

Considering a New Immigrant Reform

Catalina Adams Ph.D.

Arthur Takahashi B.A.

Department of Modern Languages

Winthrop University

Rock Hill, SC 29733, USA.

E-mail: adams@winthrop.edu

Abstract

Illegal immigration in the United States has been a topic of disagreement for many generations. Many believe that Hispanic immigrants are taking away jobs from Americans. Nevertheless, a great majority has proved to help with the local, state, and national economy by providing low-cost labor and accepting working conditions that others are not willing to consent to (Machicao, 2009). Unfortunately, these immigrants continue to experience discrimination due to the lack of consistency in regards to making and interpreting immigrant and immigration laws on the part of the government. Therefore, a new immigrant reformation must be implemented.

The status of illegal immigrants in the United States has been controversial for many generations. Controversy surrounds the current wave of Latinos settling in the Southern states in search for jobs because many believe immigrants are taking away jobs from Americans (Dieckmann, 2007). However, according to Rosario Machicao (2009), a study conducted by the Centro de Políticas Migratorias IPC, confirmed that Latinos do not take away jobs from Americans since the type of work that they carry out do not coincide with the type of jobs that Americans apply for. On the contrary, Hispanics have proved to help the local, state, and national economy by providing cheap labor and tolerating working conditions that Americans would not accept. However, these immigrants continue to experience discrimination due to the lack of consistency with respect to making and interpreting immigrant and immigration laws on the part of the government. Therefore, a new Immigration Reformation Act must be implemented. Immigrants who have resided and worked in this country deserve a path to legal citizenship because they have played an important role in the U.S. economy and history. In addition, the government needs to implement policies to control employers who intend to exploit immigrants in the work place.

The population of Hispanic immigrants is rapidly increasing, and many of these immigrants marry and have children in the United States, making the Hispanic population increase even more. The Census Bureau (2010) projects that by 2050, "the Hispanic population will be about 103 million; one in four Americans will be Hispanic; in states such as California and Texas, Hispanics will be the clear majority. According to the Pew Hispanic Center, Hispanics will account for 46 percent of the nation's added population over the next two decades, mostly due to the Hispanic baby boom." (United States Census, August 2008). With a number of this magnitude, laws should be adjusted to support and enhance the wellbeing of these people who ultimately will have an impact on U.S. education, health-care system, housing, economy, and politics.

President Barack Obama should search out for a path where hard-working immigrants can obtain the legal immigrant status. According to the Congressional Budget Office and Joint Committee on taxation, this will increase the income tax revenue by \$66 billion because immigrants who obtain the legal status will pay federal taxes (Preston, 2009). Obama said that "immigrants who are long-time residents but lack legal status have to have some mechanism over time to get out of the shadows (Preston, 2009)." He intends to impose fees on those that violated the law, but they will have an opportunity to claim for their citizenship. Giving them the chance to become citizens will prevent family separation, which is one of the challenges that immigrant workers face when they are deported. Many leave their children in the United States because the latter were born in this country and are American citizens. By deporting those illegal immigrants, their children may eventually become an economic and social burden to the United States.

Historical Background-Immigration Laws

The United States is the country that receives the highest number of immigrants compared to other nations. From the 1800s through the Great Depression, a period in which the immigration levels reached its zenith, 60 million people moved from their homeland to another country. Half of those immigrants came to the United States (Bryan, 1999). Being a country of immigrants, the United States has long regulated the movement of foreign people crossing its borders (Jernegan, 2005).

However, regulations that concern immigrants have always been a topic of debate because there have been inconsistencies throughout history with respect to these regulations. Whereas the U.S. federal government is responsible for regulating the traffic of people to the country (immigration policies), state governments have been responsible for implementing regulations that may or may not help immigrants adapt to the American culture (Immigrant Policy Issues Overview, 2008). However, even though the state governments have dealt with immigrant policies, an active Supreme Court has overruled state decisions in the last decades (Levin, 2008). Thus, laws at the federal level still have more power to decide policies regarding immigration issues than at the state level. Specifically, Article I, section 8, of the U.S. Constitution gave Congress the power “to establish a uniform rule of naturalization.” Because of this power, Congress could pass the Naturalization Act of 1790 – its first attempt to regulate naturalization and immigration – requiring foreigners to live in the United States for two years in order to get the U.S. citizenship (Levin, 2008). In 1795, the residency requirement for citizenship was increased by three years. Since then, Congress has tried to regulate how immigrants become U.S. citizens considering their age, gender, race, and residency (Levin, 2008).

