped for minor

offenses, and requiring parents to present evidence of legal status to enroll their children in schools. Some of the more restrictive state laws were found to be unconstitutional as an abridgement of federal plenary authority to regulate immigration. At the same time, the federal administrative actions have also been both more restrictive and more generous with regard to unauthorized migrants. The Obama administration significantly increased deportations of persons illegally in the country while instituting prosecutorial discretion to give priority to removal of certain categories of offenders, such as those who committed criminal acts. In summer 2012, the president announced Deferred Action for Childhood Arrivals, which allowed the so-called Dreamers—young adults who were raised in the US—to remain in the country without the threat of deportation and work with legal authorization.

After the 2012 election, the prospect for immigration reform appeared to improve significantly, although it is too soon to tell if the House and Senate will come to agreement. Democrats and Republicans alike acknowledge the importance of the Hispanic vote in reelecting President Obama. Mitt Romney's decision to take an extremely conservative stance on immigration reform was widely credited as a factor in his very poor showing with Latino voters. Subsequent to the election, the Senate took up comprehensive immigration reform through a bipartisan effort by the Gang of Eight—four Democrats and four Republicans, some of whom were involved in the earlier reform efforts. After months of consensus building and compromise, they delivered a 900+-page bill to the Judiciary Committee, which in turn sent it to the full Senate. After debate and amendment, the Senate adopted the "Border Security, Economic Opportunity, and Immigration Modernization Act," or S. 744. The bill includes many of the provisions of the previous attempts at immigration reform, including enhanced border security and mandatory electronic verification. As in previous legislative attempts, its legalization provisions are the most controversial. The bill sets out three separate mechanisms—for Dreamers, agricultural workers, and the remaining unauthorized population. The Dreamers would be on a fast track to citizenship (eligible 5 years after obtaining legal status). Agricultural workers become eligible for permanent residence 5 years after legalizing if they remain in agriculture and for citizenship 3 years thereafter. Other adults who obtain legal status would be required to wait until the backlog of current applicants for green cards was cleared, or 10 years, before they could obtain permanent status themselves, with another 3-year wait until they would be eligible for citizenship.

The Senate bill also includes major reforms to the legal immigration system. After clearance of current backlogs, the admission categories for the siblings and adult children of US citizens would be curtailed. On the other hand, additional visas were added for both permanent and temporary employment-based admissions. The diversity visa (see next section) would be eliminated altogether.

As of this writing (January 2014), the House has not passed comparable legislation. John Boehner, the Speaker of the House, has indicated his interest in seeing action on immigration reform but has been lukewarm about an omnibus bill of the type passed by the Senate. Rather, he expects that the House will pass a series of incremental measures. Whether the sum total would be similar enough to the Senate bill to permit negotiations to take place between the two houses is still unclear.
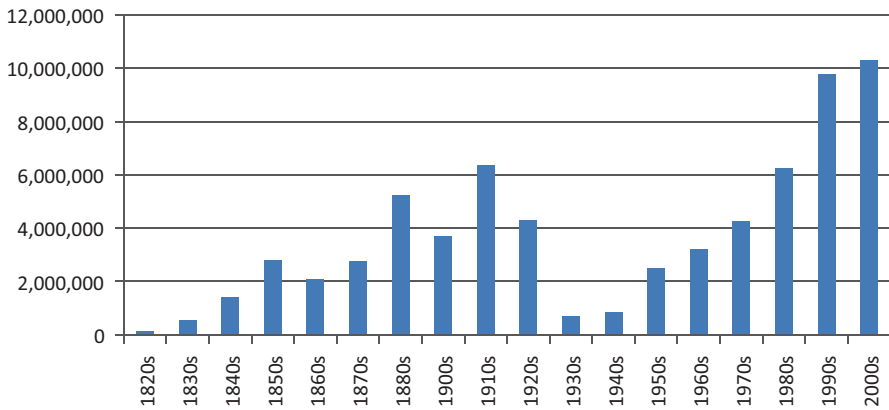
Fig. 1 Number of immigrants admitted per decade. (Source: Office of Immigration Statistics, US Department of Homeland Security)

Current Immigration Policies

The following sections set out the broad outlines of US policy today, with discussion of some of the most pressing issues on the US immigration agenda.

Legal Permanent Residents

During the 1990s, the US admitted about 825,000 legal immigrants each year, up from about 600,000 a year in the 1980s (not counting those legalized under the 1986 amnesty), 450,000 a year in the 1970s, and 330,000 a year in the 1960s. In the past decade (2002–2011), more than 10.5 million legal immigrants were admitted, averaging about one million per year (Fig. 1).[5] As legal immigration was increasing, the major countries of origin changed, as fewer immigrants came from Europe, and increasingly immigrants migrated from Latin America and Asia.

The four principal bases or doors for admission are family reunification (either sponsored by green carders or naturalized citizens), employment, diversity, and humanitarian interests. By far, the largest admissions door is for relatives of US residents. In FY 2011, 688,000 were admitted as family members of US citizens and permanent residents. The second-largest category for admission belongs to immigrants and their family members admitted for economic or employment reasons. The ceiling on such admissions is 140,000 per year. In FY 2011, 139,339 employment-based immigrants were admitted. Refugees, asylees, and other humanitarian admissions comprise the third-largest category. These numbers vary depending on international conditions for refugees and asylum seekers. In FY 2011, 168,000

[5] See Immigration Statistics at http://www.dhs.gov/immigration-statistics.

received permanent status. Finally, about 50,000 immigrants come under the diversity visa category—immigrants from countries that have not recently sent large numbers of immigrants to the US.

