

CRS Report for Congress

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Immigration: Reasons for Growth, 1981-1995

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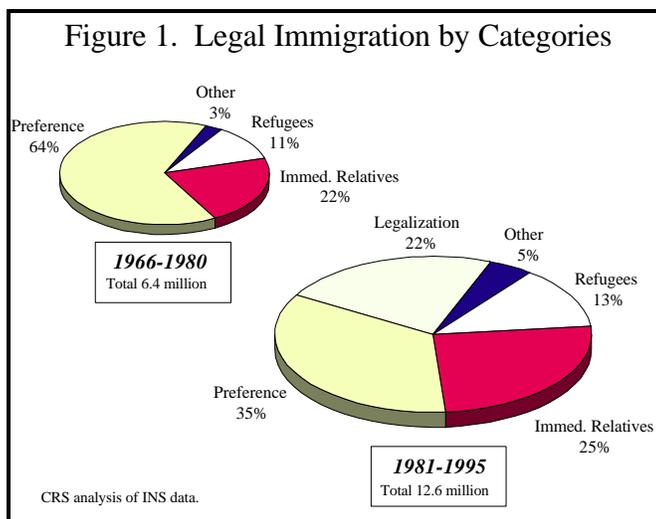
Summary

Legal immigration to the United States has increased sharply in recent years, and shows no signs of slowing down. The question of why immigration has grown so rapidly and the implications of this growth for the future are expected to be issues in the 105th Congress. Primarily because of legislation enacted in 1980 and 1986, the numerical restrictions of the basic family and employment-based immigration preference system became less significant. The growth in legal immigration during the past 15 years came in three groups admitted outside these numerical limits -- legalized aliens, refugees, and numerically exempt immediate relatives of U.S. citizens. For example, about 2.8 million illegal or undocumented aliens were "legalized" between 1981 and 1995.

Introduction

More than half the foreign born currently in the U.S. entered between 1980 and 1994.¹ The composition and level of legal immigration were legislative issues during the 104th Congress, and are likely to continue to be of interest this Congress. This report explores the reasons for the recent increase, and briefly examines the outlook for the future.

According to Immigration and Naturalization Service (INS) data presented in figure 1, immigration almost doubled during the 15-year period 1981-1995 compared to the

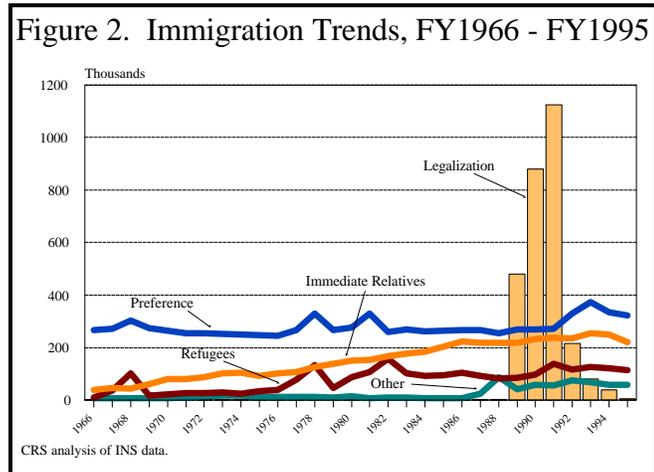


¹ Hansen, Kristin A., and Amara Bachu. The Foreign Born Population. *Current Population Reports* P20-186. U.S. Census Bureau, Aug. 1995. p. 2.

previous 15 years². The reason for this increase is also apparent in figure 1. During the past 15 years, immigrant admissions under the basic immigration system, consisting of preference immigrants and immediate relatives of U.S. citizens, has been generously augmented by legalized aliens and refugees. Together they accounted for 35% of total immigration during 1981-1995, the same as preference immigration. In contrast, immigrants entering under the preference system and related numerical limits³ accounted for 64% of total immigration during the 15-year period 1966-1980.

As figure 2 illustrates, the decline in preference immigration as a percentage of total legal immigration over the past 30 years was due less to a *decrease* in preference immigration than to an *increase* in other components of legal immigration. Preference immigration remained comparatively stable during the period, ranging between 250,000 and 350,000. About 2.8 million illegal or undocumented aliens were "legalized." Admissions of immediate relatives of U.S.

citizens went from 39,231 in FY1966 to 220,360 in FY1995, increasing by an annual average of 6.7% over the 30-year period. Refugees increased from 718,000 in 1966-1980 to 1.6 million during 1981-1995, after enactment of the Refugee Act of 1980.



