NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

THESIS

REFORMING U.S. IMMIGRATION POLICY: A CASE FOR MERIT-BASED IMMIGRATION?

by

Daisy Garza

December 2019

Co-Advisors: Anshu N. Chatterjee
Paul J. Smith (contractor)

Approved for public release. Distribution is unlimited.

THIS PAGE INTENTIONALLY LEFT BLANK

REPORT DOCUMENTATION PAGE	Form Approved OMB No. 0704-0188

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188) Washington, DC 20503.

1. AGENCY USE ONLY *(Leave blank)*	2. REPORT DATE December 2019	3. REPORT TYPE AND DATES COVERED Master's thesis

4. TITLE AND SUBTITLE REFORMING U.S. IMMIGRATION POLICY: A CASE FOR MERIT-BASED IMMIGRATION?	**5. FUNDING NUMBERS**
6. AUTHOR(S) Daisy Garza	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Naval Postgraduate School Monterey, CA 93943-5000	**8. PERFORMING ORGANIZATION REPORT NUMBER**
9. SPONSORING / MONITORING AGENCY NAME(S) AND ADDRESS(ES) N/A	**10. SPONSORING / MONITORING AGENCY REPORT NUMBER**

11. SUPPLEMENTARY NOTES The views expressed in this thesis are those of the author and do not reflect the official policy or position of the Department of Defense or the U.S. Government.

12a. DISTRIBUTION / AVAILABILITY STATEMENT	12b. DISTRIBUTION CODE
Approved for public release. Distribution is unlimited.	A

13. ABSTRACT (maximum 200 words)

The thesis investigates how U.S. national interests have been defined in the country's immigration policy, and whether the current policy, which prioritizes family-based immigration, supports those interests. The Donald J. Trump administration has looked to Canada's points-based system, which has brought highly skilled and educated immigrants into the country. Through a comparative analysis of Canada's and the United States' immigration policies, this research provides perspective on whether screening immigrants is an effective way to meet a country's national interests, particularly economic interests, and whether other factors must be considered for immigration policies. Ultimately, this thesis found that current U.S. immigration policies do not best serve national interests. This is not because the U.S. prioritizes family-based immigration but rather because the stagnant immigration policy does not respond to the changing needs of the country. Common-sense immigration reform requires more than looking to foreign partners for solutions; it requires us to review current practices and identify ways to enhance existing policies.

14. SUBJECT TERMS	15. NUMBER OF PAGES
immigration and nationality laws, RAISE ACT, U.S. immigration system, immigration reform, merit-based immigration, national interests, points-based immigration systems	121
	16. PRICE CODE

17. SECURITY CLASSIFICATION OF REPORT	18. SECURITY CLASSIFICATION OF THIS PAGE	19. SECURITY CLASSIFICATION OF ABSTRACT	20. LIMITATION OF ABSTRACT
Unclassified	Unclassified	Unclassified	UU

NSN 7540-01-280-5500

Standard Form 298 (Rev. 2-89)
Prescribed by ANSI Std. 239-18

THIS PAGE INTENTIONALLY LEFT BLANK

Approved for public release. Distribution is unlimited.

REFORMING U.S. IMMIGRATION POLICY: A CASE FOR MERIT-BASED IMMIGRATION?

Daisy Garza
Supervisory Immigration Officer, United States Citizenship and Immigration Services, Department of Homeland Security
BA, University of California – San Diego, 2008
MPA, University of Southern California, 2015

Submitted in partial fulfillment of the
requirements for the degree of

MASTER OF ARTS IN SECURITY STUDIES
(HOMELAND SECURITY AND DEFENSE)

from the

NAVAL POSTGRADUATE SCHOOL
December 2019

Approved by: Anshu N. Chatterjee
Co-Advisor

Paul J. Smith
Co-Advisor

Erik J. Dahl
Associate Professor, Department of National Security Affairs

THIS PAGE INTENTIONALLY LEFT BLANK

ABSTRACT

The thesis investigates how U.S. national interests have been defined in the country's immigration policy, and whether the current policy, which prioritizes family-based immigration, supports those interests. The Donald J. Trump administration has looked to Canada's points-based system, which has brought highly skilled and educated immigrants into the country. Through a comparative analysis of Canada's and the United States' immigration policies, this research provides perspective on whether screening immigrants is an effective way to meet a country's national interests, particularly economic interests, and whether other factors must be considered for immigration policies. Ultimately, this thesis found that current U.S. immigration policies do not best serve national interests. This is not because the U.S. prioritizes family-based immigration but rather because the stagnant immigration policy does not respond to the changing needs of the country. Common-sense immigration reform requires more than looking to foreign partners for solutions; it requires us to review current practices and identify ways to enhance existing policies.

THIS PAGE INTENTIONALLY LEFT BLANK

TABLE OF CONTENTS

I. INTRODUCTION 1
- **A. PROBLEM STATEMENT 1**
- **B. RESEARCH QUESTIONS 3**
- **C. LITERATURE REVIEW 3**
  - **1. The Economics of Crafting U.S. Immigration Policy 3**
  - **2. The Controversy behind the Family Reunification Policy 6**
  - **3. Merit-Based Immigration 9**
  - **4. Literature Review Summary 13**
- **D. RESEARCH DESIGN 13**
- **E. CHAPTER OUTLINE 14**

II. HOW WE GOT HERE: U.S. IMMIGRATION POLICIES 15
- **A. DEFINING *NATIONAL INTEREST* IN IMMIGRATION POLICY 15**
  - **1. Chinese Exclusion Act of 1882 ..... 16**
  - **2. The Gradual Introduction of a National-Origins Quota System 18**
  - **3. The Immigration Nationality Act of 1965 ..... 20**
  - **4. Immigration Controls between 1986 and 1990 ..... 22**
- **B. NATIONAL INTEREST IN TODAY'S GOVERNMENT 24**
  - **1. Failure to Fix a Broken System 24**
  - **2. The Contemporary Immigration Debate 26**
- **C. CONCLUSION 28**

III. THE CURRENT U.S. IMMIGRATION SYSTEM 31
- **A. BACKGROUND 32**
  - **1. Family-Based Immigration 35**
  - **2. Employment-Based Immigration 37**
- **B. THE IMMIGRATION APPARATUS 41**
- **C. COMPLICATIONS IN THE PROCESS 44**
  - **1. The Problems with the Immigration Apparatus 44**
  - **2. The Actuality in Employment-Based Numbers 46**
  - **3. Insufficiencies in Employment-Based Categories 47**
  - **4. A Temporary Fix for Highly Skilled Workers 49**
- **D. CONCLUSION 50**

IV. COMPARING THE UNITED STATES' FAMILY-BASED SYSTEM AND CANADA'S POINTS-BASED SYSTEM 53
A. IS FAMILY-BASED IMMIGRATION HURTING THE UNITED STATES? 54
1. Are There Too Many Family-Based Immigrants? 55
2. The Impact of Family-Based Immigration on the United States 57
B. CANADA: INTRODUCING A POINTS-BASED IMMIGRATION SYSTEM 60
1. Defining National Interest in Canadian Immigration Policy 62
2. Understanding Canada's Points-Based System 64
C. SHOULD WE LOOK TO CANADA AS A MODEL? 70
D. CONCLUSION 72

V. CONCLUSION 75
A. OVERALL FINDINGS 75
B. RECOMMENDATIONS 78
C. FINAL THOUGHTS 82

LIST OF REFERENCES 83

INITIAL DISTRIBUTION LIST 97

LIST OF FIGURES

Figure 1. Individuals Who Obtained LPR Status, Fiscal Year 2017.....34

THIS PAGE INTENTIONALLY LEFT BLANK

LIST OF TABLES

Table 1. Family-Sponsored Categories and Numerical Limitations.....36

Table 2. Employment-Based Categories and Numerical Limitations.....38

Table 3. Family-Sponsored Preference Priority Dates.....42

Table 4. Employment-Based Preference Priority Dates 43

THIS PAGE INTENTIONALLY LEFT BLANK

LIST OF ACRONYMS AND ABBREVIATIONS

CRS	Comprehensive Ranking System
DHS	Department of Homeland Security
DOL	United States Department of Labor
INA	Immigration and Nationality Act
IRCA	Immigration Reform and Control Act
LPR	Lawful Permanent Resident
MPI	Migration Policy Institute
NOC	National Occupational Classification
OECD	Organization for Economic Co-Operation and Development
USC	United States Code

THIS PAGE INTENTIONALLY LEFT BLANK

EXECUTIVE SUMMARY

Family reunification has long been a central goal of U.S. immigration policy.[1] While other comparable countries, such as Canada, prefer to admit individuals based on their skills, the United States accepts more individuals due to family ties than any other immigrant visa category.[2] Family-based immigration does not screen potential immigrants for their skills or potential value to the country.[3] Critics of the current family-based immigration system argue that a merit-based system (also known as a points-based system) would best meet U.S. needs, especially the country's economic interests.[4] They also argue that the existing immigration system fails to meet the needs of the country as it progresses toward a knowledge and innovation economy.[5] These arguments suggest that, in a competitive global market, the United States should focus on bringing in individuals who have the skill sets that will give the country a competitive edge. Opponents of the current family-based system also believe it encourages the migration of low-skilled workers, seen as harmful to both American wages and the labor market.[6]

The last time the United States examined its immigration system to support U.S. national interests was in 1990. Since the Immigration Act of 1990, the economy has continued to grow, industries have transformed, and the U.S. working population has changed. While there have been attempts by successive administrations to reform the U.S.

---

[1] Congressional Budget Office, *Immigration Policy in the United States* (Washington, DC: U.S. Congress, February 2006), http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/70xx/doc7051/02-28-immigration.pdf.

[2] Zoya Gubernskaya and Joanna Dreby, "US Immigration Policy and the Case for Family Unity," *Journal on Migration and Human Security* 5, no. 2 (2017): 418.

[3] *Immigration: The Economic Impact: Hearing before the Committee on the Judiciary*, Senate, 109th Cong. (2006) (statement of Barry Chiswick, UIC Professor).

[4] S., *Immigration*.

[5] Tom Cotton and David Perdue, "Reforming American Immigration for a Stronger Economy Act (RAISE Act): A Bill to Raise Working Wages & Boost American Competitiveness" (fact sheet, U.S. Senate, 2017), https://www.perdue.senate.gov/imo/media/doc/170801_New_RAISE_Act_One_Pager_FINAL.pdf.

[6] David Card, *Is the New Immigration Really So Bad?* NBER Working Paper No. 11547 (Cambridge, MA: National Bureau of Economic Research, 2005), 1, http://www.nber.org/papers/w11547.

immigration system, efforts have reached a stalemate. Decisions about which types of immigrant's to prioritize—family-based, or skilled-based—continue to be a challenge for policymakers. They are further challenged to reach a consensus about the type of immigration system that would best support U.S. national interests. Accordingly, this thesis investigates how U.S. national interests have been defined in immigration policies, and whether current policy supports those interests.

This thesis reveals that the current U.S. immigration policy does not best serve national interests. This is not because the United States prioritizes family-based immigration but is rather due to stagnant immigration policy that does not respond to the changing needs of the country. The research shows that immigration proposals throughout the years have defined national interests differently, in accordance with the economic and political environment at the moment. Open immigration policies reflect periods of economic growth, while restrictive immigration policies reflect periods of mistrust or economic insecurities. The Donald J. Trump administration has propagated that U.S. national interests should be about the safeguarding of the American-born worker and the United States' ability to bring in the "best and brightest" immigrants to compete in a global economy. President Trump has argued that family-based immigration, which he refers to as chain migration, is detrimental to the country's competitiveness.[7] Family-based immigration has been framed in a negative light by those who seek to limit immigrant admission numbers.

However, the analysis demonstrates that family-based immigration is more complicated than it commonly seems. The term chain migration creates the illusion that the family-based immigration system currently in place allows one immigrant to sponsor many more new immigrants, who may or may not fit American needs. Studies show, however, that family-based immigration brings in a significant level of educated workers, supports U.S. economic growth, and provides the country with needed labor supply. Arguments that family-based immigrants hurt native-born wages and limit employment

[7] Matt Kwong, "Trump Wants an Immigration System 'Like They Have in Canada.' Would a Merit-Based Plan Work in the U.S.?" CBC, April 30, 2019, https://www.cbc.ca/news/world/trump-immigration-system-canada-merit-based-points-1.5115475.

opportunities for other low-skilled workers are unsubstantiated. The threshold for admission may be the relationship to a U.S. relative; however, family-based immigrants bring varied skills needed for a competitive economy.[8]

The analysis demonstrates that the immigration apparatus in place has led to excess wait times, has kept families apart, and has led to temporary solutions to bring skilled workers to the United States.[9] Unsurprisingly, the current immigration policies generated a demand that far exceeds the number of available immigrant visas. Inflexible per-country ceilings and numerical limitations that have remained unchanged for thirty years contribute to excessive backlogs.[10] The combination of numerical limits and per-country caps leads to significant delays for employers who seek to bring labor to or keep labor in the United States. Furthermore, while family-based immigrants do make up a large share of the total annual immigrant admissions, the system does place limits on the number. Immigration statutes prevent family-based immigrants from saturating the U.S. immigration system. The discourse surrounding family-based immigration creates the perception of an unrestricted immigration system, but established numerical limitations counter that argument.

The United States functions on an immigration system that is intended to bring in streams of both family-based and skilled-based immigrants. Solutions for improving the existing system have focused less on remedying the mechanisms in place and more on overhauling the structure to reflect a points-based system, which selects immigrants based on the desirability of their attributes. The current administration looks to Canada's points-based system, which has helped Canada bring in highly skilled and educated immigrants.

---

[8] Cecilia Muñoz, "The Myth of Chain Migration," *POLITICO*, January 26, 2018, https://www.politico.com/magazine/story/2018/01/26/myth-chain-migration-trump-family-immigration-216536.

[9] David Bier, *Immigration Wait Times from Quotas Have Doubled: Green Card Backlogs Are Long, Growing, and Inequitable*, Policy Analysis 873 (Washington, DC: Cato Institute, 2019), https://www.cato.org/sites/cato.org/files/pubs/pdf/pa-873-updated.pdf.

[10] Donald Kerwin and Robert Warren, "National Interests and Common Ground in the U.S. Immigration Debate: How to Legalize the U.S. Immigration System and Permanently Reduce its Undocumented Population," *Journal on Migration and Human Security* 5, no. 2 (2017): 307, https://doi.org/10.1177/233150241700500205.

A comparative analysis with Canada is conducted to explain how a points-based system works and why Canada has implemented such a system. The analysis also provides perspective on whether screening immigrants is an effective way to meet a country's national interests, particularly economic interests, and whether other factors should be considered. Ultimately, the research demonstrates that the true lesson in Canada's immigration polices lies in its flexibility rather than in its ability to bring in more skilled labor. Canada's system has been successful due to legislation that requires a yearly administrative review of the immigration system. This requirement results in a system that is continuously being assessed for effectiveness. In comparison, the United States' immigration policies cannot be administratively changed easily; they require policy development through legislative action. Politically this has been far from easy, resulting in the lack of significant immigration reforms since 1990.

While Canada's system has prioritized the skilled and educated, the points system also rewards individuals who have preexisting connections to the country, like family members, which is often not noted in comparative analyses. Thus, Canada's system also recognizes the importance of social ties to an immigrant's success in the country. Family-based immigration has been a point of contention for those seeking to limit U.S. immigration levels and admit more skilled-based immigrants. This review demonstrates that there is merit in the established networks and wide-range of skills that family-based immigrants bring to the United States. Proposals that gloss over the current functions of the immigration system dismiss the realities of why the current system cannot meet its national interests.

This thesis finds that U.S. immigration policies should be continuously developed in order to support a spectrum of national interests. Through analysis of U.S. and Canadian immigration policies, this thesis recommends that the U.S. government create an immigration system that allows for different pathways for legal immigration while recognizing the value that family-based immigration brings to the United States. A well-managed immigration system is one that allows both family unity and the migration of skilled workers. Common-sense immigration reform requires more than looking toward foreign partners for solutions; it requires us to review what is currently in place and to

identify ways to enhance existing policies. The government should allow for more flexibility in its immigration system; for instance, policymakers should create new visa categories to alleviate backlogs and consider allowing U.S. Citizenship and Immigration Services to have more administrative control over immigrant admissions. Also, increasing immigrant visa allocations for skilled-based immigrants can help bring in more skilled labor to the United States. We can also use market data to meet labor shortages, eliminate per-country caps, and review social integration services.

THIS PAGE INTENTIONALLY LEFT BLANK

ACKNOWLEDGMENTS

The topic of immigration has surrounded my life ever since I can remember. This thesis reflects the passion I have for the work I do and my desire to impart the significance of the topic to others. I want to dedicate my thesis to my mom, an immigrant herself, who instilled in me the value of hard work and perseverance, and, more importantly, who taught me to be a compassionate individual. To both my parents, my professional and academic accomplishments could not have been possible without your love, home-cooked meals, and willingness to make the journey with me. To my family—Alejandra, Louie, Lupe—thank you for checking in on me. I could not imagine finishing this challenging process without you cheering me on from the sidelines.

I am also extremely grateful for the love and support from my dearest and closest friends—Patricia, Nadia, Melanie, Monica. You had to endure me talking about this thesis for the past eighteen months, so thank you. You provided me a safe space to vent, encouraged me to work, and willingly reviewed my work. I would also like to express my sincerest gratitude to my agency for allowing me to participate in this program. To my team at SFV, I could not have completed this master's degree without a supporting crew; you are the best FDNS immigration officers.

To my thesis advisors, Dr. Anshu Chatterjee and Paul J. Smith, I extend my deepest gratitude for supporting me throughout this process. Your insight, much-needed nudges, and willingness to run to the finish line with me made this thesis possible.

Finally, to my classmates, Cohort 1803/1804, I am a better person because of the learning opportunities you provided me in the past eighteen months. Your commitment to public service is inspiring. To the ladies that completed this master's program alongside me (Amy, Kim, Monika, Mimi, Marie-Claire, Christine), you are all intelligent, courageous, and phenomenal women; do not let anyone tell you otherwise. I wish you all the best of luck in all your future endeavors. The homeland security enterprise is in good hands because of you.

THIS PAGE INTENTIONALLY LEFT BLANK

I. INTRODUCTION

A. PROBLEM STATEMENT

Family reunification has long been a central goal of U.S. immigration policy.[1] While other comparable countries, such as Canada, prefer to admit individuals based on their skills, the United States accepts more individuals due to family ties than any other immigrant visa category.[2] Americans who favor restricting immigration argue that a system heavily reliant on family-based immigration is problematic because it "monopolizes" the immigration system.[3] Family-based migration (or what some refer to as chain migration) occurs when one individual in the United States sponsors a relative who immigrates to the United States, and in turn that relative sponsors another relative, and so on. Family-based immigration does not screen potential immigrants for their skills or potential value to the country.[4]

The issue of giving weight to an individual's skills rather than familial ties is increasingly the focus of many U.S. immigration reform debates.[5] Critics of the current family-based immigration system argue that a merit-based system (also known as a points-based system) would best meet U.S. needs, especially those pertaining to economic interests.[6] They also argue that the existing immigration system fails to meet the needs of the country as it

---

[1] Congressional Budget Office, *Immigration Policy in the United States* (Washington, DC: U.S. Congress, February 2006), http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/70xx/doc7051/02-28-immigration.pdf.

[2] Zoya Gubernskaya and Joanna Dreby, "US Immigration Policy and the Case for Family Unity," *Journal on Migration and Human Security* 5, no. 2 (2017): 418.

[3] Peter Brimelow, "The Real Cost of Immigration," *Journal of Social, Political, and Economic Studies* 23, no. 3 (Fall 1998): 288.

[4] *Immigration: The Economic Impact: Hearing before the Committee on the Judiciary*, Senate, 109th Cong. (2006) (statement of Barry Chiswick, UIC Professor).

[5] "The RAISE Act: What Lies beneath the Proposed Points System?" American Immigration Council, August 2017, https://www.americanimmigrationcouncil.org/sites/default/files/research/the_raise_act_what_lies_beneath_the_proposed_points_system.pdf.

[6] S., *Immigration*.

progresses toward a knowledge and innovation economy.[7] These arguments suggest that, in a competitive global market, the United States should focus on bringing in immigrants who have the skill sets that will give the country a competitive edge. Opponents of the current family-based system also believe it encourages the migration of low-skilled workers, who are seen as harmful to both American wages and the labor market.[8] Such discourse on immigration is a contentious issue at the center of the political stage. Polarizing views make it challenging to discuss likely changes to U.S. immigration policy. As such, this thesis evaluates what it means to reform the current family-based immigration system in favor of a system that is points-based.

The United States currently has an admissions process for employment-based immigrant categories that require a variety of skills.[9] The system has categories for both temporary and permanent workers, of low- and high-skilled occupations.[10] However, it does not encompass all the requirements a point-based system would. This policy proposal may lead to unclear consequences because the United States has narrow experience with a points-based system. Changing the current immigration system and adopting one that emphasizes skill and education could drastically change U.S. demographics and the economy. Policymakers could grasp the costs and benefits of such a policy by examining a democracy that already uses a points-based system.

Canada is an example of a country that is similar to the United States but uses a points-based system to bring in highly skilled immigrants who contribute to the country's economy and meet its labor demands.[11] This thesis conducts a comparative analysis that first looks at

---

[7] Tom Cotton and David Perdue, "Reforming American Immigration for a Stronger Economy Act (RAISE Act): A Bill to Raise Working Wages & Boost American Competitiveness" (fact sheet, Washington, DC: U.S. Senate, 2017), https://www.perdue.senate.gov/imo/media/doc/170801_New_RAISE_Act_One_Pager_FINAL.pdf.

[8] David Card, *Is the New Immigration Really So Bad?* NBER Working Paper No. 11547 (Cambridge, MA: National Bureau of Economic Research, 2005), 1, http://www.nber.org/papers/w11547.

[9] Congressional Budget Office, *Immigration Policy in the United States.*

[10] Lawrence Brunner and Joseph Pate, "Promoting Entry of High-Quality Workers through U.S. Immigration Policy," *Applied Economics* 48, no. 52 (2016): 5046, https://doi.org/10.1080/00036846.2016.1170933.

[11] Law Library of Congress, *Points-Based Immigration Systems: Australia, Canada, United Kingdom* (Washington, DC: Law Library of Congress, 2013), 19, http://www.loc.gov/law/help/points-based-immigration/Points-Based%20Immigration%20Systems.pdf.

the needs of the two countries, and then examines Canada's current immigration policy. It also provides sources of evaluation for the potential implications of embracing such a system in the United States. The findings of this thesis demonstrate that the current U.S. immigration apparatus is more complicated than the political debate suggests. While there is a need for more skilled workers in the United States, it is not necessarily the case that a system that prioritizes family-based immigrants is the problem.

B. RESEARCH QUESTIONS

- How are U.S. national interests defined in immigration polices?
- Do current U.S. immigration policies support U.S. national interests?
- Based on the comparative analysis with Canada, what immigration policy reforms would best support U.S. national interests?

C. LITERATURE REVIEW

This literature review examines competing immigration policy attitudes that contribute to the ongoing discussions of immigrant admissions. The following sections present existing arguments regarding the economic consequences of family-based immigrants, the use of family reunification for both inclusionary and exclusionary immigration practices, and the added value of human capital in immigration reform.

1. The Economics of Crafting U.S. Immigration Policy

Several immigration scholars and economists believe immigration policies have vacillated between attitudes of embracing and outright rejecting immigration.[12] The economics of the country have played a significant role in creating those divisions. The literature regarding economics and their role in immigration can be polemic, with opinions fluctuating between the negative and positive effects immigrants have had on the U.S. economy. Much of the literature found on this topic centers on those who decide to migrate

[12] Steven G. Koven and Frank Gotzke, *American Immigration Policy: Confronting the Nation's Challenges* (New York: Springer, 2010), 20.

(theories of migration), the impact immigrants have on native-born workers' wages, and the impact immigration has on the U.S. labor market (employment opportunities).