The family-based immigration category has two components. First are unlimited visas for the immediate relatives of US citizens, defined as spouses, minor children, and parents. There is no quota for this group but applicants must meet all other requirements for entry. In particular, the sponsoring family member must demonstrate an ability to support the newcomers at a level that is 125% of the federal poverty guidelines. The second group includes other family members who are subject to numerical caps. This group is divided into four preferences, each with its own admission ceiling. Unused numbers in higher categories theoretically can pass down to lower categories, but each is so oversubscribed that this seldom happens. The first preference is adult unmarried children of US citizens; the second is spouses and unmarried children of legal permanent residents; the third is married children of US citizens; and the fourth is siblings of US citizens. Many of these categories are severely backlogged. The sibling category is the most delayed, with applications made in 2001 now under consideration for most countries. Because of per-country ceilings, applications made in the Philippines in 1989 are only now eligible for admission.

The employment-based immigration category is divided into five preferences, or groupings, each with its own admission ceiling. The highest priority goes to persons of extraordinary ability, outstanding professors and researchers, and executives and managers of multinational corporations. The second group includes professionals with advanced degrees and workers of exceptional ability. The third group is composed of other professionals, skilled workers, and a limited number of other workers, with the fourth permitting entry of religious workers, and the fifth including entrepreneurs admitted for activities creating employment. Unused numbers in higher priority groups can be passed down to lower priorities.

Not surprisingly, the employment-based immigrants are much more highly skilled than any other class of immigrants. Nearly 20% are in managerial or executive occupations, and another two-thirds are professionals and technical sales workers (over 80% together). In contrast, only about one-fifth of family-sponsored immigrants are found in these two highly skilled occupational categories. Diversity immigrants, for whom a high school degree is required, are intermediate with about 45% finding work in these two occupational categories. Refugees for whom there are no economic screens are found most concentrated in operators, fabricators, and laborer occupations (41%).

Employers sponsor most employment-based immigrants. There are some clear advantages to such a system. Not surprisingly, rates of employment among these immigrants are very high since they already have jobs and, generally, a supportive employer. It is also argued that employers are the best judges of the economic contributions an individual can make. A checklist, as used in a point system, may identify would-be migrants with educational or language skills, but arguably these individuals may not have more difficult-to-measure capabilities, such as an ability to work in teams, that employers find valuable.

The mechanisms to determine the legitimacy of employer demand can be quite cumbersome. Most employment-based admissions are subject to labor certification provisions. The employer must demonstrate that there are not sufficient US workers who are able, willing, qualified, and available at the time of the application for a visa and admission into the US and at the place where the alien is to perform the work; and the employment of the alien will not adversely affect the wages and working conditions of similarly employed US workers. Under new streamlined rules, the employer must attest to having recruited US workers using prescribed mechanisms and demonstrate why applicants were not suitable to the job. In some cases, the Department of Labor (DOL) has established a Schedule A of occupations for which there are "not sufficient US workers who are able, willing, qualified, and available." These do not require a test of the labor market for green card admission. This list includes a rather limited number of occupations, most of which require masters or doctoral degrees. The labor certification process normally requires an attorney's help. Although great strides have been taken to reduce the processing time, the wait for approval can be extensive, first at DOL and then the Bureau of Citizenship and Immigration Services (CIS) at the Department of Homeland Security (DHS), which assumed responsibility from the Immigration and Naturalization Service.

Alternatives to labor certification have been proposed by a number of academics and experts. Some mechanisms test demand by pricing immigration in a way that tests employers' resolve, while others use objective measures of shortages or demand to vary visa allotments. For example, the congressionally appointed "Jordan Commission" for Immigration Reform proposed that employers could hire the immigrants quickly and easily if they paid a substantial US$ 10,000 fee to a fund that would provide scholarships for US workers willing to be trained to fill the jobs going to foreigners (US Commission on Immigration Reform 1995). The idea was to make it as or more expensive to hire a foreign worker than it would be to hire a domestic one, with the fee going into a pool that would help fill skills shortages. For lower skilled positions, where training would not necessarily be needed to fill shortages, the fee could support testing of mechanization and other alternatives to admission of foreign workers. Auctions have been proposed as another way to test employer demand. As described by Pia Orrenius and Madeline Zavodny (2010), "the government should hold regular auctions where companies can bid for permits to bring in foreign workers. Employers would bid highest for the most-valued workers, creating a selection mechanism that wouldn't rely on the judgment of bureaucrats or the paperwork skills of immigration lawyers."

Even longer waits derive from the overall and per-category backlogs in visa availability. As of November 2012, visas for Indian and Chinese nationals in the second employment-based preference (that is, those with advanced degrees) were available for those who applied before September 1, 2004, and September 1, 2007, respectively. Visas for Indian professionals entering under the third preference (those with a bachelor's degree) were available for those who applied before October 22, 2002. These represent waits of 5–10 years between application and visa availability.

Because the US system is employer/employee driven and a job offer is essential, most of those admitted to permanent residence in the employment-based categories are already in the US. Because of the delays in processing and availability of visas, employers tend to use temporary visa categories to bridge the gap between the decision to hire the worker and the government's grant of permanent resident status. As a result, the recruitment process required by labor certification rules is often a farce—the employer has already hired the foreign worker.

Temporary Workers

Individuals referred to as nonimmigrants in US immigration law (that is, temporary visitors) are the second principal category of newcomers. The Department of Homeland Security recently issued estimates on the size and characteristics of the nonimmigrants currently residing in the US: "The size of the resident nonimmigrant population was about 1.9 million on average during July 1, 2010–June 30, 2011. Approximately 45 % of the population were temporary workers and their families, nearly 40 % were students and their families, half were from Asian countries, and over 80 % were ages 18 through 44" (Department of Homeland Security 2012).