Legislative Priorities and Immigration Growth, 1981-1995

The principal reasons for the growth in legal immigration during the past 15 years have to do with congressional priorities of the 1980s as reflected in three major enactments. The first two of the three major immigration laws enacted between 1980 and 1990 focused on the problems of refugees and illegal immigration. While some Members of Congress supported a reduction of legal immigration during the 1980s, this was not the prevailing view. At that time the number of legal immigrants was not generally seen as a problem. Both the 1980 Refugee Act and the legalization programs authorized by the Immigration Reform and Control Act (IRCA) in 1986 substantially increased the levels of legal immigration. More specifically:

- Prompted by the large number of refugees seeking admission after the Vietnam War, Congress enacted the Refugee Act of 1980 which established a formal system of refugee admissions and resettlement. The 1.6 million refugees

² Immigration data include aliens admitted in, or adjusting to, legal permanent resident status.

³ The preference system was not extended to the Western Hemisphere until 1976, and the Eastern and Western Hemisphere ceilings. From 1968-1978, Western Hemisphere immigration was subject to an overall ceiling of 120,000, and Eastern Hemisphere immigration was subject to a ceiling of 170,000, in both cases not including immediate relatives of U.S. citizens.

admitted since then have been primarily from Southeast Asia and the Soviet Union, reflecting the long aftermath of the Vietnam War and the Cold War.

- The temporary legalization programs established by IRCA in 1986 accounted for 2.8 million admissions between 1989 and 1995 (including "family unity" numbers for spouses and children of legalized aliens provided by the 1990 Act).

The Immigration Act of 1990 further raised the level of legal immigration. In his signing statement of November 29, 1990, President George Bush observed that it "provides for a significant increase in the overall number of immigrants permitted to enter the United States each year." While the Immigration Act of 1990 dealt directly with legal immigration, it has had considerably less impact on immigration levels than the 1980 and 1986 Acts. It increased the ceiling on employment-based preference immigration, with the provision that unused employment visas would be made available the following year for family preference immigration.

The net result of the 1980 and 1986 enactments has been that the limits of the formal preference system on the number and types of legal immigrants became less significant during the last 15 years. Alternatives and exceptions to the preference system -- legalization programs for illegal aliens, refugee adjustments to immigrant status, and provisions for entry of the immediate family members of U.S. citizens outside the numerical limits -- increasingly became the predominant ways immigrants entered the United States.

Components of Legal Immigration, 1981-1995

The major components of recent legal immigration have been preference immigrants, legalized aliens, immediate relative of U.S. citizens, and refugees. They are discussed below, and INS data on their admissions are summarized in table 1 and figure 3.

Preference Immigration. The current numerically restricted preference system has evolved directly from legislation enacted in 1965. At that time Congress repealed the national origins quota system, which had regulated immigration to the U.S. since the 1920s. It replaced the quota system, which was heavily weighted to favor immigrants from northern and western European countries, with a "preference system" which allotted immigrant visas on the basis of family relationships and needed skills, and established numerical ceilings limiting the number of immigrants who qualified for these categories. The preference system and related numerical limits, along with geographic ceilings, were intended to regulate the number and types of aliens entering as legal immigrants.

Preference immigration is currently made up of family-based and employment-based immigrants. The 4.3 million "preference" immigrants for 1981-1995 shown in table 1 and reflected in figure 3 include more than 3.2 million family-based immigrants and approximately 1 million employment-based immigrants. *Family preference* immigration accounted for one-quarter of total immigration during 1981-1995. Family preference immigration remained at essentially the same level during the 15-year period because the overall statutory limit remained more or less the same. In order of priority, the family preference categories are (1) unmarried adult children of U.S. citizens, (2) spouses and children of immigrants, (3) married adult children of U.S. citizens, and (4) siblings of adult U.S. citizens.

Employment-based preference immigration accounted for less than 10% of total immigration during 1981-1995. It more than doubled beginning in 1992, reflecting a statutory increase from 54,000 to 140,000 visas allocated to it annually under the Immigration Act of 1990. In part because the 1990 Act increased the skill level requirements for employment-based visas, actual admissions have not reached the ceiling, with the result that unused visas have been made available the following year for family preference immigrants. This increase in employment visas accounts for the fact that preference immigration has exceeded 300,000 since 1992 (see figure 3)⁴.