Heavily cited by other researchers on both sides of the immigration debate, immigration scholar and economist George J. Borjas has written extensively on the economics of immigration. One of his central arguments is that the average skills of the immigrant population into the United States have declined.[13] Borjas attributes some of that decline to the change in the "national-origin mix" of the immigrant population, one that has shifted from primarily European to Latino and Asian immigrants.[14] Additionally, much of Borjas's work appears to attribute the increase in low-skilled labor in the past decades to Latino immigrants who have entered the United States. Borjas maintains that immigrants have affected the wages of American workers, especially immigrants who are not highly skilled and have minimal education.[15] The rationale behind this notion is that while low-skilled immigration causes the wages of high-skilled workers to rise, competition for low-skilled labor increases, thereby reducing the wages of native-born workers and increasing income inequality.[16] The Center for Immigration Studies, a nonpartisan research organization that supports policies that restrict immigration, echoes many of Borjas's sentiments. The center argues that the current immigration flow has allowed lower-skilled individuals into the country and has harmed the poorest and least-educated American-born workers.[17]

Journalist Peter Brimelow, known for his anti-immigration stance, has used Borjas's work to support his ideas about the economics of immigration. Brimelow argues that immigration affects native-born income as well as causes an immigration surplus that results in a net loss for Americans.[18] He claims that current U.S. immigration policies have allowed

---

[13] George J. Borjas, *Issues in the Economics of Immigration* (Chicago: University of Chicago Press, 2000), 5.

[14] Borjas, 5–6.

[15] Koven and Gotzke, *American Immigration Policy*, 54.

[16] Dell Champlin, "Institutionalist Perspectives on Immigration Policy: An Update," *Journal of Economic Issues* 44, no. 2 (2010): 302, https://www.jstor.org/stable/20778674.

[17] Steven A. Camarota, "Immigration Is Hurting the U.S. Worker," *Americas Quarterly* (Spring 2007), https://cis.org/Immigration-Hurting-US-Worker.

[18] Carol M. Swain, *Debating Immigration* (New York: Cambridge University Press, 2007), 164.

"deteriorating skill levels, on average, relative to the native-born."[19] Like Borjas, Brimelow attributes the declining wages of native-born workers to low-skilled immigrants from specific countries, illustrating a bias against individuals from Asian and Latin American countries. Those arguments are contingent on existing immigration policies, which have contributed to the increase of Latino and Asian populations currently in the United States.[20]

Opposing those views, Dell Champlin finds that arguments about the negative consequences of low-skilled immigration have played a role in ineffective immigration policies.[21] Champlin challenges the validity of such arguments, claiming that they ignore how labor markets work. She believes the impact on wages is not a result of low-skilled labor but transformations in specific industries.[22] Champlin is not alone in her claims that immigration has a minimal effect on native-born workers' wages. Daniel Griswold, a journalist and scholar, also believes that immigration is not the cause of low wages; he attributes low wages, rather to "the combined effect of international trade and technological change."[23] He argues that limiting low-skilled immigrants will not resolve the impact the changing economy already has on native-born workers with few skills and little education.[24] He sees low-skilled immigration as an incentive for native-born workers to increase their skills in other competitive fields.

Some scholars see no correlation between the immigration of low-skilled workers and the wages of native-born workers.[25] David Card's study on the issue, for instance, reveals that despite the influx of low-skilled immigrants across different U.S. cities, the wages of low-

---

[19] Brimelow, "The Real Cost of Immigration," 286.

[20] David L. Leal, "Stalemate: United States Immigration Reform Efforts, 2005 to 2007," *People and Place* 17, no. 3 (2009): 1, https://tapri.org.au/wp-content/uploads/2016/02/v17n3_1leal3.pdf.

[21] Champlin, "Institutionalist Perspectives on Immigration Policy."

[22] Champlin, 308.

[23] Daniel Griswold, "The Prospects for American Workers: Immigration's Impact," Cato Institute, October 30, 2003, https://www.cato.org/publications/congressional-testimony/prospects-american-workers-immigrations-impact.

[24] Griswold.

[25] Champlin, "Institutionalist Perspectives on Immigration Policy," 302–3.

skilled native workers have remained the same since 1980.[26] His survey focuses on the effects of low-skilled immigration on native-born workers who do not have a high school diploma.

The Cato Institute, known for its support of liberal immigration policies, has refuted many of the arguments made against immigrants and their adverse economic impacts. According to the Cato Institute, immigration of low-skilled immigrants has a minimal effect on the wages of native-born workers. Moreover, the minimal costs of immigration are offset by the labor supply, resulting in low prices and additional goods for Americans.[27] Furthermore, there appears to be a consensus among the researchers previously mentioned that policies restricting immigration shrink the labor market and can hurt Americans in the long run.

As this review has revealed, the conclusions of academics who have studied the economic effects of immigration vary. Some see negative economic consequences while others see positive effects, and the purported extent of the effects varies. The differing frameworks contribute to the already contested issue of who should be allowed to immigrate. Therefore, the economic effects of immigration, especially the immigration of low-skilled immigrants, will continue to play an active role in opinions of how immigration policy should be crafted or changed.

2. The Controversy behind the Family Reunification Policy

The importance of family is interwoven in American values. Whether it has been to limit or increase immigration to the United States, family reunification has been significant to both the admissions and regulation of U.S. immigrants.[28] Before the passing of the Immigration and Nationality Act of 1965 amendments also known as the Hart–Celler Act (hereafter referred to as the 1965 Act), U.S. immigration was regulated by a national origins

---

[26] Card, "The New Immigration," 25.

[27] Koven and Gotzke, *American Immigration Policy*, 56.

[28] Catherine Lee, *Fictive Kinship: Family Reunification and the Meaning of Race and Nation in American Immigration* (New York: Russell Sage Foundation, 2013), 2, http://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=4417114.

quota system that was "designed to maintain racial homogeneity."[29] The 1965 Act has been seen as the turning point in U.S. immigration policy as it eliminated race provisions and established a system that focused on family reunification and skills.[30] Since the passage of the 1965 Act, there have been conflicting interpretations of its intended purpose. Notably, some scholars have argued that the family reunification provisions were intended to maintain racial homogeneity in the United States while others have suggested that the framers of the act envisioned a progressive and diversified America.

There is a consensus among immigration scholars that the 1965 Act was one of the most significant reforms to U.S. immigration law.[31] According to some, despite its intentions, the act contributed immensely to changes in the racial and ethnic makeup of America, whether celebrated or not.[32] The intended (or unintended) demographic changes remain a point of contention among immigration restrictionists and advocates alike. Contemporary immigration advocates embrace the idea that the 1965 Act intended to follow the example of the civil rights movement, reversing years of race-based exclusionary practices in U.S. immigration policies.[33] Gabriel J. Chin, a legal scholar, believes that the passing of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 not only paved the way for the 1965 Act but commemorated the general disposition of Congress during that period, which aimed to establish a progressive, outward-looking role for the United States on the world stage.[34]

---

[29] Gabriel J. Chin, "The Civil Rights Revolution Comes to Immigration Law: A New Look at the Immigration and Nationality Act of 1965," *North Carolina Law Review* 75, no. 1 (November 1996): 3, http://scholarship.law.unc.edu/nclr/vol75/iss1/7.

[30] Koven and Gotzke, *American Immigration Policy*, 12.

[31] Timothy J. Hatton, "United States Immigration Policy: The 1965 Act and its Consequences: U.S. Immigration Policy," *Scandinavian Journal of Economics* 117, no. 2 (April 2015): 347, https://doi.org/10.1111/sjoe.12094.

[32] Elizabeth Keyes, "Race and Immigration, Then, and Now: How the Shift to 'Worthiness' Undermines the 1965 Immigration Law's Civil Rights Goals," *Howard Law Journal* 57, no. 3 (2014): 902, https://scholarworks.law.ubalt.edu/all_fac/341/.

[33] Keyes, 900.

[34] Chin, "The Civil Rights Revolution Comes to Immigration Law," 2; Maddalena Marinari, "Divided and Conquered: Immigration Reform Advocates and the Passage of the 1952 Immigration and Nationality Act," *Journal of American Ethnic History* 35, no. 3 (Spring 2016): 32, https://doi.org/10.5406/jamerethnhist.35.3.0009.

It could be argued that the 1965 Act, indeed, was the first piece of federal immigration legislation that advocated for a race-neutral policy for immigrant admissions. Before its passing, immigration policies had been crafted to maintain the European makeup of the United States. Professor Elizabeth Keyes claims that not only was the 1965 Act a component of the civil rights movement, "removing color-barriers from our laws," but that the framers "consciously saw their role as crafting another piece of civil rights legislation."[35] Keyes interprets the 1965 Act as representing liberal immigration beliefs, signifying the end of racial intolerance for immigration admissions. Her view is supported by other scholars who understand the legislation as undoing the injustices of prior U.S. immigration practices.[36] Seen as a modern piece of immigration legislation, the 1965 Act opened the United States to diversity by eliminating racial discrimination and embracing the sanctity of family unity.

Senator Edward "Ted" Kennedy, an original supporter of the 1965 Act, claimed that America's "ethnic mix" would not change because of the bill.[37] His comments have supported a different school of thought, especially from nativists who argue that the act was crafted to continue constructing race and identity in America. For example, Joseph E. Fallon argues that the 1965 Act promised to keep immigration numbers low, not compromise the ethnic makeup of the United States, and conserve immigration mostly from Europe.[38] Instead, however, he claims that the act increased immigration from third-world countries, destroying the European identity of America.[39] That type of rhetoric is used in support of amending the family reunification provisions established by the 1965 Act—specifically, the perceived issues with chain migration, which has allowed immigrants from less-desirable countries to bring in additional family members.

---

[35] Keyes, "Race and Immigration," 901.

[36] Micah Issitt, *Opinions throughout History: Immigration* (Amenia, NY: Grey House Publishing, 2018), 382.

[37] Koven and Gotzke, *American Immigration Policy*, 136.

[38] Joseph E. Fallon, "The Impact of Immigration on U.S. Demographics," *Journal of Social, Political, and Economic Studies* 21, no. 2 (Summer 1996): 141.

[39] Fallon, 141.

The consequences of the 1965 Act are seen primarily as unintended, including the changing face of America that followed.[40] Supporters of the act had familial ties to eastern and southern Europe.[41] Thus, the push for the legislation came from the belief that the proposed family reunification reforms would promote immigration from Europe.[42] Unlike the previously cited view of a new, tolerant America, this idea suggests that the drafters of the bill believed that America would stay predominantly white.

The conflicting frameworks behind the true intentions of the 1965 Act should not overshadow the essential role that the value of family unity played in that reform, and the value that family unity will play in future proposed immigration reforms. Political sociologist Catherine Lee states that the concept of family and family reunification in immigration means much more than just the physical aspect of keeping immigrant families together.[43] She argues that family reunification provisions are part of a wider conversation about what family symbolizes and how it has been used by policymakers to drive particular policy objectives.[44] Supporters of the legislation have leveraged family unity, presenting it as a national interest and one that gives Americans the opportunity to bring their family members together. Therefore, while the 1965 Act did represent the end of the national origins quota policy, it also showed family reunification as a political tool to pass immigration reform. Additionally, its political use has illustrated that it can be a tool for inclusionary or exclusionary practices by those competing to shape a national identity.

3. Merit-Based Immigration

Determining who should be selected to immigrate to the United States has been a significant policy challenge for lawmakers. The Migration Policy Institute (MPI) argues that

---

[40] Hatton, "United States Immigration Policy," 366–67.

[41] Marinari, "Divided and Conquered," 32.

[42] Hatton, "United States Immigration Policy," 366–67.

[43] Lee, *Fictive Kinship*, 5.

[44] Catherine Lee, "Family Reunification and the Limits of Immigration Reform: Impact and Legacy of the 1965 Immigration Act," *Sociological Forum* 30 (June 2015): 530, https://doi.org/10.1111/socf.12176.

since the 1965 Act, the United States stopped using immigration as a "nation-building tool."[45] Instead, the current family-based immigration system has allowed immigrants to self-select, a point of contention for restrictionists. For example, Dale L. Wilcox, a proponent of restrictive immigration policies, claims that allowing immigrants to self-select has taken away the government's ability to have a say in who is admitted and fails to consider the country's actual needs.[46] He also believes that the current family-based immigration system is nepotistic, as it allows family members to petition for each other.[47] Similar opinions have prompted some legislators and immigration restrictionists to propose modifications to the current system that will promote education and skill.[48]

Jeanne Batalova, a senior policy analyst with MPI, argues that historically skilled immigrants have generally been well received in U.S. immigration policies, even during times of restriction.[49] This is an accurate assessment of the current U.S. immigration discourse. Restrictionists who advocate for lower immigration numbers see the importance of instituting a system that values merit over family to fulfill U.S. economic needs.[50] The belief is that highly skilled immigrants will always be more advantageous to U.S. economic interests than low-skilled immigrants.[51]

Merit-based immigration (or a points-based system) would allow the government to dictate who is admitted into the country. Generally, under points-based systems, governments

---

[45] Kate Hooper and Demetrios G. Papademetroiu, *Competing Approaches to Selecting Economic Immigrants: Points-Based vs. Demand-Driven Systems* (Washington, DC: Migration Policy Institute, 2019), https://www.migrationpolicy.org/research/selecting-economic-immigrants-points-based-demand-driven-systems.

[46] Dale L. Wilcox, "Merit, Not Nepotism, Should Guide Our Immigration Law," *The Hill*, May 27, 2019, https://thehill.com/opinion/immigration/445625-merit-not-nepotism-should-guide-our-immigration-law.

[47] Wilcox.

[48] Laura E. Hill and Joseph M. Hayes, "How Would Selecting for Skill Change Flows of Immigrants to the United States? A Simulation of Three Merit-Based Point Systems," *Review of Economics of the Household* 9, no. 1 (March 2011): 1–23, https://doi.org/10.1007/s11150-010-9097-y.

[49] Jeanne Batalova, *Skilled Immigrant and Native Workers in the United States: The Economic Competition Debate and Beyond* (New York: LFB Scholarly Publishing, 2006), 11, https://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=3016814.

[50] Wilcox, "Merit, Not Nepotism, Should Guide Our Immigration Law."

[51] Batalova, *Skilled Immigrant and Native Workers in the United States*, 35.

first create a list of characteristics they see as important, intending immigrants then apply for admission, the immigrants are assigned specific points, and those who meet a determined point threshold are granted immigrant visas.[52] The categories could range from education level, to language proficiency, to work experience, to age. Researchers with the MPI call this approach a "human-capital accumulation formula [that primarily] seeks to increase the population of workers whose skills, education, and other attributes are either thought to be in short supply or otherwise of intrinsic economic value to an economy."[53] This type of policy approach is often lauded for its perceived capacity to assess a prospective immigrant's ability to participate in the economy and broader society.[54] It also ensures that the U.S. government is acquiring the "best and brightest" immigrants.

There have been varying studies on points-based systems and their effectiveness. In 2016, researchers from Central Michigan University simulated a point system on U.S. immigrant flows to show how the admission of skilled immigrants would be beneficial. They illustrate how a system that considers education, an age preference for immigrants under forty, and professional job experience could ease the use of transfer programs by current immigrants, increase wages, and reduce income inequality.[55] The study appears to have been skewed with assumptions that immigrants significantly use government social programs. Additionally, the populations used in the case study do not reflect those immigrants the researchers sought to quantify—newly arrived legal immigrants. Instead, the study used data from a mix of immigrants, including undocumented immigrants.

In 2010, the Public Policy Institute of California published a study using the comprehensive immigration reform proposal of 2007 to illustrate whether immigrants admitted in 2003 would still be admitted under the proposed points-based system.[56] That study found a

---

[52] Demetrios G. Papademetroiu and Madeleine Sumption, *Rethinking Points Systems and Employer-Selected Immigration* (Washington, DC: Migration Policy Institute, 2011), 2, https://www.migrationpolicy.org/research/rethinking-points-systems-and-employer-selected-immigration.

[53] Papademetroiu and Sumption, 2.

[54] Papademetroiu and Sumption, 2.

[55] Brunner and Pate, "Promoting Entry of High-Quality Workers."

[56] Hill and Hayes, "Selecting for Skill."

significant number of immigrants would continue to be admitted based on family-based preferences, humanitarian reasons, and skills.[57] The researchers found that immigrants from high-skilled occupations would increase, but not necessarily immigrants with the skills needed for in-demand occupations, which are what supporters of points-based systems want to promote.

Researchers from the Institute for the Study of Labor compared the 1990 and 1991 census data of Australia and Canada, countries that both used points-based systems, with census data from the United States. The study revealed that immigrants from the points-based countries had better language proficiency, education, and income but that the larger population of Latin American immigrants in the United States was a factor.[58] Ultimately, the researchers could not conclusively determine that a points-based system would significantly improve the skills of U.S. immigrants or reduce the number of immigrants from Latin America.[59] Authors Guillermina Jasso and Mark R. Rosenzweig found that assessing a prospective immigrant on his or her skills is not necessarily telling of the individual's overall success in the United States.[60] They note that family-based immigrants, specifically marital immigrants, have additional sources of support that allow for upward mobility overall.[61] Other authors agree that skills alone are not a suitable indicator for economic success or the ability to assimilate, as family and community ties play an essential role in an immigrant's progress.[62] The previous research on the effectiveness of a merit-based system cannot conclusively show that such a system would improve the type of immigrant admitted to the United States.

---

[57] Hill and Hayes, 21.

[58] Heather Antecol, Deborah A. Cobb-Clark, and Stephen J. Trejo, "Immigration Policy and the Skills of Immigrants to Australia, Canada, and the United States," discussion paper no. 363 (Bonn: Institute for the Study of Labor, 2001), 5–15, https://ideas.repec.org/p/iza/izadps/dp363.html.

[59] Antecol, Cobb-Clark, and Trejo, 15.

[60] Guillermina Jasso and Mark R. Rosenzweig, "Do Immigrants Screened for Skills Do Better Than Family Reunification Immigrants?" *International Migration Review* 29, no. 1 (1995): 86, https://doi.org/10.2307/2546998.

[61] Jasso and Rosenzweig, 86.

[62] Hill and Hayes, "Selecting for Skill," 22.

4. Literature Review Summary

Current immigration reform debates have centered on adopting an immigration policy that admits immigrants based on merit. Arguments against family-based immigration are based heavily on the perceived economic impact on native-worker wages and a failure to attract the best-skilled immigrant for the evolving global market. This literature review demonstrates how immigration policy in the United States is influenced by opposing viewpoints surrounding what type of immigrant is best for the country. When assessing the effectiveness of a merit-based system, policymakers must carefully ensure that proposed policies are not rooted in biases against certain immigrant groups. Creating immigration policy should be a result of what best supports U.S. national interests, not in furtherance of policy objectives to change America's national identity.

D. RESEARCH DESIGN

In this research, two key components in the current immigration policy are analyzed: family reunification and employment-based immigration. It is important to understand the current system and its deficiencies in order to understand the challenges of continuing with the status quo or seeking change. This study does not cover the full history of U.S. immigration policies but uses historical and present-day data on U.S. immigration policies and issues to draw conclusions about what is working, or not working, in the current system.

As outlined in the literature review, past and current proposals for immigration policy change have called for a shift from family-based immigration to the use of a merit-based system for granting legal permanent residency. Since the United States has limited experience with a merit-based system, a comparative analysis with Canada is conducted to explain how a merit-based system works and why a country might implement such a system. Canada has a points-based system in place, with the majority of its immigrant admissions coming from "economic migrants," but also has a family-based system.[63] A comparative analysis between the United States and Canada helps provide a perspective on whether screening immigrants is

[63] Hill and Hayes.

an effective way to meet a country's national interests, particularly those pertaining to the national economy, and whether other factors must be considered.

Finally, opponents of the current family-based system point to its inability to meet the needs of a changing national economy. As such, this study examines the economic implications of the current family-based immigration system. This analysis uses past and current immigration laws and policies, census data, economic figures, and other studies. This thesis also draws from a variety of scholarly journals, congressional reports, surveys, and government databases to form conclusions about the current system and whether it meets economic interests.

This thesis is limited to U.S. immigration policy as it relates to family- and skill-based immigration. This thesis does not cover all other current U.S. immigration pathways or recommend comprehensive immigration reform. Instead, this thesis offers policymakers insight into the implications of adopting a merit-based immigration system.

E. CHAPTER OUTLINE

Chapter II reviews landmark immigration legislation, how U.S. national interests have been defined in the legislation, and the current redefinition of national interest in the present-day discourse regarding immigration. Chapter III looks at the current U.S. immigration system, reviewing how it works and its deficiencies. Chapter IV further explores family-based immigration, reviewing the actualities behind family-based immigration, and presents Canada's points-based system. Finally, Chapter V concludes with findings and recommendations.

II. HOW WE GOT HERE: U.S. IMMIGRATION POLICIES

The current Trump administration has called for adopting "an immigration system that serves the national interest."[64] However, the concept of "national interest" can be nebulous; it is often used by policymakers to advocate for specific policy changes or for interests they seek to protect. Immigration proposals throughout the years have, therefore, defined national interest differently, in accordance with the economic and political environment at the moment. Open immigration policies reflect periods of economic growth, while restrictive immigration policies reflect periods of mistrust or economic insecurities.

A study of national interest in U.S. immigration policy—past interests and those currently proposed—will help establish the parameters for determining whether or not the current immigration system meets those interests. The review will illustrate how national interest has been redefined throughout the years to serve widely varied functions. This chapter reviews landmark immigration legislation, the definition of national interest in those laws, and the current redefinition of national interest in the present-day discourse regarding immigration.

A. DEFINING *NATIONAL INTEREST* IN IMMIGRATION POLICY

"Keep, ancient lands, your storied pomp!" cries she
with silent lips. "Give me your tired, your poor,
your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!"
—Emma Lazarus, poet, 1883[65]

---

[64] "Immigration," The White House, accessed September 16, 2019, https://www.whitehouse.gov/issues/immigration/.

[65] "The New Colossus," The Statue of Liberty-Ellis Island Foundation, accessed August 6, 2018, https://www.libertyellisfoundation.org/the-new-colossus.

Emma Lazarus's poem "The New Colossus" has come to symbolize freedom and hope for immigrants coming to the United States in pursuit of better opportunities.[66] It symbolizes the country as a beacon for—and a nation of—immigrants. In America's formative years, immigration was encouraged, open, and rarely questioned by the government. Immigration restrictions emerged as economic and political conditions changed. During times of economic prosperity, immigration was relatively welcomed, but this shifted as the economy weakened following the Civil War.[67] As immigrant numbers and accusations of immigrants stealing jobs increased, the anti-immigrant sentiment also grew. In 1875, in response to individual states passing their own immigration laws, the Supreme Court gave the federal government control of enacting immigration legislation.[68] What followed was a series of historical laws that played a significant role in shaping the United States' current immigration system. The following is not a comprehensive review of all U.S. immigration policies but considers those that have had significant implications on the current discourse surrounding immigration reform.

1. Chinese Exclusion Act of 1882

Changes in immigration legislation usually result from fear. Fear of losing something—such as security, democracy, or constitutional rights—has long motivated policy change in the United States.[69] Historically, those seeking to limit immigration have characterized immigrants as a threat to national security, to economic opportunities for Americans, or to America's national identity. Such views have shaped restrictive immigration practices in the United States.

One of the first federal immigration laws aimed at halting immigrants was the Chinese Exclusion Act of 1882. The law responded to the anti-Chinese sentiment that arose

---

[66] Statue of Liberty-Ellis Island Foundation.

[67] U.S. Citizenship and Immigration Services (USCIS), "Overview of INS History" (report, USCIS, 2012), https://www.uscis.gov/sites/default/files/USCIS/History%20and%20Genealogy/Our%20History/INS%20History/INSHistory.pdf.

[68] USCIS.