Temporary work categories are increasingly important as the vehicle for admission of foreign workers in all skill categories. Each year, hundreds of thousands of visas are issued to temporary workers and their family members. In addition, an unknown number of foreign students are employed either in addition to their studies or immediately thereafter in practical training. The growth in the number of foreign workers admitted for temporary stays reflects global economic trends. In fast-changing industries, such as information technology, having access to a global labor market of skilled professionals is highly attractive. Also, as companies contract out work, or hire contingent labor to work on specific projects, the appeal of temporary visas, rather than permanent admissions, is clear. Some foreign firms, understanding that it may not be possible to undertake an entire project offshore, obtain temporary work visas to the US so their employees can complete the job at the US client's facilities. The temporary programs also give employers and employees a chance to test each other before committing to permanent employment. Multinational corporations find the temporary categories useful in bringing their own foreign personnel to work or receive training in the US.

Over time, a large number of different temporary admission visa categories have amassed, each referred to by the letter of the alphabet under which it is described in the Immigration and Nationality Act. The visa categories now encompass almost the entire alphabet (A–V). The principal sections under which temporary workers enter are the H-1B for specialty workers, H-2A for agricultural workers, H-2B for other seasonal workers, E visa for traders and investors entering under bilateral treaties, L for intracompany transfers, and J for exchange scholars among others. Smaller numbers enter under the O (extraordinary ability in the sciences, arts, education, business, or athletics), P (artist or entertainer), Q (cultural exchange and training),

and R (religious workers) visa categories. In addition, there are visa categories for officials of foreign governments, foreign journalists, and officials of the United Nations and other intergovernmental organizations. Professionals, managers, and executives may also enter under the NAFTA. With the exception of the H-2A and H-2B visas, all of these temporary work categories require a significant level of skill or education.

The regulations governing admissions vary from visa to visa. The high-skilled H-1B visa generally requires a bachelor's degree; and the employers first "attest" that they will pay prevailing wages and conform to certain employment conditions. There is no pretest of the labor market. Holders of these visas may stay for 3 years and reapply for an extension of stay for up to 6 years with either the same or a different employer. They may intend to apply for permanent residency and about half do so. If there are delays in receiving a green card, their temporary work visa may be extended beyond the 6 years. By contrast, the H-2 visas require, like the permanent employment visas, that employers first test the labor market and receive a DOL certification that they did so. The workers cannot intend to stay beyond the term of their visa, which typically is for a stay of no more than 1 year.

Movement of foreign workers for temporary reasons, at today's levels, is a new phenomenon for the US. Statistics on temporary admission count every entry into the US and, hence, are a multiple count of oftentimes the same individual. Nonetheless, only 770,000 temporary admissions were counted in the first decade of the twentieth century, a number that went on to increase to 7 million in the 1950s; by the last decade of the twentieth century there were some 230 million temporary admissions. In FY 2011 alone, more than 53 million nonimmigrant entries occurred. Because these are multiple counts, they reflect both a stupendous increase in the number of individuals involved, as well as a significant increase in back and forth mobility.

Revolutions in transportation, tourism, and the global economy are driving a level of temporary international mobility not prefigured by past experience. To be sure, a substantial fraction of the supposedly "permanent" international flows of yesteryear was actually temporary migrants or "birds of passage." That dynamic exists today as well. It is common for "permanent" immigrants to circulate regularly to their original homeland and many immigrants end up returning home for good. However, the temporary movement that exists today is fundamentally different because it is not a by-product of otherwise permanent visa holders. More precisely, policy mechanisms explicitly define it as "temporary" at the outset. The only major precedent for such policies in the US is the Bracero Program under which Mexican seasonal workers entered the country from its inception during World War II until the program's end in the 1960s.

The class of so defined temporary movement has reached levels that easily surpass the past or present return movements of legal permanent residents, as well as exceed the level of permanent immigration itself. Note that, as early as 1994, the US counted the admission of 804,000 permanent legal residents. In the same year, 5.6 million individual temporary visas were issued and 22 million entries and exits of temporary visa holders were tallied (State 1994). The only available estimate of

"person years" suggests that this temporary flow generated a year-round presence equivalent to at least 1.4 million persons as of 1994. As stated above, that number is now estimated at 1.9 million. It is clear that the temporary worker classes have grown significantly and exceed the number of employment-based permanent admissions.

Unauthorized Migration

While the US continues to admit large numbers of legal immigrants and temporary workers, the fastest growth in immigration until recently came from those without authorization to be in the country. An estimated 12 million unauthorized migrants were in the US in 2007, with an estimated 500,000 net new entries each year. As a net number, it reflects the difference between new entries and those who return home or who adjust their status and become legal immigrants. As of today, it is estimated that there are 11 million unauthorized migrants, down from its height in 2007. Several factors are believed to have caused the reduction: poor employment outcomes in the US, heightened border enforcement, and growing economic opportunities in Mexico. The net entry of Mexican migrants—the largest source of undocumented migration—was estimated at zero in 2011 (Passel and Cohn 2012). This does not mean that Mexicans have altogether ceased to come to the US, but the number of those who are returning to their home country appears to be equal to those newly arriving.

Unauthorized entry occurs in a number of different ways. About 55 % of those illegally in the US are believed to have entered clandestinely, largely across the land border with Mexico although others arrive by sea, often in makeshift boats or rafts. About 45 % enter through recognized ports of entry. Some do so with fraudulent documents; counterfeit passports, visas, and other identity documents may be used. Others use impostor documents of people who bear superficial likeness to their own appearance. These may be documents possessed by family or friends, or they may be purchased for the specific purpose of gaining admission.

Still others enter having obtained legitimate visas, often as tourists, and then overstay the period that the visa covers. Others obtain a longer-term visa that does not permit employment, such as a foreign student visa, and then work in contravention of the terms of their admission. In still other cases, the migrants enter as temporary workers but fail to leave when their period of work authorization ends. In some cases, migrants seek the visa knowing that they plan to violate its terms. As with those who come clandestinely, they may seek the visa on their own or obtain it through the assistance of smugglers. In other cases, the migrants have no intention of overstaying or working illegally, but circumstances change and they enter into irregular status.