Refugees. Refugees are admitted under the INA, as amended by the Refugee Act of 1980, and accounted for 1.6 million, or 13%, of total immigrant admissions in the last 15 years. Refugee admissions are governed by different criteria and numerical limits than immigrant admissions. Refugee status requires a finding of persecution or a well-founded fear of persecution in situations of "special humanitarian concern" to the United States. *Refugees* are processed and admitted from abroad. Provision is also made in the INA for the granting of *asylum* on a case-by-case basis to aliens who are physically present in the United States or at a land border or port of entry and who meet the definition of "refugee."

Refugees change to immigrant status after 1 year's residence in the United States, and are counted as immigrants at that time. However, it is their admission rather than adjustment to immigrant status which is subject to numerical limits. The total annual number of refugee admissions and the geographical allocation of these numbers among refugee groups are determined at the start of each fiscal year by the President after consultation with the Congress. While refugee admissions are always subject to sudden change, the current trend is downward. In FY1996, refugee admissions fell below 100,000 for the first time in the 1990s. The FY1997 refugee admissions ceiling is 78,000, with the largest allocation for Europe (48,000), primarily the former Soviet Union and Eastern Europe. The 10,000 allocation for East Asia is the smallest in 30 years.

Legalized Aliens. The two temporary legalization programs established by IRCA in 1986 accounted for 2.8 million admissions between 1989 and 1995 (including "transition visa numbers" for spouses and children of legalized aliens provided by the 1990 Act). The first of these programs, the so-called "pre-1982" legalization program, provided for regularizing the status of otherwise eligible illegal aliens who had resided in the United States continuously since before January 1, 1982. This controversial program was justified both as a humane way to deal with undocumented aliens who had established strong ties in the U.S., and as the political tradeoff necessary to pass employer sanctions for the knowing employment of illegal aliens, IRCA's major provision for controlling illegal immigration. The second and equally controversial legalization program for "special agricultural workers" (SAWs) was created to assure agricultural producers that employer sanctions would not adversely affect their seasonal workforce.

INS counted pre-1982 and SAW legalized aliens as immigrants when they adjusted to permanent resident status, in the second phase of the 2-step legalization process. Thus, 1989 is the first year legalized aliens show up as immigrants in figures 1-3 and table 1. Of

⁴ For further information on the preference system and related numerical limits, see, *Immigration: Numerical limits on Permanent Admissions*, by Joyce C. Vialet and Molly R. Forman. CRS Report 94-146 EPW, updated July 23, 1996. 6 p.

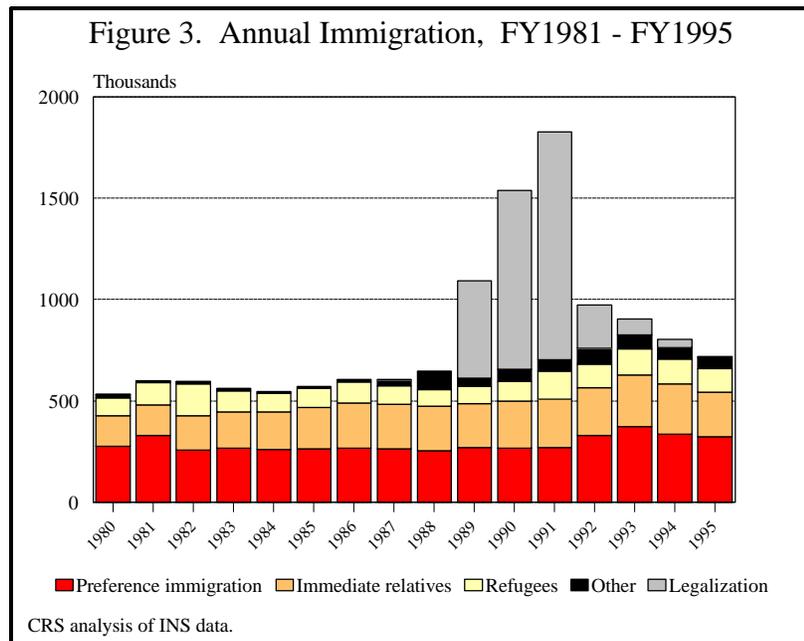
Table 1. Legal Immigration by Category, FY1981 - FY1995