[69] Donathan Brown and Amardo Rodriguez, *When Race and Policy Collide: Contemporary Immigration Debates* (Santa Barbara, CA: Praeger, 2014), 117.

from some Americans' belief that Chinese immigrants were stealing jobs and lowering American wages. Economic opportunities from the railroad industry had increased Chinese labor in California, which led to a pro-American laborer movement that fomented the anti-Chinese sentiment.[70] The 47th Congress enacted this legislation, purportedly in the interest of the working class. Thus, the Chinese Exclusion Act defined national interest as the protection of the economic wellbeing of the working class. In the statute, Congress declares:

> Whereas, in the opinion of the Government of the United States the coming of Chinese laborers to this country endangers the good order of certain localities within the territory thereof: Therefore, be it enacted … [that] the coming of Chinese laborers to the United States be … suspended; and during such suspension it shall not be lawful for any Chinese laborer to come.[71]

As one of the first federal policies that restricted immigration based on race and ethnicity, the act led to future immigration practices that used nationality to control immigration into the country. Meanwhile, immigration from northern and western Europe remained unrestricted. Notably, supporters never called up racial grounds to pass the policy; they used the core belief concerning a lack of employment opportunities for Americans. The movement derided Chinese immigrants, and the lawmakers pitted the American working laborer against the Chinese to garner support for the legislation.[72] In support of the policy, Senator James Blaine stated, "I am pleading the cause of the free American laborer … and of his children … and of his children's children."[73] Blaine associated the struggles of the working class during that period with the purported impact that Chinese immigrants had on U.S. citizens' family and future prosperity.

---

[70] John F. Kennedy, *A Nation of Immigrants*, revised and enlarged edition (New York: Harper & Row, 1964), 72.

[71] An Act to Execute Certain Treaty Stipulations Relating to Chinese, 47th Cong., 1st sess. (1882), § 126.

[72] Andrew Gyory, *Closing the Gate: Race, Politics, and the Chinese Exclusion Act* (Chapel Hill: University of North Carolina Press, 1998), 239, http://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=880176.

[73] Bill Moyers, "Gold Mountain Dreams," March 25, 2003, https://billmoyers.com/content/gold-mountain-dreams/.

2. The Gradual Introduction of a National-Origins Quota System

> America must be kept American. For this purpose, it is necessary to continue a policy of restricted immigration … insure the admission of those with the largest capacity and best intention of becoming citizens … economic and social conditions warrant a limitation of those to be admitted.
>
> —President Calvin Coolidge, 1923[74]

In his first annual message to Congress, President Coolidge provided a framework for what he hoped to accomplish during his presidency. Following the end of World War I, a slowing economy and the return of U.S. soldiers heightened anti-immigrant sentiment.[75] What followed was a system that introduced further restrictions on immigrant admissions. National interest during that period involved controlling the racial and ethnic makeup of the United States. A mistrust of foreigners, fear of excess cheap labor, and the belief that new immigrants were not assimilating facilitated the passing of the Immigration Act of 1924, also known as the Johnson–Reed Act.[76] The legislation created a national-origins quota system that essentially restricted, or altogether prohibited, the immigration of people of certain nationalities to the United States.[77] The state restricted immigrant admissions to two percent of the foreign-born population in the United States based on the 1890 census. The act also significantly reduced immigration from eastern and southern Europe and barred immigration from Japan entirely because of emerging hostilities with the country.[78] The legislation played a significant role in shaping the racial composition of immigrants for decades to follow. It also allowed the federal government to legitimize an anti-immigrant agenda in U.S. immigration policy.

---

[74] Calvin Coolidge, "First Annual Message," The American Presidency Project, December 6, 1923, https://www.presidency.ucsb.edu/documents/first-annual-message-20.

[75] Kristofer Allerfeldt, "'And We Got Here First': Albert Johnson, National Origins and Self-Interest in the Immigration Debate of the 1920s," *Journal of Contemporary History* 45, no. 1 (January 1, 2010): 14, https://doi.org/10.1177/0022009409348019.

[76] Allerfeldt.

[77] Keyes, "Race and Immigration," 3.

[78] Julia G. Young, "Making America 1920 Again? Nativism and U.S. Immigration, Past and Present," *Journal on Migration and Human Security* 5, no. 1 (2017): 223, https://doi.org/10.1177/233150241700500111.

In the 1950s, the political environment in the United States significantly changed due to the expanding Cold War, igniting a new debate on what, and whom, the U.S. immigration system should favor. With McCarthyism in the background, a lingering sense of fear from communist influence was stoked, leading to the narrowing of immigration policy as a matter of national security.[79] However, a strengthening public opinion felt that the existing immigration restrictions needed to be relaxed as a matter of foreign policy or for humanitarian reasons.[80] Nevertheless, in 1952, the Immigration and Nationality Act, also known as the McCarran–Walter Act (referred to hereafter as the 1952 Act), codified existing immigration legislation, allowing the national-origins quota system to continue.

The 1952 Act reformed existing policy by allocating a large percentage of available immigration quotas to western European countries; it scarcely opened immigration to Asian countries, and established a preference system.[81] The 1952 Act also introduced the selection of immigrants based on their skill set and family ties.[82] President Harry S. Truman opposed the bill, expressing concerns that the limited reforms did not meet the needs of the country. Truman defined America's national interests as promoting economic growth, restoring American principles, supporting humanitarian needs, and advancing the country's role as a global leader. According to this definition, restricting immigration based on nationality was not only discriminatory but also went against the American principle that "all men are created equal."[83] In his veto message to the House of Representatives, Truman remarked:

> But now this desirable provision comes before me embedded in a mass of legislation which would perpetuate injustices of long standing against many other nations of the world ... the basis of this quota system was false and unworthy in 1924. It is even worse now. At the present time, this quota system keeps out the very people we want to bring in … enacting into law

---

[79] Hatton, "United States Immigration Policy," 350.

[80] Issitt, *Opinions throughout History*, 337.

[81] Hatton, "United States Immigration Policy."

[82] Marinari, "Divided and Conquered," 13.

[83] Harry S. Truman, "Veto of Bill to Revise the Laws Relating to Immigration, Naturalization, and Nationality," Harry S. Truman Library & Museum, June 25, 1952, https://www.trumanlibrary.gov/library/public-papers/182/veto-bill-revise-laws-relating-immigration-naturalization-and-nationality.

> such a slur on the patriotism, the capacity, and the decency of a large part of our citizenry.[84]

Truman viewed the legislation as a hindrance to the United States' progress; in part, immigration policy was an important component in building the country's foreign relationships. A review of the Immigration Act of 1924 and the 1952 Act illustrates how administrations used the immigration system to carry out ambiguous policy objectives. National interest in the Immigration Act of 1924 concerned protecting American traditions (e.g., language, religion, and culture). The national-origins quota system was a way to preserve America's national identity. In contrast to the Chinese Exclusion Act, guarantees of economic security for working Americans played a secondary role in the legislation.

Nationalism continued to be bolstered years after the Immigration Act of 1924. In the 1952 Act, national interest revolved less around economic security and more around national security—guarding the United States against foreign influence on its democracy. Yet, allowing the national-origins quota system to move forward was a means to continue landscaping the racial-ethnic composition of the country. While the 1952 Act failed to abolish the national-origins quota system, it set a precedent for recognizing family reunification as an important objective of U.S. immigration policy.

3. The Immigration Nationality Act of 1965

The civil rights movement changed the political and social environment of the United States, setting the stage for one of America's most significant immigration reforms. Commonly described as the "cornerstone of U.S. immigration policy," the Immigration and Nationality Act of 1965, also known as the Hart–Celler Act (hereafter referred to as the 1965 Act) made significant amendments to U.S. immigration policy. National interest during that period shifted to create a policy that would be forward-looking and inclusive. Policymakers who supported the legislation successfully eliminated the national-origins quota system. A race-neutral policy, the 1965 Act shifted the focus to family and skill-

[84] Truman.

based immigrant admissions. On October 3, 1965, on Liberty Island in New York Harbor, President Lyndon B. Johnson signed the immigration bill, remarking:

> The bill says that from this day forth those wishing to immigrate to America shall be admitted on the basis of their skills and their close relationship to those already here. This is a simple test, and it is a fair test. Those who can contribute most to this country—to its growth, to its strength, to its spirit—will be the first that are admitted to this land.[85]

National interest in the legislation was defined as achieving family unity, meeting labor demands, and affording refuge to individuals fleeing their home countries. With the civil rights movement in the background, the 1965 Act guaranteed U.S. immigrant admissions would be based on criteria other than race. Advocates for immigration reform saw the national-origins quota system as undemocratic and contradictory to American ideals.[86] The family unity part of the legislation became a focal point, emphasizing that family separation is immoral.[87] Moreover, the need for immigration reform was equally important for the United States to be a global leader.

The 1965 Act was a significant piece of immigration legislation; it increased the number of immigrants and changed the ethnic makeup of the immigrant population.[88] Before the act's amendments, about 70 percent of visa allocations were afforded to individuals from Ireland, Germany, and the United Kingdom.[89] The family reunification and skill-based provisions allowed individuals from Latin America, Asia, and Caribbean

---

[85] Lyndon B. Johnson, remarks at the signing of the Immigration Bill, Liberty Island, New York, LBJ Presidential Library, October 3, 1965, http://www.lbjlibrary.org/lyndon-baines-johnson/timeline/lbj-on-immigration.

[86] Lee, "Family Reunification," 536.

[87] Lee, 539.

[88] Frank D. Bean, Barry Edmonston, and Jeffrey S. Passel, *Undocumented Migration to the United States* (Santa Monica, CA: RAND, 1990), 1, https://www.rand.org/pubs/joint_reports-immigration/JRI07.html.

[89] Mark Hugo Lopez, Jeffrey Passe, and Molly Rohal, "Modern Immigration Wave Brings 59 Million to U.S., Driving Population Growth and Change through 2065," Pew Research Center, September 28, 2015, https://www.pewresearch.org/hispanic/2015/09/28/modern-immigration-wave-brings-59-million-to-u-s-driving-population-growth-and-change-through-2065/.

countries to immigrate in greater numbers.[90] Consequently, immigration to the United States shifted from mostly European to primarily Latino and Asian countries.

4. Immigration Controls between 1986 and 1990

The conversation on immigration reform revived during the 1970s and 1980s as the United States grappled with an increase of individuals entering the country unlawfully and overstaying their temporary visas.[91] Thus, after the landmark legislation of 1965, immigration reform in the 1980s focused on illegal immigration, enforcement, and border security. Shortly after taking office, President Ronald Reagan professed the need for comprehensive immigration reform:

> Our nation is a nation of immigrants … at the same time, we must ensure adequate legal authority to establish control over immigration … to strengthen enforcement of our fair labor standards and laws; and to penalize those who would knowingly encourage violation of our laws … immigration and refugee policy is an important part of our past and fundamental to our national interest.[92]

Six years after Reagan's statement, the Immigration Reform and Control Act of 1986 (IRCA), or the Simpson–Mazzoli Act, was signed into law. IRCA helped define national interest as the control of immigration flow coupled with stricter enforcement of immigration laws. Simultaneously, it opened the door for millions of unauthorized immigrants to gain lawful status and become active participants in American society. Economic growth can be argued to be part of the national interest, as legalization allowed economic participation from the newly legalized immigrant population. IRCA occupied the middle ground between those who wanted to legalize the undocumented population in the United States and those who wanted stricter employer sanctions to deter the hiring of undocumented immigrants. IRCA provided the legalization (amnesty) of millions of

---

[90] Koven and Gotzke, *American Immigration Policy*, 12.

[91] Bean, Edmonston, and Passel, *Undocumented Migration to the United States*, 1.

[92] Ronald Reagan, "Statement on United States Immigration and Refugee Policy," Ronald Reagan Presidential Library & Museum, July 30, 1981, https://www.reaganlibrary.gov/research/speeches/73081a.

undocumented immigrants, imposed penalties and sanctions on employers that knowingly hired undocumented workers, and provided funding for border enforcement activities.[93]

One of the last significant amendments by the Congress to the 1952 Act was the Immigration Act of 1990. Unlike IRCA, the 1990 Act focused on expanding avenues for legal immigration to the United States while still addressing enforcement policies.[94] Many of the goals of the 1990 Act are relevant to the present-day discourse on immigration reform. The 1990 Act defined national interest as the continuance of support for keeping families together, while acknowledging a growing global economy that required a higher-skilled workforce, and America's support of creating a diverse identity. On November 29, 1990, President George H. W. Bush made the following remarks regarding the act:

> The Act maintains our Nation's historic commitment to family reunification…. This legislation will encourage the immigration of exceptionally talented people … will promote the initiation of new business in rural areas and the investment of foreign capital in our economy … in the interest of national security as well as the health and welfare of U.S. citizens.[95]

The 1990 Act increased the annual cap on immigration to 675,000 immigrant admissions, distributing the numbers between family-based, employment-based, and diversity visas.[96] Family-based visa allocations benefited from high admission numbers by receiving 480,000 of the immigration quotas. Furthermore, immediate relatives of U.S. citizens would not be subject to the cap. Those measures solidified the country's commitment to family reunification. The act also made considerable changes to the

---

[93] "Congress Clears Overhaul of Immigration Law," Ronald Reagan Presidential Library & Museum, accessed September 16, 2019, https://www.reaganlibrary.gov/sites/default/files/documents/simpson-mazzoli-act-sheet.pdf.

[94] Muzaffar Chishti and Stephen Yale-Loehr, *The Immigration Act of 1990: Unfinished Business a Quarter-Century Later* (Washington, DC: Migration Policy Institute, 2016), 2, https://www.migrationpolicy.org/research/immigration-act-1990-still-unfinished-business-quarter-century-later.

[95] George H. W. Bush, "Statement on Signing the Immigration Act of 1990," American Presidency Project, November 29, 1990, https://www.presidency.ucsb.edu/documents/statement-signing-the-immigration-act-1990.

[96] Warren R. Leiden and David L. Neal, "Highlights of the U.S. Immigration Act of 1990," *Fordham International Law Journal* 14, no. 1 (1990): 328–39, https://ir.lawnet.fordham.edu/ilj/vol14/iss1/14.329.

employment-based categories, shifting the focus in U.S. immigration policy from family-based immigration to one that recognized the country's need to expand the skill set of its workforce.[97]

B. NATIONAL INTEREST IN TODAY'S GOVERNMENT

> The famous words of Emma Lazarus on the pedestal of the Statue of Liberty read: "Give me your tired, your poor, your huddled masses yearning to breathe free..." Under present law it would be appropriate to add: "as long as they come from Northern Europe, are not too tired or too poor or slightly ill..."
>
> —President John F. Kennedy, 1958[98]

In his book *A Nation of Immigrants*, President Kennedy remarked on the injustices of the 1952 Act as he advocated for immigration reform. To him, the debate around immigration reform was more than a "superficial analysis" about restricting the number of immigrants; it was about what the "test for admission" would be.[99] Almost thirty years have passed since the last significant immigration reform, and the United States has been unable to pass legislation that would modernize the current system. Much like Kennedy's determination in 1958, the immigration debate today centers on what the test for admission should be—that is, which test would best serve the current needs of the country while still encompassing the principle of being a "nation of immigrants."

1. Failure to Fix a Broken System

> Our current system is dysfunctional … keeping families apart … hindering economic growth and American global competitiveness.
>
> —Zoe Lofgren, 2013[100]

---

[97] Chishti and Yale-Loehr, *The Immigration Act of 1990*.

[98] Kennedy, *A Nation of Immigrants*, 77.

[99] Kennedy, 80.

[100] *America's Immigration System: Opportunities for Legal Immigration and Enforcement of Laws Against Illegal Immigration: Hearing before the Committee on the Judiciary, House of Representatives,* 113 Cong., 1st sess., 2013, 6.

Historical U.S. immigration reforms have resulted in the objectives of today's immigration policy: fostering family reunification, bringing in individuals with a variety of skills and education, providing refugee and asylum to those fleeing persecution, and boosting diversity in the immigration system.[101] Those priorities now ignite much of the heated discourse around the U.S. immigration system, and some argue that the priorities are currently failing to meet U.S. national interests. At the root of many discussions is how the current system, one that prioritizes family-based immigration over skill- and education-based immigration, cannot meet the challenges of the twenty-first century.

The debate over the current immigration system and the need for reform started to percolate during the George W. Bush administration. It can be argued that an economic-driven immigration system was seen as a national interest objective during that period. In 2007, Senator Harry Reid, a Democrat from Nevada, introduced the Comprehensive Immigration Reform Act of 2007 to Congress. The bill comprised a variety of measures that touched on legalization, border security initiatives, and modified family and worker visa classifications.[102] The bill would limit family-based immigration and introduce a point-based system for immigrant admissions.[103]

While President Bush strongly supported the bill, ultimately Congress thwarted its passage. The president saw it as a defeat for America, as the legislation would change the status quo and would assure economic demands are answered.[104] Ample provisions in the legislation favored the immigration of employment-based immigrants. Moreover, the proposed merit-based admission system was a shift in the test for admission, as it would give more weight to an individual's skill and education levels than it would to their familial ties.

---

[101] Congressional Budget Office, *Immigration Policy in the United States*, 4.

[102] Comprehensive Immigration Reform Act of 2007, S. 1348, 110th Cong., June 7, 2007.

[103] Leal, "Stalemate," 7.

[104] George W. Bush, radio address, George W. Bush White House Archives, June 23, 2007, https://georgewbush-whitehouse.archives.gov/news/releases/2007/06/text/20070623.html.

During the Barack Obama administration, immigration reform continued to be a pressing topic. President Obama had outlined a strategy that addressed border security and streamlined legal immigration, enforcement, and economic growth.[105] However, legislation for comprehensive immigration reform failed to make much progress during his tenure. In 2013, the U.S. House Committee on the Judiciary held a hearing to discuss America's immigration system. During that hearing, national interest was defined as: keeping the nuclear family together, bringing in highly skilled workers, and continuing support of refugee admissions.[106] Conversely, several items were not seen as compelling to the national interest by the Committee on the Judiciary: admitting low-skilled workers, expanding the guest worker program, or expanding family-based categories (to categories such as siblings and adult children).[107] The Committee on the Judiciary deviated from past discourse, as family unity narrowed to just the nuclear family. In addition, they reflected the belief that the United States required a competitive workforce composed of highly skilled workers.

2. The Contemporary Immigration Debate

> It's important that we have a serious debate, one that discusses the issues … to make sure the rhetoric is in accord with our traditions.
>
> —President George W. Bush, 2006[108]

The contemporary discourse on immigration shows significant continuity with past immigration debates, continuing to be about maintaining openness, keeping a sense of national identity, guarding American values and principles, and debating what type of immigrant should be admitted.[109] Since the 2016 election of Donald J. Trump, the

---

[105] The White House, "Immigration and the U.S. Economy," Obama White House Archives, accessed September 17, 2019, https://obamawhitehouse.archives.gov/node/212481.

[106] H., *America's Immigration System*.

[107] H..

[108] James Gerstenzang and Nicole Gaouette, "Bush Calls for Civil Debate on Immigration Proposals," *Los Angeles Times*, March 24, 2006, https://www.latimes.com/archives/la-xpm-2006-mar-24-na-immig24-story.html.

[109] Joshua Woods and C. Damien Arthur, *Debating Immigration in the Age of Terrorism, Polarization, and Trump* (Lanham, MD: Lexington Books, 2017), 27.

discourse on immigration has amplified. Now more than ever, discussions regarding immigration are part of everyday life in the United States. Shortly after taking office, President Trump propelled a series of executive actions on a variety of immigration measures. His executive actions, commentary on immigrants, and policy reforms have contributed to a deep polarization in the American public on how the U.S. immigration system should operate. In May 2019, Trump unveiled a proposal to modernize the immigration system, in which he remarked:

> Our proposal is pro-American, pro-immigrant, and pro-worker… And we want immigrants coming in. We cherish the open door that we want to create for our country, but a big proportion of those immigrants must come in through merit and skill.[110]

Now, national interest is heavily about economic incentives, the safeguarding of the American worker, and the ability for the United States to compete in a global economy. The current debate invokes "emotional landmines," stirring fears of economic loss for working Americans, national security threats, and loss of American identity—all of which contribute to current discussions about what type of immigration system serves the national interest.[111] In May 2019, Trump unveiled his administration's plan to modernize the U.S. immigration system. His immigration plan would overhaul the legal immigration system and expand border security initiatives. Unlike other proposals, his plan would prioritize highly skilled immigrants, significantly increasing admission numbers for that group. Family-based immigration would be limited to spouses and children. The plan would also eliminate the diversity visa and greatly reduce humanitarian admissions. His plan stands in stark contrast to the 1990 Act, which provided much of the framework for the current immigration system.

---

[110] Donald J. Trump, "Remarks by President Trump on Modernizing Our Immigration System for a Stronger America," The White House, May 16, 2019, https://www.whitehouse.gov/briefings-statements/remarks-president-trump-modernizing-immigration-system-stronger-america/.

[111] Woods and Arthur, *Debating Immigration in the Age of Terrorism*, 124–25.

C. CONCLUSION

A common thematic question in immigration legislation is, What best serves the national interest? That theme guides many of the significant immigration reforms that have occurred in the United States, as discussed in this chapter. The U.S. immigration system has been used to advance policy objectives based on different interpretations of what best serves the national interest. Some of the first federal immigration laws implicitly carried the idea that the American working class required protection from immigrants. A lack of economic opportunities and low wages for the American worker have long been blamed on immigrants.

Likewise, nationalism played a significant role in advancing the belief that the American way was at risk from immigrants, who were seen as unwilling to assimilate or as too different from earlier immigrant populations. In the nineteenth century and at the beginning of the twentieth century, protecting the American national identity was seen as the primary national interest, and the national-origins quota system reflected this perception. Moreover, at the root of the national interest was advancing immigration from desired countries while limiting or altogether prohibiting immigration from undesired countries.

Thus, in restrictive immigration policies, national interest has been about protecting the American worker, ensuring national security, and securing the country's national identity. Unlike restrictive immigration policies, more liberal immigration policies are outward-looking. In open immigration policies, national interest has been about affording humanitarian relief, embracing the American ideals of equality, and recognizing the sanctity of the family. The Immigration and Nationality Act of 1965 altered both the U.S. immigration system and redefined national interest. America's image to the rest of the world became its national interest.

The 1965 Act helped advance family reunification as a fundamental concept in U.S. immigration policy. Following the 1965 Act, immigration policies continued to focus on advancing the United States' role as a global leader. The 1990 Act placed equal importance

upon economic growth and America's ability to be a competitive global leader. The 1990 Act allowed immigration to increase and shaped the United States' multicultural image.

What complicates immigration policymaking is the idea that some individuals will be let in while others will be kept out.[112] This has led to ongoing debates about what the U.S. immigration system should or should not be, and what type of immigrant, family-based or skilled-based, should be prioritized. Currently, some in the United States are calling to change the immigration system, as they believe the current system fails to support national interests. The current Trump administration has reverted to the belief that economic security (for the American worker and nation) should guide immigration reform and that U.S. immigration policy should favor individuals with certain skill sets and education. However, based on the review of past and proposed immigration legislation, national interests have changed depending upon contentious ideas and different perceptions of the political environment at the time. The following chapter reviews the current U.S. immigration system—how it works, the deficiencies within the system, and what changes are being proposed by different groups.

[112] Daniel J. Tichenor, "The Politics of Immigration Reform in the United States, 1981–1990," *Polity* 26, no. 3 (1994): 334, https://doi.org/10.2307/3235150.

THIS PAGE INTENTIONALLY LEFT BLANK

III. THE CURRENT U.S. IMMIGRATION SYSTEM

This chapter examines the current immigration system, specifically with respect to two groups: family-based immigrants and employment-based immigrants. Understanding the current system, how it operates, and its deficiencies provides context to the discussion about whether the system should be reformed. Although immigration proponents and opponents both agree that the current U.S. immigration system needs to be reformed, Congress has yet to pass reform due to competing opinions on policy priorities.[113] Polarized views regarding immigration levels and the type of immigrants that should be admitted—those seeking to be reunited with family or those who are skilled—contribute to the ongoing debate.