Most unauthorized migrants come from Mexico (about 56 %) and Central America, but they represent a wide array of countries (Passel and Cohn 2008). The majority is concentrated in about seven states within the US. During the past

decade, however, there has been a significant dispersal throughout the country, with large numbers of irregular migrants now living in new settlement areas. Many live in mixed households, with legal permanent resident spouses or parents and US citizen children. On average, the unauthorized migrants are less educated than natives or legal immigrants. They work primarily in services, building cleaning, perishable crop agriculture, food processing, construction, landscaping and gardening, and light manufacturing.

Efforts to prevent unauthorized migration largely failed in the 1990s and early 2000s. The IRCA of 1986 ostensibly tried a three-track approach that introduced new border enforcement measures, sanctions against employers who hired unauthorized workers, and a legalization program for those who were already illegally in the country. To address prevention at the source, IRCA authorized a commission to recommend ways to reduce emigration pressures. A notable recommendation was adopted in the 1990s as the NAFTA.

The provisions did not succeed in slowing down unauthorized migration, as had been promised in IRCA. In fact, the mechanisms for determining work authorization, needed to have an enforceable system of employer sanctions, were so faulty that it was no more difficult for irregular migrants to find jobs post IRCA than it had been before its passage. A proliferation of fraudulent documents allowed employers to hire unauthorized workers with little risk of sanction. Employers were not expected to weed out the counterfeits if the documents looked valid on their face. In fact, if an employer requested additional documentation, he or she faced penalties imposed to ensure that employers did not discriminate against foreign-looking or -sounding workers.

In the early 1990s, when public outcry about the loss of control of the southern border erupted in California, in particular, the Clinton administration adopted new border strategies to try to halt unauthorized entries. Operations Hold the Line in El Paso and Gatekeeper in San Diego succeeded in slowing movements in these locations, but the illegal crossings simply moved to other parts of the border. Crossings became more expensive and, in some locations, more dangerous, but most of those who were serious about entering the US succeeded in doing so. Moreover, the border enforcement did nothing about visa overstayers. Calls for new employment verification systems to strengthen the employer sanctions regime were largely ignored, although Congress passed legislation in 1996 to pilot test electronic verification.

During the second half of the 1990s, with an economic boom that produced a record number of new jobs, unauthorized migration increased still further. As long as the economic boom continued, little was done to curb the growth in irregular migration. In fact, the Immigration and Naturalization Service suspended most worksite raids because of complaints that these enforcement actions were too disruptive of business. By the economic recession of the early 2000s, the number of unauthorized migrants had grown to an estimated 8 million, and though there appeared to be some slowing of new admissions, the number continued to grow until the recent economic crisis.

Problems in the Immigration System

There are a number of problems in US immigration policy that need attention. These relate to the mechanisms for controlling unauthorized migration and for admitting legal immigrants.

Unauthorized Migration

As long as employers hire persons without authorization to work in the US, migrants will continue to enter the country illegally in order to obtain jobs. With economic recovery, unauthorized migration is likely to resume unless significant changes are made in the area of worksite enforcement. In the absence of more effective mechanisms to verify work authorization and to sanction employers who hire unauthorized workers, efforts to stem illegal migration or to redirect persons seeking work into legal channels are unlikely to succeed.

   To comply with the law today, new hires fill out an I-9 form and show documentation of their identity and authorization to work. The most frequently used documents are a state driver's license (to demonstrate identity) and a social security card (to demonstrate work authorization); both documents can be easily counterfeited at relatively little cost. Employers are not expected to be document experts, and, in fact, can be fined for immigration-related employment discrimination if they request different or additional documents of persons they suspect are unauthorized to work.

   Employers fall into two categories: those who unwittingly (although perhaps willingly) hire persons who are illegally in the country and those who knowingly hire such persons in order to exploit their labor. Among the first group are employers who hire unauthorized workers who present seemingly good documents. Already employed workers who vouch for the new hires often refer these new workers to the employer, who then fulfills the letter of the law in receiving the documents presented with the I-9 form. Given the efficiency of network hiring of this type, employers are unlikely to participate in legal foreign worker programs unless they face sanctions for hiring unauthorized workers. Without a more effective employment verification system, however, it would be unfair to sanction them for hiring workers with seemingly acceptable documents.

   Much of the congressional focus has been on mandatory deployment of what is now referred to as the E-Verify program for electronically verifying work authorization. Although there has been great progress in correcting them, there are still flaws in E-Verify. Both false negatives (that is, authorized workers who are rejected by the system) and, especially, false positives (that is, unauthorized workers borrow legitimate identities that pass muster) persist (Westat 2009). The quality of the data must be improved, as well as the mechanisms used to check on identity so imposters cannot pass through the verification process. This process will depend on the type of biometric information used to ensure that the identification materials presented

belong to the person who is being hired. Moving from the current E-Verify program to a more effective, efficient, and mandatory system for verifying work authorization will require substantial investment in resources.

Verification alone will not reduce the incentives to hire undocumented migrants, at least among employers who violate a range of labor and tax laws in addition to hiring unauthorized workers. These may include violations of wage and hour laws, child labor laws, and occupational safety and health laws. The employers may pay salaries in cash, failing to pay their share of social security taxes. These employers may seek unauthorized workers because they are less likely to complain about ill treatment and violations of their rights. In the most egregious cases, employers may be complicit with human traffickers and smugglers who hold migrants in bondage. Worksite enforcement to ensure labor standards and to bring criminal sanctions against traffickers and smugglers is essential, not only to stop illegal hiring but also to protect highly vulnerable workers. The seriousness with which Congress and the administration take these issues will be measured not only in the authorizing legislation but even more so in the appropriations of funds to implement a more effective verification system and more widespread and effective labor standards enforcement.