Fiscal year	Immediate relatives	Preference immigration	Refugees	Legalization	Other	Totals
1981	152,359	329,269	107,573	-	7,399	596,600
1982	168,398	259,547	156,601	-	9,585	594,131
1983	177,792	269,005	102,685	-	10,281	559,763
1984	183,247	261,845	92,127	-	6,684	543,903
1985	204,368	264,152	95,040	-	6,449	570,009
1986	223,468	266,564	104,383	-	7,293	601,708
1987	218,575	265,682	91,840	-	25,419	601,516
1988	219,340	254,379	81,719	-	87,587	643,025
1989	217,514	269,847	84,288	478,814	40,461	1,090,924
1990	231,680	268,279	97,364	880,372	58,788	1,536,483
1991	237,103	271,037	139,079	1,123,162	56,786	1,827,167
1992	235,484	329,321	117,037	215,614	76,521	973,977
1993	255,059	373,788	127,343	79,622	68,480	904,292
1994	249,764	335,252	121,434	40,096	57,870	804,416
1995	220,360	323,458	114,664	4,544	57,435	720,461
Totals	3,194,511	4,341,425	1,633,177	2,822,224	577,038	12,568,375
Percent of totals	25%	35%	13%	22%	5%	100%

CRS analysis of INS data

the legalized aliens shown as immigrants in 1989, 479,000 actually had to have been in the United States since 1981 in the case of pre-1982 legalized aliens, and since 1985 in the case of SAWs. The 1992-1994 figures also include 141,690 legalized aliens's spouses and minor children admitted under a 3-year program created by the Immigration Act of 1990.

Both the pre-1982 and SAW legalization programs ended in the 1980s. However, the 2.8 million aliens admitted under them will continue to affect permanent legal immigration for some time to come, both in terms of backlogs and overall numbers. The January 1995 backlog for the family "second preference" category -- the spouses and children of immigrants -- was 1.1 million, 80% of which was made up of spouses and children of legalized aliens. Legalized aliens naturalizing as U.S. citizens are petitioning for entry of their spouses and children as numerically exempt immediate relatives.



Immediate Relatives of U.S. Citizens. As defined by the INA, numerically exempt “immediate relatives” are the unmarried children (under age 21) and spouses of U.S. citizens, and the parents of U.S. citizens aged 21 and over. The unlimited admission of the spouses and children of U.S. citizens dates back to the 1920s; the 1965 Act also granted parents of adult U.S. citizens numerically exempt immediate relative status. The growth in admissions of immediate relatives was a major reason for the increase in legal immigration between 1981-1994, when they totaled 3.2 million compared to 1.4 million in 1966-1980.

Implications for the Future

Some predictions about the probable future growth, *under present law*, of legal immigration and its major components can be made. The likely direction of legal immigration is upward, fueled primarily by an increase in the numerically unrestricted *immediate relatives of U.S. citizens*, as discussed below. Regarding the other major components, *preference immigration* is likely to remain above 300,000 because of the increase in employment-based visa numbers. It will almost certainly exceed 400,000 in FY1996 because of INS completion of cases filed in FY1995, but this is likely to be an anomaly. Preference immigration is generally limited to approximately 350,000 by the overall numerical restrictions. The FY1997 *refugee* ceiling of 78,000 is the lowest since enactment of the Refugee Act in 1980. By definition, however, refugee flows are unpredictable. The processing of *legalized aliens* under the temporary programs created by IRCA in 1986 has been completed. However, the admission of their family members is still in its initial stages. As noted above, the admission of family members under the preference system is subject to numerical limits, resulting in long backlogs rather than large numbers of immigrants, but this is not the case with immediate relatives of U.S. citizens.

The greatest increase in the foreseeable future is likely to be in the immediate relative category, assuming the naturalization of many of the large number of legalized aliens and, to a much lesser extent, refugees admitted under legislation enacted in the 1980s. The echo effect of this category is apparent in the steady increase in immigrants entering as immediate relatives of U.S. citizens over the past 30 years (see figure 2). The provisions for entry of the immediate family members of U.S. citizens apply to all newly naturalized immigrants -- whether they arrived under the preference system, as refugees, or as legalized aliens — as well as to native born citizens. The increase in the number of immigrants over recent years has amplified the impact of the exemption of immediate relatives from numerical restrictions, and is likely to continue to do so. Determining the nature and extent of this connection is difficult because INS has not included naturalization data in its records on individual immigrants, but the large and increasing numbers of immigrants entering as immediate relatives of U.S. citizens make it clear that such a process is at work.

The increase in immediate relatives of U.S. citizens may be less than expected, however, because of new provisions in the 1996 welfare and immigration acts. The INA now requires all immediate relatives and family preference immigrants to have affidavits of support signed by either the family member petitioning for the immigrant or by the petitioner in combination with another individual. One of them must demonstrate an income of 125% above the poverty level (including support of the sponsored immigrant). Since legalized aliens tend to be comparatively low-skilled and low-paid, this requirement may have a significant impact on their ability to petition for their relatives.