As previously discussed, the Immigration and Nationality Act of 1965 (the 1965 Act) and the Immigration Act of 1990 (1990 Act) significantly shaped the current system. The 1965 Act put family reunification at the forefront of U.S. immigration policy; as a consequence, family reunification continues to have a significant role in the current immigration system. Seen as an immigration multiplier, family-based immigrants represent the largest share of the immigrant population, amounting to two-thirds of total immigrants to the United States.[114] The 1990 Act significantly increased the number of skilled and educated individuals who could immigrate to the United States.[115] The legislation broadened the employment-based category, recognizing the need to have more skilled workers in the United States.[116] However, since 1990, the number of available visas for

---

[113] Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions*, CRS Report No. RL32235 (Washington, DC: Congressional Research Service, 2012), 14, https://fas.org/sgp/crs/homesec/RL32235.pdf.

[114] Jessica Vaughan, *Immigration Multipliers: Trends in Chain Migration* (Washington, DC: Center for Immigration Studies, 2017), 1–2, https://cis.org/sites/default/files/2017-09/vaughan-chain-migration_1.pdf.

[115] Chishti and Yale-Loehr, *The Immigration Act of 1990*.

[116] Leiden and Neal, "Highlights of the U.S. Immigration Act of 1990," 330.

employment-based categories has remained static, irrespective of labor market or economic fluctuations.[117]

Attempts to reform the system are challenged by the debate surrounding what type of immigrants the country needs more: family-based immigrants or employment-based immigrants. The current system has mechanisms that allow for both, as discussed in this chapter. This review will demonstrate the current imbalances in the U.S. immigration system—a system that is hindered by extensive backlogs created by immigration queues, and by visa quotas that have remained static for the past thirty years. The chapter concludes by reviewing how complications in the system have resulted in temporary solutions.

A. BACKGROUND

The Immigration and National Act (INA) is the governing body of law that dictates how foreign nationals are lawfully admitted to the United States.[118] The INA also guides current U.S. immigration policy, which seeks to reunite families, acquire immigrants with desired occupation skills, boost diversity, and provide protection to refugees.[119] Several federal agencies manage the U.S. immigration system, with the Department of Homeland Security (DHS) having primary functions.

Two common avenues for lawful admission are to enter the United States for a temporary and specific period (such individuals are defined as nonimmigrants), and to remain in the United States permanently (individuals are defined as immigrants).[120] Immigrants granted permanent admission are classified as lawful permanent residents (LPRs) and are issued a Form I-551 (green card) conferring their legal status in the United States.[121] In addition to having the opportunity to live and work freely in the United States,

---

[117] In this review, the term *visa* references the number of allowed LPR admissions.

[118] The INA was first codified in 1952. It has been amended several times since then, including the amendments that occurred in 1965 and 1990.

[119] William A. Kandel, *Permanent Legal Immigration to the United States: Policy Overview* (Washington, DC: Congressional Research Service, 2018), 1, https://fas.org/sgp/crs/homesec/R42866.pdf.

[120] David Weissbrodt and Laura Danielson, *Immigration Law and Procedure in a Nutshell*, 6th ed. (Eagan, MN: West, 2011), 142.

[121] Weissbrodt and Laura.

LPRs can apply for naturalization and obtain full rights as U.S. citizens after five years.[122] Once a person becomes an LPR, he or she can also petition for family members to join them in the United States. Prospective immigrants must go through several steps before obtaining LPR status. First, a petition must be filed and approved with U.S. Citizenship and Immigration Services (USCIS), a DHS component that oversees the adjudication of immigration and naturalization benefits. The petition is filed on the intended immigrant's behalf by his or her family members or by the intended U.S. employer. If the intending immigrant resides overseas (or does not qualify for domestic processing), the petition will be forwarded overseas to be processed by the U.S. Department of State.[123] If the individual resides in the United States and qualifies to be processed domestically, he or she will continue processing with USCIS through a process known as adjustment of status.[124]

The 1990 Act introduced what are now the permanent worldwide immigration numerical limits for the United States.[125] Annually, 675,000 visas are available and divided between the following categories: family-based, employment-based, and diversity immigrants.[126] The number of allocated visas for each category is as follows:

- Family-based: 480,000, in addition to unused employment-based visas from the prior year
- Employment-based: 140,000, in addition to unused family-sponsored visas from the prior year
- Diversity immigrants: 50,000 per year[127]

---

[122] Congressional Budget Office, *Immigration Policy in the United States: An Update* (Washington, DC: Congressional Budget Office, 2010), 1, https://www.cbo.gov/publication/21921.

[123] Ira J. Kurzban, *Kurzban's Immigration Law Sourcebook*, 15th ed. (Washington, DC: American Immigration Lawyers Association, 2016), 1236.

[124] Kurzban, 1249.

[125] Leiden and Neal, "Highlights of the U.S. Immigration Act of 1990," 329.

[126] Kurzban, *Immigration Law Sourcebook*, 1216.

[127] Kurzban.

For fiscal year 2017, a total of 1,127,167 individuals obtained LPR status.[128] Figure 1 provides an overview of the 2017 LPR admission numbers by category type.

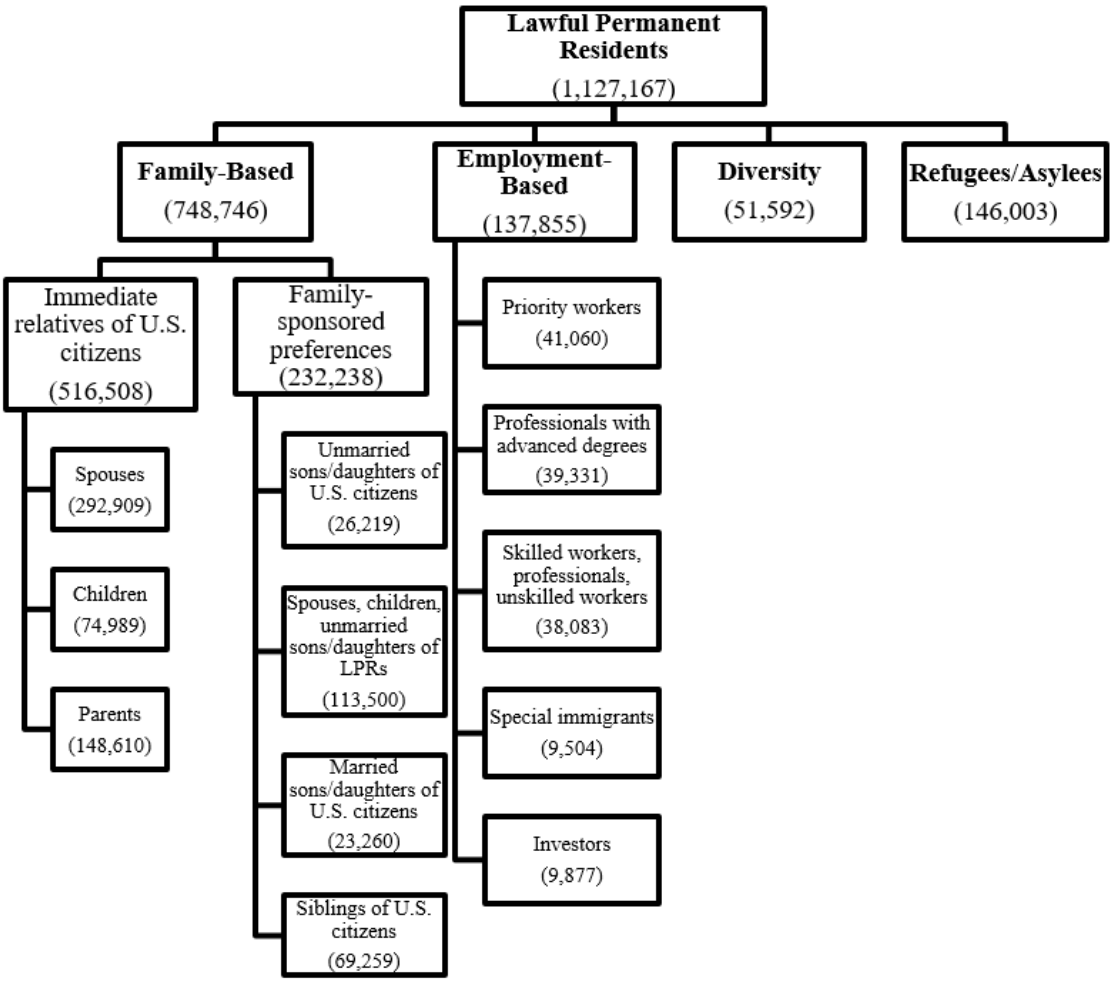

Figure 1. Individuals Who Obtained LPR Status, Fiscal Year 2017[129]

---

128 "Profiles on Lawful Permanent Residents: 2017 Country," Department of Homeland Security, October 18, 2018, https://www.dhs.gov/profiles-lawful-permanent-residents-2017-country.

129 Adapted from Department of Homeland Security Office of Immigration Statistics, *2017 Yearbook of Immigration Statistics* (Washington, DC: Department of Homeland Security, July 2019), Table 6, https://www.dhs.gov/immigration-statistics/yearbook/2017.

Besides annual numerical limitations, per-country numerical caps also apply to the family-based and employment-based categories.[130] The rule sets a 7 percent limit per country of total LPRs that can be admitted annually.[131] Intending immigrants have several ways to obtain permanent residency in the United States. The following sections explain how the family-sponsored and employment-based categories work, which are the primary avenues of permanent immigration for the United States.

1. Family-Based Immigration

Family-based immigrants represent the majority of overall immigrant admissions to the United States. Intended family-based immigrants need to show that they have a familial relationship with either a U.S. citizen or an LPR; they do not need to possess any particular employment-based skill.[132] Foreign nationals seeking admission through a family relationship can do so as an immediate relative of a U.S. citizen or through a family-sponsored preference category. An immediate relative is defined as a child (unmarried and under twenty-one years of age), spouse, or parent of a U.S. citizen.[133] Although the INA has established numerical limitations for family-based immigrants, immediate relatives are not subject to the annual cap, thus the number of family-based immigrants admitted each year can fluctuate and may exceed the 480,000 cap.[134]

Unlike immediate relatives, family-sponsored immigrants are subject to annual numerical limitations and per-country numerical caps. The family-sponsored preference system has four distinct categories based on the petitioner's status (U.S. citizen or LPR).[135] Family-sponsored preference category immigrants include: unmarried sons and daughters

---

[130] INA Act 202 set the per-country numerical cap at 7 percent for independent countries and 2 percent for dependent foreign areas. See Numerical Limitations on Individual Foreign States, 8 USC §1152(a).

[131] Laura Collins and Matthew Denhart, *Modernizing America's Immigration System to Meet Today's Realities* (Dallas, TX: George Bush Institute, 2018), https://gwbcenter.imgix.net/Resources/policy-recs/2019/gwbi-2019-policy-recs-immigration2.pdf.

[132] Individual must be otherwise eligible and admissible.

[133] Weissbrodt and Danielson, *Immigration Law and Procedure in a Nutshell*, 113.

[134] Weissbrodt and Danielson, 153.

[135] Allocation of Immigrant Visas, INA § 203(a), January 30, 2018.

(over twenty-one years of age) of U.S. citizens, spouses and children of LPRs, unmarried sons and daughters (over twenty-one years of age) of LPRs, married sons and daughters of U.S. citizens, and siblings of U.S. citizens.[136] The number of visas allocated for the family preference categories is equal to the family-based visas (480,000), minus the number of immediate relatives admitted the prior year and any unused employment-based visas, or at least 226,000.[137] Table 1 provides an overview of both immediate relative and family-sponsored preference categories and relating numerical limitations.

Table 1. Family-Sponsored Categories and Numerical Limitations[138]

Category	**Qualifications**	**Numerical Limit**
Total Family-Sponsored Immigrants		**480,000**
Immediate relatives of U.S. citizens	Spouses, parents, and children	No limit
Family-Sponsored Preferences		**226,000**
1st preference	Unmarried sons and daughters of U.S. citizens	23,400, plus unused visas from 4th preference
2nd preference	Spouses and children of LPRs; unmarried sons/ daughters of LPRs	114,200, plus unused from 1st preference (77% of visas go to spouses and children of LPRs)
3rd preference	Married sons/daughters of U.S. citizens	23,400, plus unused from 1st and 2nd preference
4th preference	Siblings of U.S. citizens	65,000, plus unused visas from 1st–3rd preference

136 "Family-Based Immigrant Visas," U.S. Department of State Bureau of Consular Affairs, accessed November 4, 2019, https://travel.state.gov/content/travel/en/us-visas/immigrate/family-immigration/family-based-immigrant-visas.html.

137 Leiden and Neal, "Highlights of the U.S. Immigration Act of 1990," 329.

138 Adapted from Congressional Budget Office, *Immigration Policy: An Update*; U.S. Department of State Bureau of Consular Affairs, "Immigrant Numbers for September 2019," *Visa Bulletin* 10, no. 33 (August 9, 2019), https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2019/visa-bulletin-for-september-2019.html; Kandel, *Permanent Legal Immigration to the United States*, Table 1.

As shown, there are many ways for immediate family members and other relatives to qualify under a family-based immigration category. Current U.S. policy favors family reunification, which is demonstrated through the high quota limits of family-based immigration compared to other types of immigration. Family-based immigrants account for 66 percent of overall immigration to the United States.[139] As previously described, there are no limits on spouses, minor children, or parents sponsored by U.S. citizens. However, other family members must go through the preference system, which is constricted by numerical limits and per-country annual caps. As shown by the intricacies in Table 1, family-based immigration does not equate to guaranteed admission to the United States.

2. Employment-Based Immigration

While current U.S. immigration policy favors family reunification, as shown by the high quota limits and multiple immigration categories under which family members of U.S. citizens or LPRs can qualify, current legislation also supports employment-based immigration. Individuals of certain professions or who have needed occupational skills or exceptional abilities can qualify under employment-based categories. The 1990 Act changed the employment-based system by expanding the number of allocated visas from 54,000 to 140,000 (plus any unused family visas), as well as adding the investor category.[140] Like the family-sponsored preference system, employment-based immigrants are subject to numerical limitations and the pre-country cap. Table 2 provides an overview of the five employment-based preference categories and related numerical limits.

---

[139] "How the United States Immigration System Works," American Immigration Council, October 2019, https://www.americanimmigrationcouncil.org/sites/default/files/research/how_the_united_states_immigration_system_works.pdf.

[140] Leiden and Neal, "Highlights of the U.S. Immigration Act of 1990," 330.

Table 2. Employment-Based Categories and Numerical Limitations[141]

Category	Qualifications	Numerical Limit
Employment-Based Preferences		**140,000**
1st preference	Priority workers (persons of extraordinary ability in the arts, science, education, business, or athletics; outstanding professors and researchers; and multinational executives and managers)	40,040, plus unused from 4th and 5th preference categories
2nd preference	Members of the professions holding advanced degrees or persons of exceptional abilities in the sciences, art, or business	40,040, plus unused from 1st preference
3rd preference	Skilled workers in short supply with at least two years' training or experience and professionals with baccalaureate degrees; unskilled workers in short supply	40,040, plus unused from 1st and 2nd preference (no more than 10,000 for unskilled workers)
4th preference	Special immigrants (ministers, other religious workers, certain employees of the U.S. government abroad, and others)	9,940 (no more than 5,000 for religious workers)
5th preference	Employment creation (investors)	9,940 (3,000 set aside for targeted employment areas)

For the majority of employment-based immigrants, an employer sponsor is needed; there are a few exceptions, however, that allow individuals to self-petition.[142] The first preference (priority workers) is for foreign nationals with "extraordinary ability in the sciences, arts, education, business, or athletics; outstanding professors or researchers; or

[141] Adapted from Congressional Budget Office, *Immigration Policy: An Update*, Exhibit 8; U.S. Department of State Bureau of Consular Affairs, "Immigrant Numbers for September 2019"; Kandel, *Permanent Legal Immigration to the United States*, Table 1.

[142] William A. Kandel, *Permanent Employment-Based Immigration and the Per-country Ceiling*, CRS Report No. R45447 (Washington, DC: Congressional Research Service, 2018), 3, https://crsreports.congress.gov/product/pdf/R/R45447.

multinational executives and managers."[143] Individuals seeking admission due to their "exceptional ability" can submit a petition (Form I-140, Petition for Alien Workers) with USCIS without a sponsor. Individuals with an exceptional ability must show recognition in their respective fields, intention to continue working in that field, and that their admission would be advantageous for the United States.[144] Professors and researchers seeking admission must be "recognized internationally as outstanding in a specific academic area."[145] Those seeking to qualify as multinational executives and managers need to have worked in a similar capacity with a company that has affiliations in the United States.[146] The latter two categories require sponsorship by an employer that will submit a petition (Form I-140) with USCIS on their behalf.

Individuals seeking admission under the second preference category (professionals) need to hold an advanced degree (master's or above) or demonstrate an exceptional ability.[147] A job offer is needed to qualify as second-preference-category immigrant worker. However, individuals can self-petition if they qualify for a waiver that demonstrates it would be in the national interest for them to immigrate (i.e., a health care professional in a needed area). The third preference is for skilled workers, professionals, or other workers, and requires an employer sponsor. Employment for second- or third-preference-category immigrant workers is contingent on the U.S. labor market data. Thus, before an employer can submit a petition to USCIS, they must obtain an approved labor certification from the Department of Labor (DOL).[148] The DOL will determine if the United States lacks the available workers for the position sought and that the prospective

---

143 "Permanent Workers," USCIS, October 6, 2017, https://www.uscis.gov/working-united-states/permanent-workers.

144 Allocation of Immigrant Visas, 8 USC § 1153, https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title8-section1153&num=0&edition=prelim#0-0-0-182.

145 Allocation of Immigrant Visas.

146 "I-140, Immigrant Petition for Alien Workers," USCIS, March 6, 2019, https://www.uscis.gov/i-140.

147 Allocation of Immigrant Visas.

148 "Permanent Labor Certification," U.S. Department of Labor Employment & Training Administration, accessed September 11, 2019, https://www.foreignlaborcert.doleta.gov/perm.cfm.

immigrant will not displace U.S. workers and wages.[149] If the DOL finds there is no labor shortage for the intended position, the employer must show that recruitment efforts to hire a U.S. worker were unsuccessful.

Within the employment-based preference categories, there are immigrant classifications that are not employer-specific. The fourth category (special immigrants) is for ministers, religious workers, juveniles declared dependent in a U.S. court, and individuals employed abroad by the U.S. government. The 1990 Act created the fifth preference (also known as the investor visa) for prospective immigrants seeking to invest in the United States. Individuals in that category must invest a minimum of $1 million (or $500,000 in targeted employment areas), and create employment opportunities for at least ten U.S. workers.[150] In 1992, the investor category expanded to individuals who invest in USCIS-designated regional centers prescribed for "promoting economic growth."[151] Unlike the other employment-based categories, immigrants under the fifth-preference category are subject to a two-year conditional period for their permanent residence. They must demonstrate to USCIS the benefits of the investment or that they are actively investing in a commercial enterprise.[152] Unlike family-based immigrants, employment-based immigrants must go through additional layers of approval before they can become LPRs. It is a complex process that is often delayed due to the multiple steps prospective immigrant workers must go through.

---

[149] U.S. Department of Labor Employment & Training Administration.

[150] Chishti and Yale-Loehr, *The Immigration Act of 1990*, 3.

On November 21, 2019, a final rule went into effect that raised the investment amounts ($1.8 and $900,000, respectively) to account for inflation. See "EB-5 Immigrant Investor Program Modernization," Federal Register, July 24, 2019, https://www.federalregister.gov/documents/2019/07/24/2019-15000/eb-5-immigrant-investor-program-modernization.

[151] "EB-5 Immigrant Investor Program," USCIS, accessed September 11, 2019, https://www.uscis.gov/eb-5.

[152] "EB-5 Investors," USCIS, July 23, 2019, https://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-investors.

B. THE IMMIGRATION APPARATUS

The preference categories involve additional features that illustrate the complexity of the U.S. immigration system, and why it functions the way it does. When a petition is filed by or on behalf of an intended immigrant, it is assigned a priority date, which is the date USCIS receives the petition. That priority date serves as an individual's position in the immigration queue. Irrespective of the immigrant type (family- or employment-based), a visa must be available for the person to immigrate. For the preference categories, a visa number is assigned in chronological order based on priority date and country of origin.[153] If the number of requested visas for a specific preference category exceeds the number of available visas, then that individual will have to wait until his or her visa number becomes available. For individuals from oversubscribed countries—meaning the number of total requested visas for that country exceeds the 7 percent per-country limit—the wait to immigrate can be even longer.

Each month, the Department of State publishes a visa bulletin showing the priority dates that are being processed. Table 3 and Table 4 show the priority dates as of September 2019. The intended immigrants with priority dates earlier than the date listed have an available visa to immigrate or adjust their status as an LPR.

[153] U.S. Department of State Bureau of Consular Affairs, "Immigrant Numbers for September 2019."

Table 3. Family-Sponsored Preference Priority Dates[164]

Preference Category	**All Other Countries**	**China**	**India**	**Mexico**	**Philippines**
1st—Unmarried sons/daughters of U.S. citizens	01/01/13	01/01/13	01/01/13	08/01/96	06/22/08
2nd—Spouses and children of LPRs	Current	Current	Current	Current	Current
2nd—Unmarried sons/daughters of LPRs	06/01/14	06/01/14	06/01/14	07/01/98	08/01/08
3rd—Married sons/daughters of U.S. citizens	09/01/07	09/01/07	09/01/07	12/01/95	02/01/98
4th—Siblings of U.S. citizens	11/01/06	11/01/06	09/22/04	01/01/97	07/01/98

LPR = lawful permanent resident

[164] Adapted from U.S. Department of State Bureau of Consular Affairs.

Table 4. Employment-Based Preference Priority Dates[165]

Preference Category	**All Other Countries**	**China**	**El Salvador, Guatemala, Honduras**	**India**	**Mexico**	**Philippines**	**Vietnam**
1st—Priority workers	10/01/17	01/01/14	10/01/17	U	10/01/17	10/01/17	10/01/17
2nd—Advanced degrees	01/01/18	01/01/17	01/01/18	05/08/09	01/01/18	01/01/18	01/01/18
3rd—Skilled workers	07/01/16	01/01/14	07/01/16	07/01/05	07/01/16	07/01/16	07/01/16
3rd—Other workers	07/01/16	11/22/07	07/01/16	07/01/05	07/01/16	07/01/16	07/01/16
4th—Special immigrants	U	U	11/01/06	U	U	U	U
4th—Religious workers	U	U	U	U	U	U	U
5th—Investors	Current	10/22/14	Current	09/01/17	Current	10/22/14	10/22/14

U = visa numbers unavailable

[165] Adapted from U.S. Department of State Bureau of Consular Affairs.

The length of the immigration queue for preference category immigrants can range from no wait to over twenty years. Based on the tables above, a Mexican national who qualifies as a married son or daughter of a U.S. citizen would need a petition filed on his behalf almost twenty-four years ago to immigrate. By contrast, a Chinese priority worker would have had to file his petition five years ago to have an available visa. According to a Department of State report, as of November 1, 2018, 3.7 million immigrant applicants are waiting for an available visa.[166] The majority of those immigrants (3.67 million) are part of one of the family-sponsored preference categories.[167] These figures do not account for any petitions with USCIS awaiting adjustment of status or adjudication. The numerical limits and per-country caps established in 1990 contribute to excessive waiting periods for immigrants seeking to reunite with their family or work in the United States.

C. COMPLICATIONS IN THE PROCESS

The primary purpose of this section is to provide additional context to help explain why the immigration system has been unable to meet its goals.

1. The Problems with the Immigration Apparatus

The United States' immigration system fails to meet its desired objectives of reuniting families and allowing enough skilled workers to immigrate. The majority of prospective immigrants are eligible under family-based or employment-based immigrant categories.[168] Unsurprisingly, the immigration policies currently in place have generated a demand that far exceeds the number of available immigrant visas.[169] As previously discussed, the Department of State determined that 3.67 million eligible individuals are on

---

[166] "Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2018," U.S. Department of State Bureau of Consular Affairs, accessed December 11, 2019, https://travel.state.gov/content/dam/visas/Statistics/Immigrant-Statistics/WaitingList/WaitingListItem_2018.pdf.