Even with new efforts to curb future unauthorized migration, the status of those already in the country remains. Having a large underclass of persons who are unknown to the government and in highly exploitable situations is not in the interest of the US. Properly implemented, a regularization program could actually support more effective enforcement, if employers know that compliance with a new worker verification system would not jeopardize their existing workforce.

Inflexible Ceilings

Ceilings on both permanent and temporary admission categories limit flexibility to address changes in labor market demand at both the high and low end of the labor market.[6] In the permanent admission categories, two types of ceilings are imposed: ceilings on overall and subcategory numbers and per-country ceilings. By legislation, there are 140,000 numbers available for employment-based permanent admissions plus any unused family-based visas from the previous year. Ceilings are set for each subcategory, although (as noted) unused visas can flow down to other categories. There are also per-country limits that ensure that no more than 7 % of visas go to any one country. The American Competitiveness in the Twenty-First Century Act (AC21) recaptured a "pool" of 131,000 employment numbers unused in fiscal years 1999 and 2000 and allowed those recaptured numbers to be used in subsequent years for countries that had met the ceiling. This provision has since expired. There continue to be long waiting periods for second and third preference

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[6] For further analysis of ceilings on immigrant admissions, see Wasem (2012).

permanent employment admissions, especially for applicants from India and China, as discussed above.[7]

Inflexible ceilings have also created difficulties in the temporary worker programs. The H-1B program is capped at 65,000 visas per year. Although the ceiling was raised in the late 1990s following the dot-com boom, the numbers reverted to the original level during the dot-com bust. They were not raised again as the economy recovered (nor was the ceiling lowered, for that matter, when the 2008 recession occurred). Legislation passed in 2005 provided certain exemptions from the ceilings that permitted new applications to be processed. At present, there are 65,000 regular visas and another 20,000 reserved for graduates of US universities. After 2008, demand was lower because of higher unemployment, but the number of requests for H-1B visas has recently been seeing signs of recovery. As of June 2012, all visas for FY 2013 (which began on Oct 1, 2012) had been assigned.

The excessive backlogs in the family-based program are also problematic. Waiting times for the adult children of US citizens are as long as 10 years. The backlog in the sibling category is especially problematic, raising questions about the value and purpose of the program. For example, with wait times of almost 25 years, principal applicants from the Philippines are on average in their 50s by the time they are able to enter the US. They spend the majority of their working life outside of the US and arrive closer to retirement age.

Congress has considered short-term fixes to the problem, but it has not gotten to the fundamental problem—that ceilings set in stone in legislation are too inflexible to respond in a timely manner to changes in the economy and labor market demand. If the concern is with abuse of the visa categories, market tests can be used to weed out inappropriate use of the visas. The USCIR recommended that fees be set at a level that makes it somewhat more expensive for an employer to bring in a foreign worker rather than recruit and train a domestic person for the position.

Inadequate Mechanisms to Protect the Rights of Workers

In immigration policy, there often appears to be a trade-off between the numbers who will be admitted and the rights of those who are allowed to enter. At one extreme is the large and rapidly growing number of foreign nationals without authorization to work in the US who are nevertheless gainfully employed. They have few rights in the workplace, are vulnerable to exploitation, and have very restricted eligibility for social welfare programs. In the middle are temporary workers who have more rights in the workplace but are often tied to a particular employer and may remain in a limbo status for many years while awaiting a green card. Legal permanent residents have the same workplace rights as US citizens, but their access to certain safety net programs (including those designed for low-income workers) is restricted. Naturalized citizens have full rights and obligations as US citizens.

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[7] See monthly Visa Bulletin issued by the US State Department.

As with other immigration matters, there are trade-offs in using temporary admission categories to meet labor market needs. While they may help increase business productivity and even generate job growth, they also render even highly skilled foreign workers more vulnerable to exploitation and may, thereby, depress wages and undermine working conditions for US workers. Generally, the foreign worker is tied to a specific employer who has requested the visa. Loss of employment may also mean the threat of deportation. Moreover, because the temporary visa is so often a testing period, the foreign worker may put up with any conditions imposed by the employer, fearing potential loss of the chance at permanent resident status.

Policy debates in the US have long focused on expanded temporary or so-called guest worker programs, particularly for lower skilled workers. In some proposals, the numbers to be admitted are very large. The rights to be accorded to workers who enter through such mechanisms are a central issue. Also at issue are provisions to protect current resident workers against unfair competition from new arrivals. Existing programs, especially for lesser skilled workers, require employers to pay the higher of prevailing or adverse effect wage rates; attest that there is no strike or lockout; provide housing, meals, transportation, worker's compensation, or equivalent insurance; guarantee that the worker will have work on at least three-quarters of the workdays within the contract period; and fulfill other similar requirements, depending on the visa category. While these provisions provide protections for workers, employers may find them too burdensome and often inappropriate for the type of positions for which they wish to hire foreign workers. As a result, employers claim, they are unable to use the existing programs to fill all of the jobs for which they need workers.

A different approach to protecting worker rights might provide greater mobility within the labor market so foreign workers would not be indebted to a single employer who holds sway over their wages and working conditions. Current policies allow for little mobility until a foreign worker receives a green card. Even when mobility is permitted, foreign workers are often unwilling to change jobs if it will adversely affect their ability to obtain permanent residence, as discussed above.

Is Temporary Ever Temporary?