[167] U.S. Department of State Bureau of Consular Affairs.

[168] U.S. Department of State Bureau of Consular Affairs.

[169] Donald Kerwin and Robert Warren, "National Interests and Common Ground in the U.S. Immigration Debate: How to Legalize the U.S. Immigration System and Permanently Reduce its Undocumented Population," *Journal on Migration and Human Security* 5, no. 2 (2017): 307, https://doi.org/10.1177/233150241700500205.

the waiting list in family-sponsored preference categories.[170] This figure does not account for those waiting in other immigrant categories, or additional processing backlogs found with USCIS.[171] While family reunification has been a guiding principle in U.S. immigration policies, it has created an imbalance within the immigration system. Family reunification policies have contributed to an immigration multiplier, or "the number of future immigrants who come to the United States as a result of the admission of one current immigrant."[172] Accordingly, eligible family members seeking to be reunited outpace visa availability, resulting in an overburdened immigration system that is unable to meet the demand.

Inflexible per-country ceilings and numerical limitations that have remain unchanged for thirty years also contribute to the backlogs.[173] As discussed, immediate relatives (spouses, children, and parents of U.S. citizens) are not subject to numerical limitations. This lowers the available visa quotas for other sponsored family members.[174] Also, per-country ceilings, created to stop countries from dominating other countries' admissions, have resulted in additional delays for individuals from India, China, Mexico, and the Philippines.[175] Hence, an individual from a family-sponsored preference category can wait anywhere between five to twenty-four years for a visa, depending on the country they are from and the preference category. The Migration Policy Institute has argued that long wait times result in excessive family separation, and that the United States loses out on years that the individual could be contributing to the U.S. economy.[176] Furthermore,

---

[170] U.S. Department of State Bureau of Consular Affairs, "Annual Report of Immigrant Visa Applicants."

[171] U.S. Department of State Bureau of Consular Affairs.

[172] Bin Yu, *Chain Migration Explained: The Power of the Immigration Multiplier* (El Paso, TX: LFB Scholarly Publishing, 2007), 7, https://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=3016812.

[173] Kerwin and Warren, "National Interests and Common Ground," 307.

[174] Weissbrodt and Danielson, *Immigration Law and Procedure in a Nutshell*, 143.

[175] Doris Meissner et al., *Immigration and America's Future: A New Chapter* (Washington, DC: Migration Policy Institute, 2006), 22, https://www.migrationpolicy.org/research/immigration-and-americas-future-new-chapter.

[176] Meissner et al., 22.

long wait times for intended family-based immigrants also serve as a conduit for illegal immigration.[177] So, while immigration policies were meant to benefit the country, the system is unable to reunite families and fulfil its economic objectives.

2. The Actuality in Employment-Based Numbers

The 1990 Act was driven by legislators who recognized the importance of bringing skilled labor into the United States, which resulted in an increase of employment-based visa allocations from 54,000 to 140,000.[178] However, of the 140,000 allocated visas, more than 20,000 went to foreign nationals that do not have specific skills.[179] Another significant portion is used by family members of employment-based immigrants. In fiscal year 2017, a total of 137,855 employment-based immigrants obtained LPR status.[180] While it appears that the United States was close to meeting its annual goal of admitting 140,000 skilled workers, the number does not accurately reflect employment-specific immigrants. For instance, the fourth and fifth categories took up 14 percent (19,381) of the total employment-based green card allocations.[181]

Because family unity is a governing policy in the U.S. immigration system, family reunification benefits extend to the employment-based categories. Hence, spouses and children of employment-based immigrants can also obtain LPR status, taking one of the 140,000 available slots.[182] Of the 41,060 priority workers (first preference) in 2017 who obtained a green card, 24,117, or 59 percent, went to spouses and children.[183] For

---

[177] Meissner et al., 24.

[178] Chishti and Yale-Loehr, *The Immigration Act of 1990*, 10.

[179] Stuart Anderson, "Will Congress Ever Solve the Long Wait for Green Cards?" *Forbes*, May 21, 2018, https://www.forbes.com/sites/stuartanderson/2018/05/21/will-congress-ever-solve-the-long-wait-for-green-cards/#3436a97f763c.

[180] Department of Homeland Security Office of Immigration Statistics, *2017 Yearbook of Immigration Statistics*, 21.

[181] Department of Homeland Security Office of Immigration Statistics, *2017 Yearbook of Immigration Statistics*, 18.

[182] Anderson, "Long Wait for Green Cards."

[183] Department of Homeland Security Office of Immigration Statistics, *2017 Yearbook of Immigration Statistics*, 21.

individuals holding advanced degrees or foreign nationals of exceptional ability (second preference), of the 39,331 green cards, 19,899, or just over 50 percent, went to family members.[184] Lastly, for the skilled workers, professionals, and other workers (third preference), of the 38,083 granted green cards, 19,482, or 51 percent, went to spouses and children.[185] Thus, the number of immigrants granted LPR status due to their skills or education was much lower than the 137,855 projects.

3. Insufficiencies in Employment-Based Categories

The majority of the employment-based immigrants that obtained LPR status in fiscal year 2017 did so through the first, second, and third preference categories. Most had employer sponsors, but some had to show evidence that they would be working in their respective fields of expertise. Thus, most qualified individuals in the employment-based categories have job offers contingent on their pending LPR status. Approval of an employment-based petition happens whether or not there will be a visa number available for that individual.[186] The Congressional Research Service reports that the number of prospective employment-based immigrants awaiting visas despite an approved petition was more than 900,000 in mid-2018.[187] The combination of numerical limits and per-country caps leads to significant delays for employers who are seeking to bring labor into, or keep labor in, the United States.

In addition to numerical limitations, per-country caps have made it challenging for foreign nationals from high-demand countries to obtain LPR status.[188] The per-country cap of 7 percent exists irrespective of the size and population of the country. So a country like India, which has an estimated population of 1.2 billion, will quickly surpass the per-

---

[184] Department of Homeland Security Office of Immigration Statistics, 21.

[185] Department of Homeland Security Office of Immigration Statistics, 22.

[186] Kandel, *Permanent Employment-Based Immigration*, 11.

[187] Kandel.

[188] Stuart Anderson, *Waiting and More Waiting: America's Family and Employment-Based Immigration System* (Arlington, VA: National Foundation for American Policy, 2011), 2–3, http://www.nfap.com/pdf/WAITING_NFAP_Policy_Brief_October_2011.pdf.

country limit compared to a smaller country.[189] The National Foundation for American Policy states that, due to the combination of numerical limitations and per-country caps, an Indian worker seeking to qualify in the third preference can expect to wait ten to twenty-five years or longer.[190] As previously stated, a priority date places a prospective immigrant worker in line. That place in line fluctuates based on the number of approved petitions ahead of the individual, family members that use reserved slots first, and the individual's country of origin. The per-country cap does not account for the fact that individuals from in-demand countries, like India or China, have needed skills or will help fulfill gaps in the U.S. workforce.[191]

The 1990 Act failed to account for technological advances that would demand more skilled labor.[192] Since the 1990 legislation, no additional expansions have been made to account for the number of individuals who could immigrate based on their skills, despite emerging needs in today's workforce and changes in the labor market. An aging demographic, low birth rates, and technological advances are factors that affect labor shortages the United States.[193] According to the Committee for Economic Development, since 2000, the United States has experienced a loss of 5 million jobs from commonly in-demand, blue-collar occupations.[194] However, the U.S. labor market has seen a significant need for health care workers, skilled trades (i.e., machinists, electricians) and STEM (science, technology, engineering, and math) occupations.[195] Those labor-shortage gaps

---

[189] "India Overview," World Bank, October 25, 2019, https://www.worldbank.org/en/country/india/overview.

[190] Stuart Anderson, *Understanding America's Legal Immigration System* (Arlington, VA: National Foundation for American Policy, 2017), 22, https://nfap.com/wp-content/uploads/2017/12/Understanding-American-Legal-Immigration-System.NFAP-Policy-Brief.December-2017-1.pdf.

[191] Committee for Economic Development, "Immigration Policy That Works: Bringing Foreign-Born Workers into High-Shortage Occupations to Grow Our Economy" (policy brief, The Conference Board, June 2017), 9, https://www.ced.org/pdf/CED-Immigration-Policy-Brief-2017.pdf.

[192] Anderson, "Long Wait For Green Cards."

[193] Jeanne Batalova and Michael Fix, *Tapping the Talents of Highly Skilled Immigrants in the United States: Takeaways from Experts Summit* (Washington, DC: Migration Policy Institute, 2018), 6, https://www.migrationpolicy.org/research/tapping-talents-highly-skilled-immigrants-united-states-takeaways-experts-summit.

[194] Committee for Economic Development, "Immigration Policy That Works," 2.

[195] Committee for Economic Development, 2–5.

are often filled by employment-based immigrants in the second and third preference categories, which experience the most backlogs.[196]

Another issue surrounding the employment-based categories is the complexity within the sponsorship process. Employers who seek to bring foreign nationals for employment purposes must go through additional layers of approval that are not required for family-based immigrants. Prospective immigrants seeking to come to the United States for employment purposes must go through rigid procedures with three agencies (USCIS, DOL, and the Department of State), with different requirements at each phase.[197] The employer must show that the individual meets the qualifications for the work, and, for the second and third preference categories, must go through the labor certification process. The labor certification process is often cumbersome, costly, and lengthy.[198] As such, getting a labor certification can be a deterrent for prospective employers. Furthermore, individuals seeking to bring their skills without a sponsor must meet stringent standards, making it challenging for them to immigrant on their own.

4. A Temporary Fix for Highly Skilled Workers

The United States' current immigration system allows foreign nationals to work, study, or visit temporarily. During fiscal year 2017, 82 percent of employment-based immigrants obtained a green card "adjusted status," meaning they were already in the United States.[199] Many of the highly skilled immigrant workers in the second and third categories are awaiting LPR status in the United States on temporary work visas (H-1B or L-1A).[200] The Migration Policy Institute reports that U.S. employers are using the

---

[196] Shulamit Kahn and Megan MacGarvie, "The Impact of Permanent Residency Delays for STEM PhDs: Who Leaves and Why" (working paper, National Bureau of Economic Research, October 2018), 12–25, https://doi.org/10.3386/w25175.

[197] Meissner et al., *Immigration and America's Future*, 23.

[198] Ruth Ellen Wasem, *Immigration of Foreign Workers: Labor Market Tests and Protections*, CRS Report No. RL33977 (Washington, DC: Congressional Research Service, 2010), 23, https://crsreports.congress.gov/product/pdf/RL/RL33977.

[199] Department of Homeland Security Office of Immigration Statistics, *2017 Yearbook of Immigration Statistics*, 21.

[200] H-1B is visa category for specialty occupations; L-1A is visa category for intracompany transferee executives or managers. Anderson, *Understanding America's Legal Immigration System*, 18.

temporary work visas to circumvent the long wait times and inflexible regulations for permanent residency.[201] The demand for temporary visas is high, especially for the H-1B category. For instance, every year, USCIS allocates 65,000 H-1B visas for individuals with a bachelor's degree and 20,000 for individuals with a master's degree or higher.[202] For fiscal year 2020, the H-1B petition process opened on April 1, 2019; by April 5, USCIS had met the H-1B cap.[203] Like the demand for green cards, demand for temporary work visas in the United States outpaces the available supply.

The demand for temporary visas is significant, and it is a reflection of how U.S. employers are using temporary work visa programs to meet labor demands. Temporary work visas are supposed to help with short-term labor demands; however, due to available extensions, someone on an H-1B can be in temporary status for several years, especially if they are waiting for their LPR status. The Cato Institute reports that employer reliance on temporary visas exacerbates the backlogs for the employment-based categories, as the temporary visa holders can wait in the United States while they work.[204] This places the immigrant worker in temporary status for years, not allowing them to seek other employment opportunities or establish permanent roots in the United States.

D. CONCLUSION

The immigration process described in this chapter illustrates an apparatus created to meet U.S. policy objectives: reunite families and increase the pool of skilled workers. However, the system was created by policies that lacked the flexibility or ingenuity to change as the country changed. The current system has created excess wait times, has kept families apart, and has led to temporary solutions to bring immigrant workers to the United

---

[201] Meissner et al., *Immigration and America's Future*, 21–22.

[202] "H-1B Fiscal Year (FY) 2020 Cap Season," USCIS, April 11, 2019, https://www.uscis.gov/working-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-fiscal-year-fy-2020-cap-season.

[203] USCIS.

[204] David Bier, *Immigration Wait Times from Quotas Have Doubled: Green Card Backlogs Are Long, Growing, and Inequitable*, Policy Analysis 873 (Washington, DC: Cato Institute, 2019), https://www.cato.org/sites/cato.org/files/pubs/pdf/pa-873-updated.pdf.

States.[205] For almost thirty years, the country has been unable to make changes to the immigration system; all the while, the need to reform has dominated the national discourse. The issue remains: What system is best suited to meet the needs of the country? More so, what type of immigrant—family-based or employment-based—is better suited to meet the needs of the country? Recent proposals have called for a merit-based system, which would enable the country to bring in the "best and brightest" immigrants. Further examination of a merit-based system that is already in place, such as the one in Canada, can help policymakers determine if such a system would be best for the United States.

[205] Bier.

THIS PAGE INTENTIONALLY LEFT BLANK

IV. COMPARING THE UNITED STATES' FAMILY-BASED SYSTEM AND CANADA'S POINTS-BASED SYSTEM

The United States and Canada have had similar social, economic, and political considerations shape their respective immigration policies. In their formative years of development and economic growth, both countries supported greater immigration. Eventually, due to high levels of immigration, the countries changed their policies in an attempt to curtail immigration, which raised questions about what type of immigrant would be best for the country. Confronted with a need for a system that would manage legal immigration and serve national interests, the countries developed divergent practices.

Canada was one of the first countries to implement a points-based system (also referred to as a merit-based system) as an economic tool to bring skilled workers into the country and address demographic challenges. Such a system lists the desirable traits (e.g., education, language, experience) sought from prospective immigrants. By prioritizing its economic interests, Canada developed an immigration system that allowed for 60 percent of its immigrant population to be highly educated.[206] The United States, on the other hand, implemented a system that primarily prioritized the admission of family-based immigrants and has functioned on the same principle of family reunification for over fifty years; the U.S. system also admits some educated people but not as many as the Canadian system.

Countries that seek to compete economically on the global stage benefit from immigration policies that support a skilled immigrant workforce.[207] As U.S. policymakers debate reforms to the immigration system, the Trump administration has looked to Canada's points-based system, which has successfully brought highly skilled workers into the country.[208] Trump has argued that the United States would similarly benefit from a

---

[206] OECD, *Recruiting Immigrant Workers: Canada 2019* (Paris: OECD Publishing, 2019), https://doi.org/10.1787/4abab00d-en.

[207] Vivek Wadhwa, "The First Brain Drain in the United States," *Georgetown Journal of International Affairs* 13, no. 1 (2012): 1, www.jstor.org/stable/43134218.

[208] Matt Kwong, "Trump Wants an Immigration System 'Like They Have in Canada.' Would a Merit-Based Plan Work in the U.S.?," CBC, April 30, 2019, https://www.cbc.ca/news/world/trump-immigration-system-canada-merit-based-points-1.5115475.

points-based system, though he maintains that family-based immigration, which he refers to as chain migration, is detrimental to the country's competitiveness.[209] Family-based immigration has been framed in a negative light by those who seek to limit immigrant admission numbers. However, as this chapter demonstrates, family-based immigration is more complex than it is commonly made out to be. The threshold for admission may be an immigrant's relationship to a U.S. relative; however, family-based immigrants have varied skills that are needed for a competitive economy.[210] The question then emerges: What should U.S. reform address and what can we learn from the Canadian system? This chapter also reviews how Canada defines its national interests and how the Canadian immigration system furthers those interests, and summarizes how Canada's well-managed immigration system is a result of legislation that allowed for flexibility and continuous assessment.

A. IS FAMILY-BASED IMMIGRATION HURTING THE UNITED STATES?

As mentioned, the U.S. and Canadian immigration systems prioritize the admission of immigrants differently. Canada primarily admits immigrants based on their education and skills, while the United States mostly admits individuals based on their family ties. The Trump administration has candidly disagreed with a system that "favors random chance over the skills our economy needs."[211] In May 2019, the administration announced a proposal to implement an immigration system that values merit over familial ties, with a 57 percent increase in skills-based immigration.[212]

At the heart of the argument is that family-based immigration contributes to low-skilled immigrants, which affects employment levels, native-born workers' wages, and

---

[209] Kwong.

[210] Cecilia Muñoz, "The Myth of Chain Migration," *POLITICO*, January 26, 2018, https://www.politico.com/magazine/story/2018/01/26/myth-chain-migration-trump-family-immigration-216536.

[211] "President Trump's Bold Immigration Plan for the 21st Century," The White House, May 21, 2019, https://www.whitehouse.gov/articles/president-trumps-bold-immigration-plan-21st-century/.

[212] "President Donald J. Trump Wants to Fully Secure Our Border and Reform Our Immigration System to Put America First," The White House, May 16, 2019, https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-wants-to-fully-secure-our-border-and-reform-our-immigration-system-to-put-america-first/.

social services.[213] The Trump administration is not alone in its views; organizations like the Center for Immigration Studies call for an end to chain migration, arguing that a merit-based system would supply immigrants who are better suited for the United States and its economy.[214] Thus, shifting to a points-based system would allow the United States to have control over what type of immigrant is granted admission, with the highly skilled and educated being the most preferred.[215] To select an immigration system most applicable to the United States' economic needs, we must first understand what the current family-based immigration system does for the United States.

1. Are There Too Many Family-Based Immigrants?

Once seen as impartial and scholarly, the term chain migration was used by researchers in 1964 to describe the migratory patterns of southern Italians to the United States.[216] It was described as the immigration process that enabled new immigrants to resettle "by means of primary social relationships with previous migrants."[217] In today's discourse on immigration, it is perceived as a negative phrase to describe the family reunification policies of the U.S. immigration system. Critics of the current immigration system see a process that has allowed family members to be the decision-makers in who gets to come to the United States.[218] The Trump administration uses the term to describe an unsatisfactory immigration process that allows the admission of low-skilled immigrants.[219] This process, the president states, has allowed the United States to

---

[213] "Establish Merit-Based Reforms to Promote Assimilation and Financial Success," Center for Immigration Studies, October 8, 2017, https://cis.org/sites/default/files/2017-10/FINAL%20Merit%20Based%20Immigration--10-08-17.pdf.

[214] Center for Immigration Studies.

[215] Center for Immigration Studies.

[216] John S. MacDonald and Leatrice D. MacDonald, "Chain Migration Ethnic Neighborhood Formation and Social Networks," *Milbank Memorial Fund Quarterly* 42, no. 1 (January 1964): 82, https://doi.org/10.2307/3348581.

[217] MacDonald and MacDonald, 82.

[218] Darrell M. West, *Brain Gain: Rethinking U.S. Immigration Policy* (Washington, DC: Brookings, 2010), 33, http://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=1111895.

[219] Linda Qiu, "What Is 'Chain Migration'? Here's the Controversy Behind It," *New York Times*, January 26, 2018, https://www.nytimes.com/2018/01/26/us/politics/the-facts-behind-the-weaponized-phrase-chain-migration.html.

"discriminate against genius."[220] Therefore, the argument is that the current immigration system, which prioritizes family-based immigrants, neglects other U.S. interests like job creation, economic growth, and innovation.

A closer look shows that the facts surrounding chain migration are more complex than commonly understood. There is a supposition that the family-based immigration system allows one immigrant to sponsor many more new immigrants, who may or may not fit American needs. Trump claims that the system has led to an "unlimited number of distant relatives."[221] However, the U.S. immigration system has not permitted an "automatic process" that allows limitless family members to immigrate.[222] While family-based immigrants do make up a large share of the total annual immigrant admissions, the system does place limits on admission numbers. Immigration statutes prevent family-based immigrants from saturating the U.S. immigration system. As described in the previous chapter, current U.S. immigration regulations control who is allowed to be a sponsor and who the sponsor can bring in, and limits the number allowed annually. Further, the sponsorship of a family member is a lengthy process that involves multiple steps and screenings. The discourse surrounding family-based immigration creates the perception of an unrestricted immigration system, but established numerical limitations counter that argument.

Between 2008 and 2017, such factors have limited growth in immigration levels based on family migration.[223] The numerical limitations and per-country caps have kept family-based immigration levels approximately the same and have prevented automatic processing, as many of the qualified relatives get held up in visa queues and extensive backlogs. In 2010, the U.S. Citizenship and Immigration Services (USCIS) Ombudsman estimated that an unmarried Mexican son or daughter of a U.S. citizen could wait nineteen

---

[220] Trump, "Modernizing Our Immigration System."

[221] Scott Garfing, "A Primer on Family Reunification/Chain Migration," *Georgetown Immigration Law Journal* (2018), https://www.law.georgetown.edu/immigration-law-journal/online/a-primer-on-family-reunification-chain-migration/.

[222] West, *Brain Gain*, 33.

[223] Department of Homeland Security Office of Immigration Statistics, *2017 Yearbook of Immigration Statistics*, 18.

years to complete the immigration process (obtain a green card).[224] Once that individual immigrates, the sponsorship of additional family members would then involve new processing times. Additionally, other secondary factors, like changes in marital status, can change prospective immigrants' wait times, sometimes even voiding their eligibility.[225] The wait times and restrictions illustrate that the current family reunification policy does not facilitate an automatic or limitless supply of family-based immigrants. Thus, a significant portion of political rhetoric surrounding the phrase chain migration is misleading.

2. The Impact of Family-Based Immigration on the United States

Bringing individuals to the United States from a broad spectrum of backgrounds is essential for the nation's economy.[226] Family-based immigrants are perceived to be unskilled and have low education levels. However, such perceptions are problematic because they provide only a skewed perspective of the nation's needs. This perspective also dismisses the facts, which illustrate that the family-based immigration brings in a significant number of educated workers. While family-based immigrants are not required to have any education, employment-based skills, or English proficiency, data shows that family-based immigrants are increasingly better educated. The Organization for Economic Co-Operation and Development (OECD) reports that 37 percent of new immigrants to the United States have advanced degrees, which is higher than in other OECD countries and the European Union.[227] In 2015, the U.S. Census Bureau reported that fewer immigrants hold high school diplomas than do native-born citizens, but 13 percent of immigrants have graduate degrees while only 12 percent of the U.S.-born population holds a graduate

---

[224] Citizenship and Immigration Services Ombudsman, "Annual Report 2010" (report, Department of Homeland Security, 2010), 32, https://www.dhs.gov/sites/default/files/publications/cisomb_2010_annual_report_to_congress.pdf.

[225] Citizenship and Immigration Services Ombudsman, 32.

[226] Jason Furman, "Opinion: How Immigrants Can Make the Economy and the Nation Stronger," Market Watch, July 23, 2019, https://www.marketwatch.com/story/how-immigrants-can-make-the-economy-and-the-nation-stronger-2018-07-18.

[227] OECD, "Is the United States Still the Land of Opportunities for Migrants?" *Migration Policy Debates*, no. 5 (August 2015), http://www.oecd.org/migration/Is-the-United-States-still-the-land-of-opportunities-for-migrants.pdf.

degree.[228] Also, the OECD found that new immigrants account for 21 percent of the highly skilled labor force in the United States, and 22 percent are working in science, engineering, and other specialized fields.[229]

Between fiscal years 2008 and 2017, family-based immigrants represented over 60 percent of total immigrant admissions into the United States.[230] Accordingly, the increase of newly educated immigrants corresponds to the admission of family-based immigrants. Additionally, an expert from the Cato Institute reported that the United States is experiencing an increase of new immigrant arrivals with higher levels of education, which may result in an immigrant population that closely resembles the population of a merit-based system.[231] As stated previously, the U.S. immigration system has not been reformed in decades, and has continued to prioritize family unity over other immigration categories. Thus, family-based immigrants are bringing with them favorable traits to the United States, irrespective of a formal system that assesses their skills.