The existing notions of temporary and permanent admissions do not adequately reflect the nature of today's job market or the realities of immigration. The old adage that "there is nothing more permanent than a temporary worker" is often borne out. When temporary workers are hired to fill year-round, permanent jobs, it is not surprising that many employers do not want them to leave at the end of the term of employment, and that many foreign workers gain equities and interests in remaining beyond the period of stay. Since some statuses allow for extended stays of more than 6 years, it is not surprising that many temporary workers accrue such equities and ties to this country. Children are born in the US, houses are bought, and roots are set in American communities. At the other end of the continuum, some

immigrants seek permanent residence not because they plan to remain permanently but because a green card affords them opportunities denied to temporary workers (for example, work authorization for their spouses). In an increasingly transnational world in which people maintain ties in more than one country, there is not a clear, bright line between the two categories of permanent and temporary admissions.

This is not to deny the value of a system of permanent residency that leads to citizenship; in fact, the notion that immigrants are presumptive citizens is one of the reasons that immigration has served the national interest for so long. Rather, it is to suggest that there needs to be more flexibility in the definitions used, and a recognition that for some, temporary migration may be a transition to permanent status whereas in other cases, temporary migrants (and permanent residents) will return to their home countries or move to a third country.

Some temporary work statuses do take these patterns into account. The H-1B and L visas allow for "dual intent." At the time of admission, a person seeking admission in these categories can admit to being an intending immigrant—someone who hopes to remain in the US. Most temporary categories, including foreign students, require the foreign national to demonstrate that they have strong enough ties to their home country to overcome the presumption that they are an intending immigrant. Even in the categories in which dual intent is allowed, the route to permanent residence may require the exceedingly long waits that were described above, leaving potential immigrants in limbo until their number comes up in the immigration system.

Complexity in the Immigration System

A final problem in the immigration system is its very complexity. There are dozens of nonimmigrant visa categories for temporary workers and difficult-to-define distinctions in both the permanent and temporary systems. For example, employment-based (EB)-1 category is for "foreign nationals of extraordinary ability in the sciences, arts, education, business, or athletics" whereas EB-2 is for those with merely exceptional ability. Given the proliferation of visa categories and the often-nuanced differences, applying for any immigration benefit has become an excessively difficult process requiring professional assistance.

Elusive Reform Prospects

In the context of these historic trends, the failure of recent Congresses to enact comprehensive reform is not surprising. Major changes in immigration policy generally require years of preparation and negotiation. Even the imprimatur of blue ribbon panels helps but does not ensure quick passage of new approaches. The nature of the political coalitions that form around immigration explains some of these difficulties

Fig. 2 Interests of political
coalitions

Rights of Immigrants	Levels of Immigration	
	High Levels/ Expansive Rights	Low Levels/ Expansive Rights
	High Levels/ Restrictive Rights	Low Levels/ Restrictive Rights

in gaining consensus. These interests can be seen in Fig. 2, which rates groups by
their attitudes toward immigration numbers on one axis and immigrant rights on the
other. The top-left quadrant includes groups that are favorable to high levels of im-
migration as measured by numbers of admissions and a commitment to the protec-
tion of the rights of immigrants; their preference is for permanent admissions that
provide access to citizenship. The groups in the bottom-left quadrant also support
high levels of immigration, but they are willing to restrict the rights of those admit-
ted; their preference is for large-scale temporary worker programs, limitations on
access to public welfare programs, and measures that permit quick removal of any
migrants that commit criminal or other offenses. The bottom-right quadrant also
supports limits on the rights of migrants, but additionally, they support limitations
on the numbers to be admitted. The top-right quadrant see rights as paramount and
are comfortable with numerical limits on admissions, especially on categories that
inherently limit the capacity of migrants to exercise their rights (e.g., temporary
worker programs and unauthorized migration).

The interests that influence immigration policy often join together in support of
specific provisions in the law, but they break apart over others, making the type of
comprehensive reform that has been proposed very difficult to enact. Moreover,
as has been the case throughout US history, the public is highly ambivalent about
newcomers, seeing their own immigrant forebears through rose-colored glasses
but fearful that today's immigrants will fail to adopt American norms and values.
That ambivalence makes immigration reform all the more difficult because there
is seldom a strong constituency behind any set of policy changes. The public tends
to favor restriction, but immigration seldom appears as one of the most important
factors in determining how elections are decided. Ambivalence toward immigrants
is by no means new. Benjamin Franklin worried that the Germans immigrating to
Pennsylvania in the eighteenth century would never learn English. The result of
this ambivalence is the absence of any strong consensus among the public about
changes in immigration policy. A small group that knows what it opposes can often
preempt action (as witnessed in both the immigrant rallies that derailed the House
Republican enforcement measures and the talk radio shows that derailed the Senate
regularization measures), but pressure for positive changes is too often lacking. The
safe decision for politicians is no decision—at least until there is no choice but to
act.

Conclusion

There appears to be considerable consensus as to the contours of immigration re-
form—enforcement against unauthorized migration, measures to address the large
population of undocumented migrants already in the country, and new admission
policies to enable the immigration system to respond to future demand for work-
ers. Differences abound, however, when the discussion shifts to the details. Debate
focuses on the merits of comprehensive versus incremental changes, the relative
weight to be given to various modes of enforcement (e.g., border vs. worksite),
the efficacy of mandatory electronic employment verification, whether and how
to frame a program to legalize those who are currently in the country without legal
status, the need for and nature of new admissions programs to fill jobs that un-
documented migrants currently take, measures to reduce the backlog of approved
applicants for family reunification, the unwieldiness of current mechanisms to set
admission numbers and adjudicate applications for employment based visas, and
other similar issues.

Reforming the US immigration system should follow a number of good prac-
tices:

- A credible immigration system must be able to control unauthorized migration,
  which largely means addressing the job magnet for undocumented migrants.
  The keys to an effective enforcement system are: (1) mechanisms to verify the
  identity and employment authorization of all workers in the US, with the use of
  secure biometric analysis that reduces the likelihood of false negatives and posi-
  tives while still preserving privacy and security of information; and (2) enhanced
  enforcement of worksite standards, including wage and hour requirements, child
  labor prohibitions, counter-trafficking measures, and occupational health and
  safety provisions.
- Legalization of undocumented migrants should aim to bring an underclass out of
  the shadows while supporting new enforcement initiatives. It should be inclusive
  not only of the migrant working in the US but also his or her immediate family.
  Otherwise, regularization will lead to new and large backlogs for family reuni-
  fication that will also encourage new illegal movements. Finally, regularization
  should encompass the largest proportion of unauthorized migrants in the country
  in order to leave as small a residual group as possible, and its terms and mecha-
  nisms for implementation should be as simple and straightforward as possible in
  order to deter fraud and misrepresentation. The tiered approach adopted by the
  Senate during the 109th Congress violated both of these principles in offering a
  complex formula that would still leave large numbers of unauthorized migrants
  without access to effective relief. The "touch-back" provision and heightened
  penalties and fees of the 110th Senate bill also fail this test in placing hurdles on
  migrants and the administrative systems needed to implement the regularization
  program.
- Legal admission policies should be flexible enough to respond to changing mar-
  ket conditions. Statutory ceilings tend to be too inflexible to permit rapid adjust-

ment to economic cycles and needs. Market mechanisms to regulate flows—such as fees that make the cost of hiring foreign workers equal to or greater than US workers or auctions—would constitute one way to manage numbers without ceilings. Another would be to assign a commission or task force the responsibility for setting numbers and priorities each year based on its assessment of supply and demand. The UK has been implementing this model. A systematic examination of its applicability in the US and ways to overcome potential barriers is needed.

- Requirements placed on workers and employers should be reasonable and consistent with the way in which labor markets function. This is particularly the case when workers are admitted for temporary periods to perform jobs that are themselves indefinite in length. Provisions to permit transition into permanent status would be appropriate in these cases.
- The government apparatus for managing the system should be efficient and sufficiently funded so as to carry out its responsibilities for adjudicating applications and monitoring compliance.
- Workers should have true mobility within a system that protects them from abusive employment practices. While some provisions in current law meet this standard and are likely to protect workers from substandard wages and working conditions, others create burdens on employers with little or no corresponding benefits for either domestic or foreign workers.
- Policies should be transparent, understandable to employers and workers, and clear in their definitions and requirements. By contrast, current policies are complex and often indecipherable even to those who have worked many years in the immigration field.

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Conclusion

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The immigration system's crisis, the political environment after the 2012 elections, and the relative softening of US public opinion on immigration provided Congress with an important political opportunity to pass immigration reform in 2013. As of 2014, it is unclear whether Congress will take that opportunity to break through. What is clear is that the current system, which nearly everyone today agrees is "broken," needs to be replaced with a modern and flexible policy that suits the changing needs of the American economy while upholding the country's laws and values.

Unfortunately, there seems to be no easy and quick fix for the immigration system. It is a third-rail public policy issue that involves too many complex areas including security, labor markets, civil rights, economic interests, and demographic trends. This combination of issues is more than sufficient for political gridlock, requiring special environmental conditions and skillful agents to break through and achieve system change. Some of these areas intersect, such as the question of national security at the border, which engages the separate concept of human security; the discussion of immigration law enforcement practices, which raises criticisms from human rights groups; and even the creation of a guest-worker program, which becomes complicated when considering political ramifications, particularly the reactions of labor unions in the US and the still weak economic conditions of the US marketplace. Thus, a complex and intricate debate has unfolded on the floor of the Senate, where there seemed to have been sufficient understanding for a compromise bill, SB744, and on the House floor, where there does not seem to be enough consensus on how to resolve this crisis. Any debate, however, requires not only a balanced and finely tuned solution that considers all of the intersecting issues but also able governance from Congress and the president; at present, both seem to be missing.

This book covered various aspects of the immigration debate that demonstrate how multidimensional and complex the subject is. The research compiled in this volume addressed the present climate for immigration reform, its political salience,

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the disparate landscape of state and local immigration initiatives, and various aspects of a comprehensive immigration reform bill that has implications for the nation's security environment, overall economy, labor markets, and political parties.

In addition, this volume argued that the recent optimistic climate for immigration reform witnessed in 2013 was influenced by demographic changes and electoral politics, although in mid-2014, it does not seem to have provided the necessary steam to push reform through the House of Representatives. The political power of Latinos is finally starting to take shape and be recognized. Ali Valenzuela and Sarah Stein found that the salience of the immigration issue declined with increasing Latino population proportions and was a strong predictor of Democratic Party identification and voting preference for President Obama over Governor Romney in 2012. David Leal further explores the politicized nature of the debate, which he terms "immigration politics" in contrast to calmer, good-faith discussions of "immigration policy." He concludes that Latino political power is finally becoming a reality, so it may be in the Republican Party's best interest to take the immigration issue off the table by passing comprehensive reform. Not all Republicans agree, however, and the party remains divided with the naysayers having the upper hand in the House, where comprehensive immigration reform now languishes.

Integration is another important component to be considered in immigration reform. Jason Ackleson examined naturalization rates and immigrant integration and noted that the US needs to foster civic integration by focusing on "digital citizenship"—the ability to actively participate in society online and build digital capital. Leisy Abrego and Shannon Gleeson studied the impact of immigration policy on families in immigrant communities, finding that workplace exploitation and lack of access to education prevents many immigrant families from integrating. Randy Capps et al. also documented the stress that the current all-enforcement approach to immigration places on both immigrants and their US-born citizen children and relatives alike. The issue of integration will continue to be contentious. However, the emerging consensus is that immigrants, no matter what their origin, do eventually integrate into the American mainstream, but that the US government needs to do more to facilitate that assimilation in advance. It may not be enough to blame first-generation immigrants for being slow in assimilating. Immigrants cannot be asked to become Americans overnight, particularly without assistance.