While family-based immigrants do not need to have certain skills to be admitted into the country, they nonetheless bring with them skills that make them adaptable for the U.S. labor market. According to the National Foundation for American Policy, because family-based immigrants are not admitted to the United States based on any specific skills, they are more open to learning and acquiring needed skills as the labor market changes.[232] Family-based immigrants' adaptability is a result of their investment in their education and training, their readiness to change occupations, and their willingness to move for employment opportunities.[233] Also, established social, family, and community ties in the

---

[228] Camille L. Ryan and Kurt Bauman, "Educational Attainment in the United States: 2015" (report, U.S. Census Bureau, March 2016), https://www.census.gov/content/dam/Census/library/publications/2016/demo/p20-578.pdf.

[229] OECD, "United States Still the Land of Opportunities."

[230] Department of Homeland Security Office of Immigration Statistics, *2017 Yearbook of Immigration Statistics*, 18.

[231] Alex Nowrasteh, "America's Increasingly Meritocratic Immigration System," *Cato at Liberty* (blog), April 7, 2017, https://www.cato.org/blog/americas-increasingly-meritocratic-immigration-system.

[232] Anderson, *Understanding America's Legal Immigration System*, 9.

[233] Anderson, 9.

United States influence immigrants' productivity and upward mobility.[234] Social integration is an important factor in one's ability to participate in the economy. Family-based immigrants have established networks that help them find jobs, housing, and childcare—all essential factors in how quickly an immigrant can enter the labor market.

Another issue with family-based immigration is the notion that unskilled immigrants affect the wages of U.S.-born workers. The idea surrounds the basic economic theory of supply, which states that more low-skilled immigrants will increase the supply of labor, therefore decreasing wages and employment opportunities for native U.S. workers.[235] However, low-skilled immigration has not been found to negatively affect the wages or employment opportunities of U.S.-born workers.[236] More so, immigrant participation in the workforce is found to increase the income of native-born workers.[237] The National Academies of Sciences, Engineering, and Medicine have also found that immigrants, in general, increase the need for consumer goods, which increases the country's productivity, lowers the prices of goods, and increases the need for additional labor.[238] Thus, immigration, both low-skilled and high-skilled, helps boost the U.S. economy.

Family-based immigrants help supply needed labor, which is an important requirement that immigration policies seek to address. The United States is experiencing demographic challenges due to an aging workforce and low birthrates.[239] For instance, the

---

[234] Laura Wides-Munoz, "Family-Based Immigration Has 'Merit,' Too," *Washington Post*, February 5, 2018, https://www.washingtonpost.com/news/posteverything/wp/2018/02/05/family-based-immigration-has-merit-too/.

[235] Madeline Zavodny, "Immigration, Unemployment and Labor Force Participation in the United States" (policy brief, National Foundation For American Policy, 2018), 3, https://nfap.com/wp-content/uploads/2018/05/IMMIGRANTS-AND-JOBS.NFAP-Policy-Brief.May-2018-1.pdf.

[236] Uri Dadush, "The Effect of Low-Skilled Labor Migration on the Host Economy" (working paper, KNOMAD, 2014), 19–20, https://carnegieendowment.org/files/Effect-of-Low-Skilled-Labor-Working-Paper-1.pdf.

[237] Pia Orrenius, "Benefits of Immigration Outweigh the Costs," *The Catalyst*, no. 02 (Spring 2016), http://www.bushcenter.org/catalyst/north-american-century/benefits-of-immigration-outweigh-costs.html.

[238] National Academies of Sciences, Engineering, and Medicine, *The Economic and Fiscal Consequences of Immigration* (Washington, DC: The National Academies Press, 2017), 265–317, https://doi.org/10.17226/23550.

[239] Committee for Economic Development, "Immigration Policy That Works," 2.

Centers for Disease Control and Prevention reports that in 2018, U.S. birthrates were at their lowest in thirty-two years.[240] A report from the U.S. Census reveals that by 2030, there will be more adults over the age of sixty-five than there will be children.[241] Of consequence, the Bureau of Labor Statistics reports that jobs for home care assistance, construction, and hospitality will experience the most growth between 2018 and 2028.[242] Our aging population is contributing to a need for more home aides, health care workers, and elder care workers, creating labor gaps in growing industries.[243] These are job sectors that are often filled by family-based immigrants.[244] Lower-skilled immigrants are also able to fill needed labor shortages in the United States for more labor-intensive occupations, like construction.[245] While not admitted for their skills or education levels, family-based immigrants are important for the "essential economy—which encompasses the food services and hospitality industries, construction, agriculture, elder care, and manufacturing."[246] Therefore, family-based immigrants are essential for an advanced U.S. economy, which requires a broad range of both unskilled and skilled labor.

B. CANADA: INTRODUCING A POINTS-BASED IMMIGRATION SYSTEM

Like its American counterpart, the Canadian immigration system initially implemented restrictive policies based on race and nationality. The Canadian Immigration Act of 1910 allowed the government to control admission numbers, limiting immigration

---

240 Brady E. Hamilton and Lauren M. Rossen, "Births: Provisional Data for 2018" (report no. 007, Centers for Disease Control and Prevention, May 2019), https://www.cdc.gov/nchs/data/vsrr/vsrr-007-508.pdf.

241 "Older People Projected to Outnumber Children," U.S. Census Bureau, March 13, 2018, https://www.census.gov/newsroom/press-releases/2018/cb18-41-population-projections.html.

242 Bureau of Labor Statistics, "Employment Projections—2018–2028" (news release, U.S. Department of Labor, September 4, 2019), 4, https://www.bls.gov/news.release/pdf/ecopro.pdf.

243 Bureau of Labor Statistics, 4–5.

244 Zavodny, *Immigration, Unemployment and Labor Force Participation*, 11.

245 "President's New Immigration Proposal Opens the Door to Expanding the Number of Craft Workers Who Can Legally Enter the Country," Associated General Contractors of America, May 16, 2019, https://www.agc.org/news/2019/05/16/president%E2%80%99s-new-immigration-proposal-opens-door-expanding-number-craft-workers-who.

246 "Get the Facts: Five Ways Immigrants Drive the Essential Economy," Americas Society / Council of the Americas, June 26, 2014, https://www.as-coa.org/articles/get-facts-five-ways-immigrants-drive-essential-economy.

to individuals from preferred countries of origin.[247] Thus, much like the United States, Canada's former immigration laws focused on protecting the racial-ethnic makeup of the country, heavily limiting immigration from non-European countries.

During the 1960s, Canada embraced more liberal immigration policies as the country focused on nation-building.[248] The Immigration Reform Act of 1967 eliminated restrictions based on race and nationality, creating an immigration system that would consider immigrants based on merit instead.[249] To this end, the changes in 1967 introduced a new selection mechanism: the points-based system. The new system ensured impartiality—when it comes to race and ethnicity—in the evaluation process for potential immigrants.[250]

Canada's points-based system was created to evaluate an intending immigrant's suitability for the country. The system would "define the various factors affecting a person's ability to settle successfully in Canada and attach relative weights to them."[251] Initially, the points system ranked potential immigrants in nine categories, which included education, occupation demand, occupation skill level, age, prearranged job offer, language, and other factors.[252] Unlike the United States' family-based system, the Canadian points-based system focused on labor market demands, emphasizing a need for immigrants that would bring in desired skills and fill occupation gaps in Canada's economy.

---

[247] Alan G. Green and David Green, "The Goals of Canada's Immigration Policy: A Historical Perspective," *Canadian Journal of Urban Research* 13, no. 1 (2004): 106, https://www.jstor.org/stable/44320798.

[248] Lesleyanne Hawthorne, *Labour Market Outcomes for Migrant Professionals: Canada and Australia Compared* (Melbourne, Australia: University of Melbourne, 2007), 1, http://publications.gc.ca/collections/collection_2010/cic/Ci64-1-2007-eng.pdf.

[249] Barry Edmonston, "Canada's Immigration Trends and Patterns," *Canadian Studies in Population*, 43, no. 1–2 (Spring/Summer 2016): 81, https://journals.library.ualberta.ca/csp/index.php/csp/issue/view/1886.

[250] Valerie Knowles, *Strangers at Our Gates: Canadian Immigration and Immigration Policy, 1540–1990*, revised ed. (Toronto: Dundurn Press Toronto, 2007), 195.

[251] Knowles, 195.

[252] Green and Green, "The Goals of Canada's Immigration Policy," 118.

Canada's adoption of a points-based system was the result of policymakers' desire to use the immigration system to further economic objectives.[253] If the labor market changed, the points-based system could be adjusted to respond to those market changes.[254] Adjusting the points-based system in response to market fluctuations was beneficial for businesses seeking to fill vacancies and acquire individuals with specific skills. Consequently, Canada could fulfill short-term economic needs and increase its pool of skilled immigrants.[255] Furthermore, the points-based system allowed Canada to shift priorities in their immigration policy as country conditions changed.[256]

1. Defining National Interest in Canadian Immigration Policy

The Immigration Act of 1976 opened Canada's doors to the rest of the world.[257] The act created the three primary streams of immigration-related interests for the country—economic, family unity, and humanitarian—and eliminated discriminatory practices.[258] Of significance, a provision in the act made it a requirement for the minister of the then Department of Manpower and Immigration to report to Parliament an annual projection of immigrant admission numbers.[259] The report details how Canada's demographic needs are met through its immigration system.[260] Presently, the report is completed by the minister of immigration, refugees, and citizenship.[261] The Immigration Act of 1976 was a

---

[253] Green and Green, 120.

[254] Harold Troper, "Canada's Immigration Policy Since 1945," *International Journal* 48, no. 2 (1993): 271, https://doi.org/10.2307/40202881.

[255] Green and Green, "The Goals of Canada's Immigration Policy," 120–26.

[256] Troper, "Canada's Immigration Policy Since 1945," 271.

[257] A. E. Challinor, "Canada's Immigration Policy: A Focus on Human Capital," Migration Policy Institute, September 15, 2011, https://www.migrationpolicy.org/article/canadas-immigration-policy-focus-human-capital.

[258] Knowles, *Strangers at Our Gates*, 209; Challinor, "Canada's Immigration Policy."

[259] Knowles, *Strangers at Our Gates*, 208–9.

[260] Knowles, 208–9.

[261] "2018 Annual Report to Parliament on Immigration," Government of Canada, October 31, 2018, https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/annual-report-parliament-immigration-2018/report.html#message.

significant piece of legislation for Canada, emphasizing the importance of specific objectives and priorities in the country's immigration legislation.

The Immigration Act of 1976 was viewed as a forward-looking piece of legislation that provided significant benchmarks for the Canadian immigration system that is in place today. However, economies and the migration of people are continually evolving matters; accordingly, the Canadian immigration system went through several changes after 1976.[262] Economic interests led to the Immigration and Refugee Protection Act of 2001, which outlines the latest objectives and applications of the Canadian immigration system, with the following being the most significant:

- to permit Canada to pursue the maximum social, cultural and economic benefits of immigration;…
- to support and assist the development of minority official languages communities in Canada;
- to see that families are reunited in Canada;
- to support, by means of consistent standards and prompt processing, the attainment of immigration goals … in consultation with the provinces;…
- to fulfil Canada's international legal obligations with respect to refugees and affirm Canada's commitment to international efforts to provide assistance to those in need of resettlement;…
- to further the domestic and international interests of Canada.[263]

Successive Canadian governments of different political persuasions have determined that it is in Canada's national interest to continuously economically develop different regions of the country, and they have used immigration policy to do so. The specific expectations within the Canadian immigration policy prevent ambiguity about national interests. The legislation directly outlines the goals and functions of the country's immigration system and what it seeks to achieve from the system.

---

[262] Knowles, *Strangers at Our Gates*, 206–46.

[263] Immigration and Refugee Protection Act, S.C.2001, c.27 (2001), https://laws-lois.justice.gc.ca/eng/acts/I-2.5/FullText.html.

2. Understanding Canada's Points-Based System

Permanent residency in Canada can also be achieved through family sponsorship, economic immigration, or through a humanitarian program.[264] In 2017, Canada admitted 286,479 permanent residents from three categories: the economic class, the family class, and the refugee class.[265] The economic class accounted for 55.6 percent of total immigrant admissions, with 159,262 permanent residents admitted.[266] The family class only accounted for 28.79 percent, and refugees made up 15.62 percent of total admissions.[267]

Contrary to popular belief, Canada's immigration system allows individuals to immigrate based on their relationship with a Canadian citizen outside of the points-based system. Canada supports the reunification of spouses, domestic partners, unmarried children under the age of twenty-two, parents, and grandparents.[268] Other relatives (such as siblings and grandchildren) may also be eligible for sponsorship in limited circumstances.[269] Also, in furtherance of family unity, Canada has a "super visa" that allows Canadians to sponsor their parents or grandparents for a temporary stay.[270] Thus, while Canada prioritizes its economic class, family-based immigration is also a pathway; much like in the United States, family-based immigrants to Canada are not required to have skills or education.

The economic class is a comprehensive classification within Canada's immigration system. It is the only immigration stream that encompasses a points system for some of its immigrant categories. The economic class includes skilled workers, provincial nominees,

---

[264] Immigration and Refugee Protection Act.

[265] Ahmed Hussen, *Annual Report to Parliament on Immigration 2018* (Ottawa: Government of Canada, 2018), 13, https://www.canada.ca/content/dam/ircc/migration/ircc/english/pdf/pub/annual-report-2018.pdf.

[266] Hussen, 15.

[267] Hussen, 15–23.

[268] Government of Canada, "2018 Annual Report to Parliament on Immigration."

[269] "Sponsor Your Relatives: About the Process," Government of Canada, September 13, 2018, https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/family-sponsorship/other-relatives.html.

[270] Government of Canada, "2018 Annual Report to Parliament on Immigration."

the Atlantic Immigration Pilot, business immigrants, caregivers, or Quebec-selected skilled workers.[271] Canada's economic programs are all-encompassing, meaning that the Canadian government consults and works with all of its provinces to develop immigration pathways that meet regional needs. For instance, the Atlantic Immigration Pilot was developed as a recruitment effort to help the four Atlantic provinces (New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador) bring in students and skilled workers.[272] Quebec has its own economic immigration program that supports economic migration.[273]

The Canadian points-based system has undergone several modifications since its introduction in 1967. The Immigration and Refugee Protection Act of 2001 changed the points system by applying a human capital approach; this approach differed from the previous system because it largely evaluated an individual's skill set based on occupation demand.[274] The current human capital approach measures an immigrant's potential success and economic contribution to the country based on a range of attributes.[275] It is also a way of selecting individuals who can adapt as the labor market fluctuates—that is, people who already possess a variety of skills that will allow them to participate in Canadian society and the workforce, irrespective of a job offer.[276]

Since 2015, Canada has used a new system known as Express Entry to manage three of its economic immigration programs.[277] Prospective immigrants seeking to apply under Express Entry undergo a two-step process that involves two sets of point allocations.

---

[271] "Immigrate to Canada," Government of Canada, September 10, 2019, https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada.html.

[272] "Immigrate through the Atlantic Immigration Pilot: About the Pilot," Government of Canada, May 31, 2019, https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/atlantic-immigration-pilot/how-to-immigrate.html.

[273] "Quebec-Selected Skilled Workers: About the Process," Government of Canada, January 2, 2019, https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/quebec-skilled-workers.html.

[274] Knowles, *Strangers at Our Gates*, 259.

[275] Hawthorne, *Labour Market Outcomes*, 3.

[276] Knowles, *Strangers at Our Gates*, 259.

[277] OECD, *Recruiting Immigrant Workers*, chap. 1.

Canada's points-based system is also often associated with the Federal Skilled Worker Program: those who wish to immigrate to Canada based on their foreign work experience or education can do so through this program, which is the first step for interested candidates.[278] To meet the basic eligibility and work experience requirements, the individual must:

- Have at least one year of continuous paid work experience in the last ten years in one of the National Occupational Classification (NOC) job groups: managerial occupations, professional occupations, or technical occupations and skilled trades[279]
- Receive a minimum score of Canadian Language Benchmark level 7 in writing, reading, listening, and speaking in English or French
- Possess at least a secondary education[280]

If a prospective immigrant meets these minimum requirements, his or her application will be evaluated on six selection factors that are part of a 100-point grid.[281] The individual needs to score at least 67 points to qualify for the Federal Skilled Worker Program.[282] Individuals with 67 points and above would then go through the 1,200-point Comprehensive Ranking System (CRS), which ranks all candidates that apply through Express Entry against each other, and is the final step in the points process.[283] The two-step process has allowed for efficiency in the processing of applications, eliminating those

---

[278] OECD, chap. 2.

[279] The NOC is Canada's system for occupational classification based on the country's labor market.

[280] "Eligibility to Apply as a Federal Skilled Worker (Express Entry)," Government of Canada, September 19, 2019, https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/express-entry/eligibility/federal-skilled-workers.html#minimum.

[281] Government of Canada.

[282] Government of Canada.

[283] OECD, *Recruiting Immigrant Workers*, chap. 2.

who are not qualified and preventing backlogs.[284] The six selection criteria and the maximum number of points for the Federal Skilled Worker Program are as follows:

- Language (maximum 28 points): must show the ability to communicate in English or French through a language test. Points are given based on test scores received in speaking, listening, reading, and writing.

- Education (maximum 25 points): the individual must show a completed certificate, diploma, or degree from a Canadian high school or post-secondary school. For those with foreign education, the individual must show that the received degree is equivalent to a degree in Canada.

- Work experience (maximum 15 points): individuals receive points based on the number of years spent working full-time in one of the skill types listed in the NOC. The work experience can be in Canada or abroad.

- Age (maximum 12 points): individuals earn points based on their age at the time of application. Those between the age of eighteen and thirty-five can obtain the maximum points; those aged forty-seven and older receive 0 points.

- Employment (maximum 10 points): individuals get points with prearranged job offers from a Canadian employer. The job offer must reflect the skill types listed in the NOC, and the offer must be for at least one year.

- Adaptability (maximum 10 points): the individual and his or her respective spouse or common-law partner can earn points based on a combination of factors, including language levels, past studies in Canada, past work

[284] OECD, chap. 1.

experience in Canada, offered employment in Canada, and relatives in Canada.[285]

Since its implementation, Canada's points-based system has gone through several modifications due to legislation that requires constant evaluation. Those constant modifications have led to a considerably successful immigration system, with 60 percent of the country's immigrant population deemed to be the most educated compared to other countries.[286] The OECD reports that the selection mechanism in place has resulted in better rates of labor market participation for Canada's immigrant population and has supported Canada's population growth.[287] Based on the previous criteria, the current points-based system helps bring in a more youthful population that is educated and fluent in one or both of the country's official languages.

However, the country has faced some challenges in assigning appropriate points for the attributes listed earlier to address shifts in evolving economic and demographic numbers. For instance, having a prearranged job offer has been a point of constant debate in the Canadian immigration system. Before 2008, the weight given to prospective immigrants with prearranged job offers and language proficiency was minimal, which led to an increase of applications in the Federal Skilled Worker Program, creating significant backlogs.[288] Also, it led to many highly educated immigrants who were unable to find employment that could meet their qualifications.[289] Accordingly, a shift was made to limit the Federal Skilled Worker Program to favor those with prearranged job offers, to require certain language proficiency levels, and to limit the applications the government would

---

285 "Six Selection Factors—Federal Skilled Worker Program (Express Entry)," Government of Canada, September 19, 2019, https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/express-entry/eligibility/federal-skilled-workers/six-selection-factors-federal-skilled-workers.html.

286 OECD, *Recruiting Immigrant Workers*, chap.1.

287 OECD, chap. 1.

288 Naomi Alboim and Karen Cohl, "Shaping the Future: Canada's Rapidly Changing Immigration Policies" (report, Maytree Foundation, October 2012), 2–3, https://maytree.com/wp-content/uploads/shaping-the-future.pdf.

289 Challinor, "Canada's Immigration Policy."

process.[290] More recent reforms have shifted back to assigning minimal points for those with job offers while increasing the points for those with Canadian degrees.[291]

Another point of contention has been the occupation list (NOC), which limits applications from individuals who have relevant job experience outside of the NOC job groups.[292] Some do not believe the NOC can effectively predict what jobs will be of demand due to changing labor markets.[293] The human capital approach has played a significant role in Canada's immigration system, shaping the population of immigrants flowing into the country. Still, for some, the notion of adding economic value to an immigrant weakens an immigration system (and country) often seen as liberal and compassionate.[294]

Unlike in the United States, where there is always a political demand and there is always debate for immigration reform, Canada's points-based system does not draw much attention. Canada functions on the notion that immigrants are added value to the economy and overall progress of the country.[295] The Canadian-born population sees immigration as beneficial to the economy since the majority of admitted immigrants go through the points-based system.[296] However, skill-based immigrant admissions in Canada, much like in the United States, include the family members of admitted immigrants.[297] When looking at Canada's admission numbers, we must therefore consider that not all of those admissions are skill-based immigrants. Hence, Canada, much like the United States, has valued family relationships equally.

---

[290] Alboim and Cohl, "Shaping the Future," 3–10.

[291] OECD, *Recruiting Immigrant Workers*, chap. 1.

[292] Alboim and Cohl, "Shaping the Future," 22.

[293] Alboim and Cohl, 22.

[294] Adan Khan, "Canada's Immigration System Is No Kinder than America's," *Maclean's*, August 11, 2017, https://www.macleans.ca/opinion/canadas-immigration-system-is-no-kinder-than-americas/.

[295] Kwong, "Trump Wants an Immigration System.'"

[296] Kwong.

[297] Alex Nowrasteh, "More Family-Based Immigrants in Australia & Canada Than in the United States," *Cato at Liberty* (blog), April 11, 2017, https://www.cato.org/blog/more-family-based-immigrants-australia-canada-united-states.

C. SHOULD WE LOOK TO CANADA AS A MODEL?

Canada has implemented a well-managed immigration system, one that has resulted in high admission rates for skilled immigrants, which is attractive for countries that are seeking to compete on the global economic stage. The OECD has called Canada's immigration system "the largest and most comprehensive and elaborate skilled labor migration system in the OECD."[298] The value of the Canadian system lies in its ability to adapt to the evolving economy. Canada has been able to prioritize the economic class in its policy, managing the admission of mostly skilled and highly educated immigrants into the country, which has yielded positive results.

Canada has used its immigration system to grow its economy, support demographic changes, and manage the flow of people into the country—all of which have contributed to the country's positive reception toward its immigrant population, which is seen as vital to the economy.[299] Immigration is used to meet population deficits as the country's population ages and experiences declining birth rates.[300] Also, immigration fills gaps in the labor market and brings workers to specific Canadian provinces and territories.[301] Participation in the country's labor market has resulted in immigrants who are better integrated into Canadian society. Additionally, 85 percent of immigrants report income from their jobs within their first year as citizens.[302]

Canada's success is due to the government's constant modification of its immigration system. Canada's points-based system has undergone several changes due to effective planning, monitoring, and review from the government. The ongoing review of the immigration system has allowed the government to plan for labor market changes and

---

[298] "Canada Has the Most Comprehensive and Elaborate Migration System, but Some Challenges Remain," OECD, August 13, 2019, https://www.oecd.org/newsroom/canada-has-the-most-comprehensive-and-elaborate-migration-system-but-some-challenges-remain.htm.

[299] Irene Bloemraad, *Understanding "Canadian Exceptionalism" in Immigration and Pluralism Policy* (Washington, DC: Migration Policy Institute, 2012), https://www.migrationpolicy.org/research/TCM-canadian-exceptionalism.

[300] Hussen, *Annual Report to Parliament*, 5–6.

[301] Hussen, 5–6.

[302] Bloemraad, *Understanding "Canadian Exceptionalism."*

priority changes, and assess potential deficiencies in the system.[303] For example, before the Express Entry system was introduced in 2015, the country experienced a surge of applications; the government was unable to process the applications quickly, fill occupations gaps, or meet employer demands.[304] The backlog prevented the country from meeting its objective of welcoming immigrants who could participate in the labor market. The current two-step process allows Canada to eliminate certain applications in the first step. The second step, the CRS system, has worked to adjust the overall points of qualified applicants based on labor market needs.[305]

Although Canada's immigration system has experienced positive outcomes, it has also come with challenges. The system is mostly supply-driven in that individuals can immigrate without preexisting ties to the country. Accordingly, employers are unable to influence the type of immigrant worker that is admitted through the points system, meaning that labor demands are not always met.[306] With Canada's human capital approach, individuals are assumed to have transferable skills that make them adaptable to labor market fluctuations, not binding them to a specific job.[307]

While Canada has a high rate of employment among its immigrants, newly arrived immigrants without preexisting job offers have a difficult time entering the job market compared to the native-born population.[308] Highly educated immigrants without a prior job offer have to spend time obtaining the appropriate Canadian credentials, which means they must dedicate their resources into upgrading their qualifications.[309] Highly educated

---

[303] OECD, *Recruiting Immigrant Workers*, chap. 2.

[304] Roy Maurer, "Are 'Merit-Based' Immigration Systems the Answer?" SHRM, June 4, 2019, https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/trump-merit-based-points-immigration-systems-canada-australia.aspx.

[305] Maurer.

[306] Papademetroiu and Sumption, *Rethinking Points Systems*, 4.

[307] Elisabeth Smick, "Canada's Immigration Policy," Council on Foreign Relations, July 6, 2006, https://www.cfr.org/backgrounder/canadas-immigration-policy.

[308] Challinor, "Canada's Immigration Policy."

[309] Sadiya Ansari, "Does Canada Really Have an Immigration Problem? Here Are the Facts," Chatelaine, March 17, 2017, https://www.chatelaine.com/living/politics/canadian-immigration-citizenship/.

immigrants are therefore often unemployed or underemployed, devaluing their foreign job experience.[310] The lack of value in foreign experience contributes to "brain waste" (unused capital) in the country.[311] Immigrants are unable to benefit from their skills, which is a loss for the host country and society at large.While Canada's system has prioritized the skilled and educated, the points system also rewards individuals who have preexisting connections to the country, like family members, which is often not noted in comparative analysis. Thus, Canada's system also recognizes the importance of social ties to an immigrant's success in the country. In addition to a flexible government that has been responsive to challenges in the immigration system, Canada's immigration system has been effective thanks to the integration services the country provides.[312] While economic immigrants may not all have job offers, the country has set up a platform known as Job Bank that allows immigrants to search for jobs based on their skills and that allows employers to recruit for those skills based on their job openings.[313] The country also has pre-arrival programs that help immigrants get appropriate licenses and foreign credentials accepted by employers, and that provide language services, among other resettlement services.[314] In summary, Canada's immigration system has taken a holistic approach to address how immigrants are selected and integrated into the larger society.

D. CONCLUSION

While delivering remarks on necessary modernization to the U.S. immigration system, President Trump used Canada's points system as an aspirational example.[315] As

---

[310] Law Library of Congress, *Points-Based Immigration Systems: Australia, Canada, United Kingdom* (Washington, DC: Law Library of Congress, 2013), http://www.loc.gov/law/help/points-based-immigration/Points-Based%20Immigration%20Systems.pdf.

[311] "Brain Waste & Credential Recognition," Migration Policy Institute, accessed October 29, 2019, https://www.migrationpolicy.org/topics/brain-waste-credential-recognition.

[312] Mireille Paquet, "Canada's Merit-Based Immigration System Is No 'Magic Bullet,'" The Conversation, February 21, 2018, http://theconversation.com/canadas-merit-based-immigration-system-is-no-magic-bullet-90923.

[313] OECD, *Recruiting Immigrant Workers*, chap. 2.

[314] "Report on Plans and Priorities 2015–2016," Government of Canada, March 9, 2016, https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/report-plans-priorities/2015-2016.html#a1.3.

[315] Trump, "Modernizing Our Immigration System."

the United States debates reforming its immigration system based on its national interests, Canada's system can provide valuable lessons; however, the primary lesson lies in the system's flexibility rather than in its ability to supply skilled labor. Besides admitting immigrants that are educated and socially integrated, Canada's points-based system promotes transparency and efficiency, and addresses the country's current economic and demographic needs.[316] Additionally, the Canadian system provides the government with the opportunity to control the narrative of a managed immigration system that admits the "best and brightest" immigrants.[317]

Does the United States need to increase the number of immigrants with advanced degrees and fill labor gaps that require a certain knowledge base? Should the immigration policies serve more than a knowledge-based economy? The American economy is not stagnant; like Canada's economy, the U.S. economy has changing needs. Canada's immigration system has been successful largely thanks to legislation that requires an annual administrative review of the system. This means the system that is continually assessed for effectiveness. In comparison, the United States' immigration policies cannot be administratively changed easily; they require policy development through legislative action. Politically, this has been far from easy; there has been no significant immigration reform since 1990.

Much like the United States, family reunification policies also play a role in Canada's immigration system. Family-based immigration has been a point of contention for those who seek to limit U.S. immigration levels and focus on admitted more skilled-based immigrants. As this thesis has demonstrated, however, there is merit in the established networks and wide range of skills that family-based immigrants bring to the United States. Proposals that gloss over the current functions of the immigration system dismiss the true reasons why the current system does not fulfill national interests. However, the Canadian model does not dismiss this fact at all; the annual reviews allows the system

---

[316] Papademetroiu and Sumption, *Rethinking Points Systems*, 1.

[317] Papademetroiu and Sumption, 3.

to adapt to the needs of the time. The value of the Canadian model is in its flexibility and reform mechanisms.

V. CONCLUSION

> [Immigration] reminded every American, old and new, that change is the essence of life, and that American society is a process, not a conclusion. The abundant resources of this land provided the foundation for a great nation. But only people could make the opportunity a reality. Immigration provided the human resources.
>
> —President John F. Kennedy, 1958[318]

Governments across the globe leverage immigration to grow their economies, address demographic shortages, create new industries, and meet labor demands.[319] Well-managed immigration systems should support the migration of individuals to meet broad economic, social, and humanitarian interests. For the United States, immigration has generated economic growth by supplying much-needed labor, increasing the country's productivity, and adding to its business dynamism.[320] The United States has benefited from the immigration class's contributions to entrepreneurship, business, academic and scientific advances, and culture.[321] U.S. immigration policies should be continuously developed to support a spectrum of national interests.

A. OVERALL FINDINGS

Over the past six decades, the U.S. immigration system has prioritized family reunification. Such immigration policies are fundamental to the American tradition of valuing the sanctity of family.[322] However, family-based immigration is often at the center of immigration reform debates. Since they are not screened for their skills and potential economic contributions to the United States, family-based immigrants are often perceived to be low-skilled and uneducated. Critics of family-based immigration argue that a system

---

[318] Kennedy, *A Nation of Immigrants*, 68.

[319] Michelle Jamrisko et al., "How Governments Use Immigration to Boost Their Economies," *Bloomberg Businessweek*, October 29, 2019, https://www.bloomberg.com/news/features/2019-10-30/how-governments-use-immigration-to-boost-their-economies.

[320] Anderson, *Understanding America's Legal Immigration System*, 1–6.

[321] Anderson, 6–9.

[322] Issitt, *Opinions throughout History*, 344.

that prioritizes family ties over skills does not serve the national interests of the United States, especially economic interests. Thus, the first research question herein sought to define national interests. Chapter II enumerated those interests, ultimately finding that they are continually evolving as a result of changing economic and political environments.

More importantly, this thesis sought to answer a second research question: Does the current U.S. immigration policy support U.S. national interests? This thesis has determined that the current U.S. immigration policy does not best serve national interests. This is not because the policy prioritizes family-based immigration, however; it is due to stagnant immigration policy that does not respond to the changing needs of the country. The last time the United States examined its immigration system to support U.S. national interests was in 1990, with the enactment of the Immigration Act of that year. Since the 1990 Act, the economy has continued to grow, industries have transformed, and the U.S. working population has changed.

The current immigration apparatus is broken; it cannot wholly fulfill two of its objectives: reuniting families and bringing skilled workers to the country. Both family-sponsored and employment-based immigrants face extensive backlogs. The 1990 Act aligned the nation's priorities by establishing worldwide immigration limitations and per-country caps, which restrict the number of visa allotments each country can receive annually.[323] However, the amount of solicited immigrant visas far exceeds the number of available visas for both categories, which means millions of people are waiting to be either reunited with their family members or wishing to work permanently in the United States. The per-country caps have created wait times of over twenty years for some prospective immigrants.

Numerous proposed amendments have circulated in recent years. Supporters for increased skilled migration have argued that limiting family-based immigration and shifting admission numbers to the employment-based categories would alleviate backlogs and bring more skilled workers to the United States.[324] Others, like Republican

---

[323] Chishti and Yale-Loehr, *The Immigration Act of 1990*, 3.

[324] Wasem, *U.S. Immigration Policy on Permanent Admissions*, 15–16.

Congressman Kevin Yoder, supported the Fairness for High-Skilled Immigrants Act of 2017, which would alleviate backlogs in the employment-based categories by removing the per-country limit.[325] Removing the per-country limit has been a popular recommendation, as many believe it would both decrease backlogs and increase the stream of highly skilled workers into the country.[326]

The current discourse regarding immigration reform continues to surround the family-based and employment-based categories. Solutions for improving the existing system have focused less on remedying the mechanisms and more on shifting to a point-based system, which selects immigrants based on their desirability. The perceived heavy emphasis on family-based immigration fuels the Trump administration's arguments that the current system fails to meet the country's economic needs and prevents the United States from attracting the best and brightest immigrants. The administration has supported policy reforms that call for "common-sense" changes that center on merit and skill.[327] In May 2019, President Trump announced an immigration proposal that includes a point-based merit system, increasing merit-based selections and limiting family-based immigration to immediate family members (spouses and children).[328] As of this writing, a proposed bill has not reached Congress.

Some policymakers and immigration restrictionists correlate the immigrant admissions problem with chain migration. The United States allows family-based immigrants to make up a significant share of annual admissions. However, assumptions surrounding chain migration are inaccurate. As this study demonstrated in Chapters III and IV, family ties do not guarantee admission. Critics have propagated a narrative of a dysfunctional system in which family-based immigrants are to blame, which ignores the

---

[325] Stuart Anderson, "The Most Popular Bill In Congress Solves A Major Immigration Problem," *Forbes*, October 29, 2017, https://www.forbes.com/sites/stuartanderson/2017/10/29/the-most-popular-bill-in-congress-solves-a-major-immigration-problem/#734e0dea5016.

[326] Wasem, *U.S. Immigration Policy on Permanent Admissions*.

[327] "Common-Sense Immigration Reform That Keeps Families Together," White House, accessed March 3, 2019, https://www.whitehouse.gov/briefings-statements/common-sense-immigration-reform-keeps-families-together/.

[328] White House, "President Trump's Bold Immigration Plan."

economic contributions that family-based immigrants make. Family-based immigrants are increasingly better educated, work in an array of professions (including high-skilled work), are adaptable to labor market changes, and provide a much-needed labor supply. Family-based immigrants also have established networks that are essential for their upward mobility.

The United States has yet to use a points-based system as a basis for immigrant admissions, but Canada has implemented such a system effectively. Chapter IV revealed that Canada's immigration policies have merit. However, the value of Canada's system is not in the number of skilled immigrants the country admits but rather in the system's continual assessment and improvement. Canada's immigration reforms have been more frequent and have proved to be more responsive to economic and demographic changes during the last thirty years. Furthermore, Canada's points-based system is only successful if the desired result is to simply increase the number of citizens in the country who hold advanced degrees and can speak English.

As this study has shown, the United States needs immigrants who fill more than one particular niche. Additionally, as is often overlooked by U.S. policymakers, Canada has also found merit in bringing in skilled immigrants with familial ties and has a separate family-based immigrant category. Thus, a well-managed immigration system is one that incorporates different pathways for legal immigration.

B. RECOMMENDATIONS

Presently, the Trump administration believes that a well-managed immigration system is one that focuses on growing the economy, protecting the U.S.-born worker, and enhancing America's competitiveness. Undeniably, the existing immigration system requires modernization. The United States of today is vastly different from the United States of 1990. The challenge for the United States is finding the middle ground on an immigration system that could meet the needs of all stakeholders.[329]

[329] Wasem, *U.S. Immigration Policy on Permanent Admissions*, 14.

It is important to recognize that there is still a significant demand for family immigration and that family-based immigrants play a vital role in the economy. Immigration policies that limit family-based immigration are not only counterintuitive to American ideals but may lead to unintended consequences.[330] For example, millions of family members are awaiting admission to the United States. Eliminating or restricting family-based immigration could lead to an increase in undocumented migrants. A well-managed immigration system is one that allows both family unity and the migration of skilled workers. Based on the research completed for this thesis, the following recommendations should be considered by the U.S. government.

(1) Create a new visa category for waitlisted skilled immigrants.

The United States has a system in place to bring in skilled workers, which is largely employer-driven. At the same rate, the wait times for family-based preference categories are lengthy, ranging from five to twenty-four years. Waitlisted family-based immigrants may possess a skill that the United States is in shortage of (i.e., nursing, skilled labor) but lack an employer that could sponsor them. The creation of a new visa category for family waitlisted skilled immigrants would allow for quicker family reunification while at the same time benefiting the U.S. labor market.

(2) Review the system annually.

Canada provides valuable lessons of flexible immigration policies that can be changed if they fail to meet national interests. Canada reviews its immigration projections in three-year increments, an administrative function completed by one of its government departments. The United States should consider granting administrative control over immigrant visa allocations to USCIS, the government agency that manages immigration benefit programs. An annual governmental review of the system's shortcomings, and forecasts of long-term needs would allow for policy that is responsive to the nation's short and long-term needs.

---

[330] Collins and Denhart, *Modernizing America's Immigration System.*

(3) Create “super visas” for short-term stays.

The United States could implement a super visa, as Canada has done for some of its family-based immigrant categories. Allowing super visas for family members (such as parents) who may wish to come to the United States for short-term periods could decrease the number of visa requests in the family immigrant categories.

(4) Adjust employment-based visas to reflect the labor market.

The current employment visa category can be expanded or contracted to help facilitate the demands of the labor market. High- and low-skilled occupations, labor markets, and economies are not stagnant. As such, any proposed legislation should incorporate regulations that allow for administrative review of employment-based immigrant categories. Creating controls based on market data (e.g., projected labor shortages or surpluses) for both low- and high-skilled occupations may lead to better targeted allocations of available visas across the board.

(5) Research the consequences of a highly educated and skilled immigrant population.

Most economic studies focus on the effects that low-skilled immigrants have on U.S.-born workers, but shifting to an immigration system that prioritizes highly educated and skilled workers may lead to unintended consequences. Additional research and studies are warranted to predict the effects that a highly educated and skilled immigrant population may have on U.S.-born workers of similar qualifications.

(6) Remove numerical limitations for skilled immigrants who are already employed in the United States.

The majority of employment-based immigrants are already working in the United States on temporary work visas. The United States should consider removing numerical limitations for skilled immigrant workers who are already employed in the country. Allowing skilled immigrants to gain permanent residency more quickly would open up visa allocations for employers who wish to hire permanent foreign workers. This would

also eliminate the problem of skilled workers living in a state of limbo as they await decisions on their visa status.

(7) Increase allocations for employment-based visas for certain skills.

The United States currently allocates 40,000 employment-based visas for skilled workers (such as nurses, skilled-trade workers, and Information Technology professionals). Projected labor shortages in these fields call for an increase in the total visa allocations.

(8) Review per-country caps.

Countries with large numbers of highly skilled workers (e.g., China and India) are more likely to exceed the per-country cap than countries with smaller populations. Per-country caps should therefore be increased or eliminated to permit the migration of skilled workers from high-demand countries. Eliminating the per-country caps will facilitate the migration of skilled workers, eliminate extensive backlogs, and promote economic growth.[331]

(9) Create a separate visa category for family members of skilled workers.

Due to family reunification policies, skilled workers can bring their families to the United States. Family members count against the 140,000 employment-based visa allocations given annually. Family members of skilled workers should be given a separate visa category.

(10) Adjust the categories for employment-based visa allotments.

Employment-based immigrant categories also include other subcategories that are not strictly for employment purposes (e.g., special immigrants). Other immigrant categories should not count toward the total employment-based visa allotments given annually.

---

[331] Collins and Denhart.

(11) Create social services for better immigrant integration.

Canada has comprehensive social services that provide new immigrants with the tools they need to integrate more efficiently into Canadian society. This includes language services, job placement, access to health care, and assistance with obtaining credentials.[332] The U.S. government should implement similar social policies to assist immigrants with integration.

C. FINAL THOUGHTS

A well-managed immigration system that can reform itself based on changing needs would best serve the United States' national interests. Common-sense immigration reform requires us to do more than look toward foreign partners for solutions; we must also review the system that is currently in place and find ways to enhance existing policies. The research shows that immigration is about more than meeting economic needs. The United States of today is the result of millions of immigrants that have contributed to the country's progress. Immigrants from a range of diverse backgrounds—with varying education, skills, and abilities—have all added to the country's sense of community and social prosperity. Immigration reform in the twenty-first century should do more than address economic competitiveness; it should also strengthen the country's role as a global leader, demonstrating to other countries that welcoming immigration policies are foundational to the success of democratic nations.

[332] Gubernskaya and Dreby, "US Immigration Policy and the Case for Family Unity."

LIST OF REFERENCES

Alboim, Naomi, and Karen Cohl. "Shaping the Future: Canada's Rapidly Changing Immigration Policies." Report, Maytree Foundation, October 2012. https://maytree.com/wp-content/uploads/shaping-the-future.pdf.

Allerfeldt, Kristofer. "'And We Got Here First': Albert Johnson, National Origins and Self-Interest in the Immigration Debate of the 1920s." *Journal of Contemporary History* 45, no. 1 (January 1, 2010): 7–26. https://doi.org/10.1177/0022009409348019.

American Immigration Council. "How the United States Immigration System Works." October 2019. https://www.americanimmigrationcouncil.org/sites/default/files/research/how_the_united_states_immigration_system_works.pdf.

———. "The RAISE Act: What Lies Beneath the Proposed Points System?" American Immigration Council, August 2017. https://www.americanimmigrationcouncil.org/sites/default/files/research/the_raise_act_what_lies_beneath_the_proposed_points_system.pdf.

Americas Society / Council of the Americas. "Get the Facts: Five Ways Immigrants Drive the Essential Economy." June 26, 2014. https://www.as-coa.org/articles/get-facts-five-ways-immigrants-drive-essential-economy.

Anderson, Stuart. "The Most Popular Bill In Congress Solves A Major Immigration Problem." *Forbes*, October 29, 2017. https://www.forbes.com/sites/stuartanderson/2017/10/29/the-most-popular-bill-in-congress-solves-a-major-immigration-problem/#734e0dea5016.

———. *Understanding America's Legal Immigration System*. Arlington, VA: National Foundation for American Policy, 2017. https://nfap.com/wp-content/uploads/2017/12/Understanding-American-Legal-Immigration-System.NFAP-Policy-Brief.December-2017-1.pdf.

———. *Waiting and More Waiting: America's Family and Employment-Based Immigration System*. Arlington, VA: National Foundation for American Policy, 2011. http://www.nfap.com/pdf/WAITING_NFAP_Policy_Brief_October_2011.pdf.

———. "Will Congress Ever Solve the Long Wait for Green Cards?" *Forbes*, May 21, 2018. https://www.forbes.com/sites/stuartanderson/2018/05/21/will-congress-ever-solve-the-long-wait-for-green-cards/#3436a97f763c.

Ansari, Sadiya. “Does Canada Really Have an Immigration Problem? Here Are the Facts.” Chatelaine, March 17, 2017. https://www.chatelaine.com/living/politics/canadian-immigration-citizenship/.

Antecol, Heather, Deborah A. Cobb-Clark, and Stephen J. Trejo. “Immigration Policy and the Skills of Immigrants to Australia, Canada, and the United States.” Discussion paper no. 363. Bonn: Institute for the Study of Labor, 2001. https://ideas.repec.org/p/iza/izadps/dp363.html.

Associated General Contractors of America. “President’s New Immigration Proposal Opens the Door to Expanding the Number of Craft Workers Who Can Legally Enter the Country.” May 16, 2019. https://www.agc.org/news/2019/05/16/president%E2%80%99s-new-immigration-proposal-opens-door-expanding-number-craft-workers-who.

Batalova, Jeanne. *Skilled Immigrant and Native Workers in the United States: The Economic Competition Debate and Beyond*. New York: LFB Scholarly Publishing, 2006. https://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=3016814.

Batalova, Jeanne, and Michael Fix. *Tapping the Talents of Highly Skilled Immigrants in the United States: Takeaways from Experts Summit*. Washington, DC: Migration Policy Institute, 2018. https://www.migrationpolicy.org/research/tapping-talents-highly-skilled-immigrants-united-states-takeaways-experts-summit.

Bean, Frank D., Barry Edmonston, and Jeffrey S. Passel. *Undocumented Migration to the United States*. Santa Monica, CA: RAND, 1990. https://www.rand.org/pubs/joint_reports-immigration/JRI07.html.

Bier, David. *Immigration Wait Times from Quotas Have Doubled: Green Card Backlogs Are Long, Growing, and Inequitable*. Policy Analysis 873. Washington, DC: Cato Institute, 2019. https://www.cato.org/sites/cato.org/files/pubs/pdf/pa-873-updated.pdf.

Bloemraad, Irene. *Understanding “Canadian Exceptionalism” in Immigration and Pluralism Policy*. Washington, DC: Migration Policy Institute, 2012. https://www.migrationpolicy.org/research/TCM-canadian-exceptionalism.

Borjas, George J. *Issues in the Economics of Immigration*. Chicago: University of Chicago Press, 2000.

Brimelow, Peter. “The Real Cost of Immigration.” *Journal of Social, Political, and Economic Studies* 23, no. 3 (Fall 1998): 285–89.

Brown, Donathan, and Amardo Rodriguez. *When Race and Policy Collide: Contemporary Immigration Debates*. Santa Barbara, CA: Praeger, 2014.

Brunner, Lawrence, and Joseph Pate. “Promoting Entry of High-Quality Workers through U.S. Immigration Policy.” *Applied Economics* 48, no. 52 (2016): 5045–59.

Bureau of Labor Statistics. “Employment Projections—2018–2028.” News release, U.S. Department of Labor, September 4, 2019. https://www.bls.gov/news.release/pdf/ecopro.pdf.

Bush, George H. W. “Statement on Signing the Immigration Act of 1990.” American Presidency Project, November 29, 1990. https://www.presidency.ucsb.edu/documents/statement-signing-the-immigration-act-1990.

Bush, George W. Radio address. George W. Bush White House Archives, June 23, 2007. https://georgewbush-whitehouse.archives.gov/news/releases/2007/06/text/20070623.html.

Camarota, Steven A. “Immigration Is Hurting the U.S. Worker.” *Americas Quarterly* (Spring 2007). https://cis.org/Immigration-Hurting-US-Worker.

Card, David. *Is the New Immigration Really So Bad?* NBER Working Paper No. 11547. Cambridge, MA: National Bureau of Economic Research, 2005. http://www.nber.org/papers/w11547.

Center for Immigration Studies. “Establish Merit-Based Reforms to Promote Assimilation and Financial Success.” October 8, 2017. https://cis.org/sites/default/files/2017-10/FINAL%20Merit%20Based%20Immigration--10-08-17.pdf.

Challinor, A. E. “Canada’s Immigration Policy: A Focus on Human Capital.” Migration Policy Institute, September 15, 2011. https://www.migrationpolicy.org/article/canadas-immigration-policy-focus-human-capital.

Champlin, Dell. “Institutionalist Perspectives on Immigration Policy: An Update.” *Journal of Economic Issues* 44, no. 2 (2010): 301–12. https://www.jstor.org/stable/20778674.

Chin, Gabriel J. “The Civil Rights Revolution Comes to Immigration Law: A New Look at the Immigration and Nationality Act of 1965.” *North Carolina Law Review* 75, no. 1 (November 1996): 273–345. http://scholarship.law.unc.edu/nclr/vol75/iss1/7.