The concept of national security, which is repeatedly invoked in the immigration debate, is also quite complex. Robbie Totten contrasted the paradigms of national security and human security and presented a framework focused on domestic/internal security interests, material and military considerations, and foreign policy. Totten suggests that an immigration reform bill should make visas available to workers who possess skills to keep the US economically and militarily competitive, consider diplomatic measures to pacify states that are negatively affected by changes in the immigration system—particularly those that would lose with the diversity visa cancellation that the Senate has proposed, and create a path to legalization to address the internal security risk of having a large segment of the US population not knowing where they are and what they do. Complementing this perspective, Rodrigo Nieto-Gómez recommends thinking about security through

the lens of socio-technical change to create a system that is dynamic and flexible enough to adapt to a complex and changing immigration environment. Technology, he argued, must be a fundamental component of immigration reform design, not merely an afterthought in public policy.

The lack of an immigration reform also has significant ramifications for the labor market and economic interests of the US. Economists Pia Orrenius and Madeline Zavodny pointed out that economic benefits accrue from both high- and low-skilled immigration. They recommend a legalization initiative, a guest-worker program, and more permanent visas for high-skilled workers to enhance these economic benefits and encourage innovation. Furthermore, provisions such as mandatory electronic verification of work authorization and an increase in low-skilled employment-based immigration would help reduce unauthorized immigration flows in the future. The Senate version already takes this into consideration and the House is not likely to discard this important recommendation. Domestic enforcement will likely constitute a core component of any future immigration system.

For more than 25 years, in the absence of much-needed immigration reform, the US government has relied on enforcement-only strategies to manage immigration flows. Most of these efforts have focused on the US–Mexico border, with an increasing number centering on domestic enforcement. Raul Hinojosa-Ojeda argues that these efforts have failed to control undocumented immigration, and have furthermore placed a downward pressure on wages due to the creation of underground labor markets; this leads not only to lower wages but also to lower consumption, lower tax revenue, and reduced productivity. Creating a program to allow undocumented immigrants to achieve legal status would benefit the entire US economy because immigrants would have more incentive to invest in themselves and their communities. And even if there is broad disagreement on how much immigrants can contribute to the economy once legalization—if any—takes place, there is a broader agreement that they will contribute to a more robust economic landscape.

In spite of the potential economic benefits of immigration reform, the government's inaction on the issue has led various state and local governments to pursue restrictive omnibus legislation designed to address the presence of undocumented immigrants. Mark Jones and Benjamin Chou examine roll-call vote data in these state legislatures and find that the votes on such legislation were extremely partisan—virtually all Republicans supported restrictive omnibus bills and an overwhelming majority of Democrats opposed them. Yet, despite the prevalence of this restrictive legislation, Tony Payan finds that state and local immigration initiatives in Texas were quite moderate compared to other states. Few cities in Texas signed 287(g) agreements that deputized local law enforcement as immigration enforcement—in fact, 15 cities have declared themselves "sanctuary cities" for immigrants. It is evident that the changing demographics of Texas, the growing Hispanic population, and the national context of immigration politics have created a unique response in Texas. Indeed, we may expect to see this phenomenon begin to emerge in other states as well, including New Mexico, Florida, Nevada, and Colorado, in the future. On account of this, many Republicans have already stated that they cannot continue to alienate a growing segment of the electorate.

Nevertheless, immigration reform has a strong ideological subtext as well. As Michael Olivas explained, the tension between "accommodationist" policies that allow immigrant access to benefits and other public programs and "restrictionist" policies that prevent this access and crack down on unauthorized immigrants has played out in the debate about higher education. President Obama's introduction of prosecutorial discretion concerning undocumented college students provoked much controversy and was even a temporary deferral instead of a permanent solution. Despite the increase of anti-immigrant rhetoric and nativist policies that seek to deny undocumented immigrant access to benefits, there is also a strong movement for integration, especially in the area of education. Olivas highlights the multidimensionality of the debate by emphasizing the striking ideological divide on something as widely desired as education.

Thus, even if the Senate has already passed its version of immigration reform in the form of SB744, nothing is assured. The need for national leadership on immigration reform is evident, given the state of the system. The current dysfunctional congressional dynamics, however, heavily affect the prospects of immigration reform. Daniel Tichenor points out two distinct patterns: Firstly, federal courts have granted Congress sweeping control over immigration, but partisan and intraparty conflicts have stalled major reform efforts in the past. Secondly, congressional action on immigration reform typically necessitates the formation of "strange bedfellow" alliances that are unstable and result in grand bargains to address the disparate goals of members of these alliances. Today, legislators must balance the demands of lobbying and advocacy groups with grassroots constituency pressures and electoral calculations in order to strategically compromise on immigration reform measures.

Susan Martin explores the history of immigration policy making in the US and explains that there are three factors that contribute to the difficulty of enacting comprehensive reform: (1) the coalitions that form around immigration policy succeed in uniting around specific provisions but break apart over others; (2) public ambivalence about immigration, especially due to the public's fear that immigrants will fail to adopt American norms and values; and (3) practical impediments that make reform difficult to achieve. Martin sees considerable consensus around certain contours of reform—enforcement against unauthorized migration, measures to address the large undocumented population—but differences play out in discussion of the details.

As immigration reform advances through the House of Representatives—something that appears increasingly difficult to achieve in mid-2014—these crucial questions and issues will be discussed, debated, and hopefully resolved. This study aims to contribute scholarly work and nuanced expertise to the dialogue about immigration reform in order to reach a delicate balance and a sustainable solution. This volume provides specific insight and recommendations that may help resolve this thorny public policy issue, whose inconclusive debate for over a decade has left millions of people marginalized in the US.