Chishti, Muzaffar, and Stephen Yale-Loehr. *The Immigration Act of 1990: Unfinished Business a Quarter-Century Later*. Washington, DC: Migration Policy Institute, 2016. https://www.migrationpolicy.org/research/immigration-act-1990-still-unfinished-business-quarter-century-later.

Citizenship and Immigration Services Ombudsman. “Annual Report 2010.” Report, Department of Homeland Security, 2010. https://www.dhs.gov/sites/default/files/publications/cisomb_2010_annual_report_to_congress.pdf.

Collins, Laura, and Matthew Denhart. *Modernizing America's Immigration System to Meet Today's Realities*. Dallas, TX: George Bush Institute, 2018. https://gwbcenter.imgix.net/Resources/policy-recs/2019/gwbi-2019-policy-recs-immigration2.pdf.

Committee for Economic Development. "Immigration Policy That Works: Bringing Foreign-Born Workers into High-Shortage Occupations to Grow Our Economy." Policy brief, The Conference Board, June 2017. https://www.ced.org/pdf/CED-Immigration-Policy-Brief-2017.pdf.

Congressional Budget Office. *Immigration Policy in the United States*. Washington, DC: U.S. Congress, February 2006. http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/70xx/doc7051/02-28-immigration.pdf.

———.*Immigration Policy in the United States: An Update*. Washington, DC: Congressional Budget Office, 2010. https://www.cbo.gov/publication/21921.

Coolidge, Calvin. "First Annual Message." The American Presidency Project, December 6, 1923. https://www.presidency.ucsb.edu/documents/first-annual-message-20.

Cotton, Tom, and David Perdue. "Reforming American Immigration for a Stronger Economy Act (RAISE Act): A Bill to Raise Working Wages & Boost American Competitiveness." Fact sheet, U.S. Senate, 2017. https://www.perdue.senate.gov/imo/media/doc/170801_New_RAISE_Act_One_Pager_FINAL.pdf.

Dadush, Uri. "The Effect of Low-Skilled Labor Migration on the Host Economy." Working paper, KNOMAD, 2014. https://carnegieendowment.org/files/Effect-of-Low-Skilled-Labor-Working-Paper-1.pdf.

Department of Homeland Security. "Profiles on Lawful Permanent Residents: 2017 Country." October 18, 2018. https://www.dhs.gov/profiles-lawful-permanent-residents-2017-country.

Department of Homeland Security Office of Immigration Statistics. *2017 Yearbook of Immigration Statistics*. Washington, DC: Department of Homeland Security, July 2019. https://www.dhs.gov/immigration-statistics/yearbook/2017.

Edmonston, Barry. "Canada's Immigration Trends and Patterns." *Canadian Studies in Population*, 43, no. 1–2 (Spring/Summer 2016): 78–116.

Fallon, Joseph E. "The Impact of Immigration on U.S. Demographics." *Journal of Social, Political, and Economic Studies* 21, no. 2 (Summer 1996): 141–66.

Federal Register. "EB-5 Immigrant Investor Program Modernization." July 24, 2019. https://www.federalregister.gov/documents/2019/07/24/2019-15000/eb-5-immigrant-investor-program-modernization.

Furman, Jason. “Opinion: How Immigrants Can Make the Economy and the Nation Stronger.” Market Watch, July 23, 2019. https://www.marketwatch.com/story/how-immigrants-can-make-the-economy-and-the-nation-stronger-2018-07-18.

Garfing, Scott. “A Primer on Family Reunification/Chain Migration.” *Georgetown Immigration Law Journal* (2018). https://www.law.georgetown.edu/immigration-law-journal/online/a-primer-on-family-reunification-chain-migration/.

Gerstenzang, James, and Nicole Gaouette. “Bush Calls for Civil Debate on Immigration Proposals.” *Los Angeles Times*, March 24, 2006. https://www.latimes.com/archives/la-xpm-2006-mar-24-na-immig24-story.html.

Government of Canada. “2018 Annual Report to Parliament on Immigration.” October 31, 2018. https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/annual-report-parliament-immigration-2018/report.html#message.

———. “Eligibility to Apply as a Federal Skilled Worker (Express Entry).” Government of Canada, September 19, 2019. https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/express-entry/eligibility/federal-skilled-workers.html#minimum.

———. “Immigrate through the Atlantic Immigration Pilot: About the Pilot.” May 31, 2019. https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/atlantic-immigration-pilot/how-to-immigrate.html.

———. “Immigrate to Canada.” September 10, 2019. https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada.html.

———. “Quebec-Selected Skilled Workers: About the Process.” January 2, 2019. https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/quebec-skilled-workers.html.

———. “Report on Plans and Priorities 2015–2016.” March 9, 2016. https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/report-plans-priorities/2015-2016.html#a1.3.

———. “Six Selection Factors—Federal Skilled Worker Program (Express Entry).” September 19, 2019. https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/express-entry/eligibility/federal-skilled-workers/six-selection-factors-federal-skilled-workers.html.

———. “Sponsor Your Relatives: About the Process.” September 13, 2018. https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/family-sponsorship/other-relatives.html.

Green, Alan G., and David Green. “The Goals of Canada’s Immigration Policy: A Historical Perspective.” *Canadian Journal of Urban Research* 13, no. 1 (2004): 102–39. https://www.jstor.org/stable/44320798.

Griswold, Daniel. “The Prospects for American Workers: Immigration’s Impact.” Cato Institute, October 30, 2003. https://www.cato.org/publications/congressional-testimony/prospects-american-workers-immigrations-impact.

Gubernskaya, Zoya, and Joanna Dreby. “US Immigration Policy and the Case for Family Unity.” *Journal on Migration and Human Security* 5, no. 2 (2017): 417–30.

Gyory, Andrew. *Closing the Gate: Race, Politics, and the Chinese Exclusion Act*. Chapel Hill: University of North Carolina Press, 1998. http://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=880176.

Hamilton, Brady E., and Lauren M. Rossen. “Births: Provisional Data for 2018.” Report no. 007, Centers for Disease Control and Prevention, May 2019. https://www.cdc.gov/nchs/data/vsrr/vsrr-007-508.pdf.

Hatton, Timothy J. “United States Immigration Policy: The 1965 Act and its Consequences: U.S. Immigration Policy.” *The Scandinavian Journal of Economics* 117, no. 2 (April 2015): 347–68. https://doi.org/10.1111/sjoe.12094.

Hawthorne, Lesleyanne. *Labour Market Outcomes for Migrant Professionals: Canada and Australia Compared*. Melbourne, Australia: University of Melbourne, 2007. http://publications.gc.ca/collections/collection_2010/cic/Ci64-1-2007-eng.pdf.

Hill, Laura E., and Joseph M. Hayes. “How Would Selecting for Skill Change Flows of Immigrants to the United States? A Simulation of Three Merit-Based Point Systems.” *Review of Economics of the Household* 9, no. 1 (March 2011): 1–23. https://doi.org/10.1007/s11150-010-9097-y.

Hooper, Kate, and Demetrios G. Papademetroiu. *Competing Approaches to Selecting Economic Immigrants: Points-Based vs. Demand-Driven Systems*. Washington, DC: Migration Policy Institute, 2019. https://www.migrationpolicy.org/research/selecting-economic-immigrants-points-based-demand-driven-systems.

Hussen, Ahmed. *Annual Report to Parliament on Immigration 2018*. Ottawa: Government of Canada, 2018. https://www.canada.ca/content/dam/ircc/migration/ircc/english/pdf/pub/annual-report-2018.pdf.

Issitt, Micah. *Opinions throughout History: Immigration*. Amenia, NY: Grey House Publishing, 2018.

Jamrisko, Michelle, Jason Clenfield, Sandrine Rastello, and Matthew Bristow. "How Governments Use Immigration to Boost Their Economies." *Bloomberg Businessweek*, October 29, 2019. https://www.bloomberg.com/news/features/2019-10-30/how-governments-use-immigration-to-boost-their-economies.

Jasso, Guillermina, and Mark R. Rosenzweig. "Do Immigrants Screened for Skills Do Better Than Family Reunification Immigrants?" *International Migration Review* 29, no. 1 (1995): 85–111. https://doi.org/10.2307/2546998.

Johnson. Lyndon B. Remarks at the signing of the Immigration Bill, Liberty Island, New York. LBJ Presidential Library, October 3, 1965. http://www.lbjlibrary.org/lyndon-baines-johnson/timeline/lbj-on-immigration.

Kahn, Shulamit, and Megan MacGarvie. "The Impact of Permanent Residency Delays for STEM PhDs: Who Leaves and Why." Working paper, National Bureau of Economic Research, October 2018. https://doi.org/10.3386/w25175.

Kandel, William A. *Permanent Employment-Based Immigration and the Per-country Ceiling*. CRS Report No. R45447. Washington, DC: Congressional Research Service, 2018. https://crsreports.congress.gov/product/pdf/R/R45447.

———. *Permanent Legal Immigration to the United States: Policy Overview*. Washington, DC: Congressional Research Service, 2018. https://fas.org/sgp/crs/homesec/R42866.pdf.

Kennedy, John F. *A Nation of Immigrants*, revised and enlarged edition. New York: Harper & Row, 1964.

Kerwin, Donald, and Robert Warren. "National Interests and Common Ground in the U.S. Immigration Debate: How to Legalize the U.S. Immigration System and Permanently Reduce its Undocumented Population." *Journal on Migration and Human Security* 5, no. 2 (2017): 297–330. https://doi.org/10.1177/233150241700500205.

Keyes, Elizabeth. "Race and Immigration, Then, and Now: How the Shift to 'Worthiness' Undermines the 1965 Immigration Law's Civil Rights Goals." *Howard Law Journal* 57, no. 3 (2014): 899–929. https://scholarworks.law.ubalt.edu/all_fac/341/.

Khan, Adan. "Canada's Immigration System Is No Kinder than America's." *Maclean's*, August 11, 2017. https://www.macleans.ca/opinion/canadas-immigration-system-is-no-kinder-than-americas/.

Knowles, Valerie. *Strangers at Our Gates: Canadian Immigration and Immigration Policy, 1540–1990*, revised ed. Toronto:: Dundurn Press Toronto, 2007.

Koven, Steven G., and Frank Gotzke. *American Immigration Policy: Confronting the Nation's Challenges*. New York: Springer, 2010.

Kurzban, Ira J. *Kurzban's Immigration Law Sourcebook*, 15th ed. Washington, DC: American Immigration Lawyers Association, 2016.

Kwong, Matt. "Trump Wants an Immigration System 'Like They Have in Canada.' Would a Merit-Based Plan Work in the U.S.?" CBC, April 30, 2019. https://www.cbc.ca/news/world/trump-immigration-system-canada-merit-based-points-1.5115475.

Law Library of Congress. *Points-Based Immigration Systems: Australia, Canada, United Kingdom*. Washington, DC: Law Library of Congress, 2013. http://www.loc.gov/law/help/points-based-immigration/Points-Based%20Immigration%20Systems.pdf.

Leal, David L. "Stalemate: United States Immigration Reform Efforts, 2005 to 2007." *People and Place* 17, no. 3 (2009): 1–17. https://tapri.org.au/wp-content/uploads/2016/02/v17n3_1leal3.pdf.

Lee, Catherine. "Family Reunification and the Limits of Immigration Reform: Impact and Legacy of the 1965 Immigration Act." *Sociological Forum* 30, no. S1 (June 2015): 528–48. https://doi.org/10.1111/socf.12176.

———. *Fictive Kinship: Family Reunification and the Meaning of Race and Nation in American Immigration*. New York: Russell Sage Foundation, 2013. http://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=4417114.

Leiden, Warren R., and David L. Neal. "Highlights of the U.S. Immigration Act of 1990." *Fordham International Law Journal* 14, no. 1 (1990): 328–39. https://ir.lawnet.fordham.edu/ilj/vol14/iss1/14.329.

Lopez, Mark Hugo, Jeffrey Passe, and Molly Rohal. "Modern Immigration Wave Brings 59 Million to U.S., Driving Population Growth and Change through 2065." Pew Research Center, September 28, 2015. https://www.pewresearch.org/hispanic/2015/09/28/modern-immigration-wave-brings-59-million-to-u-s-driving-population-growth-and-change-through-2065/.

MacDonald, John S., and Leatrice D. MacDonald. "Chain Migration Ethnic Neighborhood Formation and Social Networks." *Milbank Memorial Fund Quarterly* 42, no. 1 (January 1964): 82. https://doi.org/10.2307/3348581.

Marinari, Maddalena. "Divided and Conquered: Immigration Reform Advocates and the Passage of the 1952 Immigration and Nationality Act." *Journal of American Ethnic History* 35, no. 3 (Spring 2016): 9–40. https://doi.org/10.5406/jamerethnhist.35.3.0009.

Maurer, Roy. “Are ‘Merit-Based’ Immigration Systems the Answer?” SHRM, June 4, 2019. https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/trump-merit-based-points-immigration-systems-canada-australia.aspx.

Meissner, Doris, Deborah Meyer, Demetrios G. Papademetroiu, and Michael E. Fix. *Immigration and America’s Future: A New Chapter*. Washington, DC: Migration Policy Institute, 2006. https://www.migrationpolicy.org/research/immigration-and-americas-future-new-chapter.

Migration Policy Institute. “Brain Waste & Credential Recognition.” Accessed October 29, 2019. https://www.migrationpolicy.org/topics/brain-waste-credential-recognition.

Moyers, Bill. “Gold Mountain Dreams.” March 25, 2003. https://billmoyers.com/content/gold-mountain-dreams/.

Muñoz, Cecilia. “The Myth of Chain Migration.” *POLITICO*, January 26, 2018. https://www.politico.com/magazine/story/2018/01/26/myth-chain-migration-trump-family-immigration-216536.

National Academies of Sciences, Engineering, and Medicine. *The Economic and Fiscal Consequences of Immigration*. Washington, DC: The National Academies Press, 2017. https://doi.org/10.17226/23550.

Nowrasteh, Alex. “America’s Increasingly Meritocratic Immigration System.” *Cato at Liberty* (blog), April 7, 2017. https://www.cato.org/blog/americas-increasingly-meritocratic-immigration-system.

———. “More Family-Based Immigrants in Australia & Canada Than in the United States.” *Cato at Liberty* (blog), April 11, 2017. https://www.cato.org/blog/more-family-based-immigrants-australia-canada-united-states.

OECD. “Canada Has the Most Comprehensive and Elaborate Migration System, but Some Challenges Remain.” OECD, August 13, 2019. https://www.oecd.org/newsroom/canada-has-the-most-comprehensive-and-elaborate-migration-system-but-some-challenges-remain.htm.

———. “Is the United States Still the Land of Opportunities for Migrants?” *Migration Policy Debates*, no. 5 (August 2015). http://www.oecd.org/migration/Is-the-United-States-still-the-land-of-opportunities-for-migrants.pdf.

———. *Recruiting Immigrant Workers: Canada 2019*. Paris: OECD Publishing, 2019.https://doi.org/10.1787/4abab00d-en.

Orrenius, Pia. “Benefits of Immigration Outweigh the Costs.” *The Catalyst*, no. 02 (Spring 2016). http://www.bushcenter.org/catalyst/north-american-century/benefits-of-immigration-outweigh-costs.html.

Papademetroiu, Demetrios G., and Madeleine Sumption. *Rethinking Points Systems and Employer-Selected Immigration*. Washington, DC: Migration Policy Institute, 2011. https://www.migrationpolicy.org/research/rethinking-points-systems-and-employer-selected-immigration.

Paquet, Mireille. "Canada's Merit-Based Immigration System Is No 'Magic Bullet.'" The Conversation, February 21, 2018. http://theconversation.com/canadas-merit-based-immigration-system-is-no-magic-bullet-90923.

Qiu, Linda. "What Is 'Chain Migration'? Here's the Controversy Behind It." *New York Times*, January 26, 2018. https://www.nytimes.com/2018/01/26/us/politics/the-facts-behind-the-weaponized-phrase-chain-migration.html.

Reagan, Ronald. "Statement on United States Immigration and Refugee Policy." Ronald Reagan Presidential Library & Museum, July 30, 1981. https://www.reaganlibrary.gov/research/speeches/73081a.

Ronald Reagan Presidential Library & Museum. "Congress Clears Overhaul of Immigration Law." Accessed September 16, 2019. https://www.reaganlibrary.gov/sites/default/files/documents/simpson-mazzoli-act-sheet.pdf.

Ryan, Camille L., and Kurt Bauman. "Educational Attainment in the United States: 2015." Report, U.S. Census Bureau, March 2016. https://www.census.gov/content/dam/Census/library/publications/2016/demo/p20-578.pdf.

Smick, Elisabeth. "Canada's Immigration Policy." Council on Foreign Relations, July 6, 2006. https://www.cfr.org/backgrounder/canadas-immigration-policy.

The Statue of Liberty-Ellis Island Foundation. "The New Colossus." Accessed August 6, 2018. https://www.libertyellisfoundation.org/the-new-colossus.

Swain, Carol M. *Debating Immigration*. New York: Cambridge University Press, 2007.

Tichenor, Daniel J. "The Politics of Immigration Reform in the United States, 1981–1990." *Polity* 26, no. 3 (1994): 333–62. https://doi.org/10.2307/3235150.

Troper, Harold. "Canada's Immigration Policy Since 1945." *International Journal* 48, no. 2 (1993): 255–81. https://doi.org/10.2307/40202881.

Truman, Harry S. "Veto of Bill to Revise the Laws Relating to Immigration, Naturalization, and Nationality." Harry S. Truman Library & Museum, June 25, 1952. https://www.trumanlibrary.gov/library/public-papers/182/veto-bill-revise-laws-relating-immigration-naturalization-and-nationality.

Trump, Donald J. “Remarks by President Trump on Modernizing Our Immigration System for a Stronger America.” The White House, May 16, 2019. https://www.whitehouse.gov/briefings-statements/remarks-president-trump-modernizing-immigration-system-stronger-america/.

U.S. Census Bureau. “Older People Projected to Outnumber Children.” March 13, 2018. https://www.census.gov/newsroom/press-releases/2018/cb18-41-population-projections.html.

U.S. Citizenship and Immigration Services (USCIS). “EB-5 Immigrant Investor Program.” Accessed September 11, 2019. https://www.uscis.gov/eb-5.

———. “EB-5 Investors.” July 23, 2019. https://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fifth-preference-eb-5/eb-5-investors.

———. “H-1B Fiscal Year (FY) 2020 Cap Season.” April 11, 2019. https://www.uscis.gov/working-united-states/temporary-workers/h-1b-specialty-occupations-and-fashion-models/h-1b-fiscal-year-fy-2020-cap-season.

———. “I-140, Immigrant Petition for Alien Workers.” March 6, 2019. https://www.uscis.gov/i-140.

———. “Overview of INS History.” Report, USCIS, 2012. https://www.uscis.gov/sites/default/files/USCIS/History%20and%20Genealogy/Our%20History/INS%20History/INSHistory.pdf.

———. “Permanent Workers.” October 6, 2017. https://www.uscis.gov/working-united-states/permanent-workers.

U.S. Congress. Senate. *Immigration: The Economic Impact: Hearing before the Committee on the Judiciary.* 109th Cong., 2006.

U.S. Department of Labor Employment & Training Administration. “Permanent Labor Certification.” Accessed September 11, 2019. https://www.foreignlaborcert.doleta.gov/perm.cfm.

U.S. Department of State Bureau of Consular Affairs. “Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2018.” Accessed December 11, 2019. https://travel.state.gov/content/dam/visas/Statistics/Immigrant-Statistics/WaitingList/WaitingListItem_2018.pdf.

———. “Family-Based Immigrant Visas.” Accessed November 4, 2019. https://travel.state.gov/content/travel/en/us-visas/immigrate/family-immigration/family-based-immigrant-visas.html.

———. “Immigrant Numbers for September 2019.” *Visa Bulletin* 10, no. 33 (August 9, 2019). https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2019/visa-bulletin-for-september-2019.html

U.S. House of Representatives. *America’s Immigration System: Opportunities for Legal Immigration and Enforcement of Laws Against Illegal Immigration: Hearing before the Committee on the Judiciary, House of Representatives*. 113 Cong., 1st sess.. 2013.

Vaughan, Jessica. *Immigration Multipliers: Trends in Chain Migration*. Washington, DC: Center for Immigration Studies, 2017. https://cis.org/sites/default/files/2017-09/vaughan-chain-migration_1.pdf.

Wadhwa, Vivek. “The First Brain Drain in the United States.” *Georgetown Journal of International Affairs* 13, no. 1 (2012): 89–96. www.jstor.org/stable/43134218.

Wasem, Ruth Ellen. *Immigration of Foreign Workers: Labor Market Tests and Protections*. CRS Report No. RL33977. Washington, DC: Congressional Research Service, 2010. https://crsreports.congress.gov/product/pdf/RL/RL33977.

———. *U.S. Immigration Policy on Permanent Admissions*. CRS Report No. RL32235. Washington, DC: Congressional Research Service, 2012. https://fas.org/sgp/crs/homesec/RL32235.pdf.

Weissbrodt, David, and Laura Danielson. *Immigration Law and Procedure in a Nutshell*, 6th ed. Eagan, MN: West, 2011.

West, Darrell M. *Brain Gain: Rethinking U.S. Immigration Policy*. Washington, DC: Brookings, 2010. http://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=1111895.

The White House. “Common-Sense Immigration Reform That Keeps Families Together.” Accessed March 3, 2019. https://www.whitehouse.gov/briefings-statements/common-sense-immigration-reform-keeps-families-together/.

———. “Immigration.” Accessed September 16, 2019. https://www.whitehouse.gov/issues/immigration/.

———. “Immigration and the U.S. Economy.” Obama White House Archives, accessed September 17, 2019. https://obamawhitehouse.archives.gov/node/212481.

———. “President Donald J. Trump Wants to Fully Secure Our Border and Reform Our Immigration System to Put America First.” May 16, 2019. https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-wants-to-fully-secure-our-border-and-reform-our-immigration-system-to-put-america-first/.

———. “President Trump’s Bold Immigration Plan for the 21st Century.” May 21, 2019. https://www.whitehouse.gov/articles/president-trumps-bold-immigration-plan-21st-century/.

Wides-Munoz, Laura. “Family-Based Immigration Has ‘Merit,’ Too.” *Washington Post*, February 5, 2018. https://www.washingtonpost.com/news/posteverything/wp/2018/02/05/family-based-immigration-has-merit-too/.

Wilcox, Dale L. “Merit, Not Nepotism, Should Guide Our Immigration Law.” *The Hill*, May 27, 2019. https://thehill.com/opinion/immigration/445625-merit-not-nepotism-should-guide-our-immigration-law.

Woods, Joshua, and C. Damien Arthur. *Debating Immigration in the Age of Terrorism, Polarization, and Trump*. Lanham, MD: Lexington Books, 2017.

World Bank. “India Overview.” October 25, 2019. https://www.worldbank.org/en/country/india/overview.

Young, Julia G. “Making America 1920 Again? Nativism and U.S. Immigration, Past and Present.” *Journal on Migration and Human Security* 5, no. 1 (2017): 217–35. https://doi.org/10.1177/233150241700500111.

Yu, Bin. *Chain Migration Explained: The Power of the Immigration Multiplier*. El Paso, TX: LFB Scholarly Publishing, 2007. https://ebookcentral.proquest.com/lib/ebook-nps/detail.action?docID=3016812.

Zavodny, Madeline. “Immigration, Unemployment and Labor Force Participation in the United States.” Policy brief, National Foundation For American Policy, 2018. https://nfap.com/wp-content/uploads/2018/05/IMMIGRANTS-AND-JOBS.NFAP-Policy-Brief.May-2018-1.pdf.

THIS PAGE INTENTIONALLY LEFT BLANK

INITIAL DISTRIBUTION LIST

1. Defense Technical Information Center
   Ft. Belvoir, Virginia

2. Dudley Knox Library
   Naval Postgraduate School
   Monterey, California