As the United States prepared to go to war against France in 1798, the Alien and Sedition Acts of 1798 were signed. The acts increased the residency requirement to become an American citizen to 14 years. They also legalized the imprisonment and deportation of foreigners considered “dangerous to the peace and safety of the United States (Alien and Sedition Acts, 2008).” However, the acts were repealed in 1800. The Alien and Sedition Acts were a result of fear regarding national security as America prepared to battle. This kind of restriction on immigration can be observed in American history in times of war. On the one hand, there is the argument to keep America and its interests safe; on the other hand, there is discrimination against legal immigrants based on their national origin. The first attempt by Congress to select aliens who could enter the United States was in 1875. The Immigration Act of 1875, known as the Asian Exclusion Act, forbade the immigration of Chinese workers who did not consent to come to the United States and Chinese women who wanted to come to work as prostitutes (Immigration). Even though this act was designed to prevent women with the intent to prostitute from entering the United States, it also prevented women who were unemployed and single from coming to the country (Immigration). In this same year, the Supreme Court ruled that immigration was a federal issue (U.S. Immigration and Naturalization Service, 2008).

Congress passed in 1917 the first immigration law that broadly limited the entrance of foreigners in the United States. The law was a result of concerns over national security due to the Great War. The act forbade anyone from the “Asiatic Barred Zone” from entering the United States. The law required immigrants who were 16 years old or older to pass a literacy exam to test their language skills. It also required foreigners to pay a tax to enter the United States and allowed immigration officers to select those who would have their entrance denied (The Immigration Act of 1924). One more time, restrictions on immigration came during wartime and resulted in discrimination against a specific group of people — in this case, Asians. Another legislation that sought to limit the entrance of immigrants to the United States was the Immigration Act of 1924. The law established quotas set at 2 percent of the total foreign-born population of a specific national origin. The quota was based on the population, the census of 1910 recorded. The law also excluded Asians — especially Japanese — from coming to America (The Immigration Act of 1924). Even though the United States was not participating in a war when this immigration act was passed, this law was still a discrimination against a specific group of people. The Immigration and Nationality Act of 1952 reaffirmed the quota system and established selective immigration based on working skills and family reunification.

It is important to highlight that the law was enacted during the Cold War because some people feared that allowing immigrants to come to America would facilitate communists to enter the country; those people argued that the entrance of communists in the United States would threaten the American ideals. Therefore, those people said that the best way to protect the United States was to restrict immigration by selecting immigrants (The Immigration and Nationality Act of 1952). Again during wartime, the federal government tried to select the people whom they wanted to be in the country while excluding those who were undesirable. The national quota system was abolished with the Immigration and Nationality Act Amendments of 1965. In theory, the amendments, which are the base of today’s immigration laws, were supposed to end discrimination against specific groups of people. They established an equal treatment for people of all countries. A total of 170,000 visas were given to Eastern-Hemisphere countries and 120,000 to Western-Hemisphere nations. Immigrants who had families in the United States had preference when getting a visa. The change in the quota system was an extension of the Civil Rights Movement to immigration policies (Three decades of Mass Immigration, 1995). Because of the 9/11 terrorist attacks and the new concern over homeland security, the federal government has passed laws that have affected immigration and immigrants. The USA Patriot Act, signed in 2001, allowed the searching, monitoring, detaining, and deporting of foreigners suspected of terrorism (Jernegan, 2005).

This act opens the door for discrimination against legal immigrants and violation of their rights. By analyzing the immigration policies the federal government enacted in times of war, it is evident that discrimination against immigrants and violation of their rights has been a pattern. At the federal level, politicians have played with immigration and immigrant policies depending on their interest. We can also see how immigration policies are adjusted according to the demand for manual labor at certain times. James Ridgeway (2007) states this fact clearly in his article “Attention Immigrants: Thanks for Your Hard Work. Now Leave.” The current guest-worker program has brought controversy. While it offers temporary work to immigrants for six years, it does not provide them with health-care benefits, permission to bring their children, and a retirement plan because immigrants are required to go back to their country of origin after their work visa expires. From 1942 until 1964, more than 4.5 million Mexican workers immigrated to the Southwest of the United States to temporarily work in the field — a kind of work Americans did not want at that time (Opportunity or Exploitation). They came with the Bracero Program (bracero in Spanish means unskilled labor), which encouraged employers to hire immigrants. Immigrants were forced to accept the demands of their employers, and even if the latter complained about their working conditions, they were consistently ignored. “What could be better for business than a workforce that works for next to nothing, drives down wages for everyone else, can’t protest or unionize, then goes away when you’re done with them?” (Ridgeway, 2007)

In the past 40 years, the Supreme Court has understood that immigrants are people who need help. Even though Congress has the power to deal with immigration policies, the Supreme Court has been active by using the Fifth and Fourteenth amendments — more specifically the due process and equal protection clauses — to influence those policies (Levin, 2005). According to the Fifth Amendment, no person shall “be deprived of life, liberty, or property, without due process of law;” and according to the Fourteenth Amendment, no state should “deny to any person within its jurisdiction the equal protection of the laws.” It’s important to highlight that a “person” may mean citizens, immigrants, and even illegal aliens. Therefore, citizens, immigrants, and even illegal aliens must not be deprived of life, liberty, or property, without due process of law and must not be denied the equal protection of the law.

Ideally, the Supreme Court would share its power to decide immigration issues with the states and Congress because the reality of each state is different. That way, better immigration and immigrant policies would be enacted. Taking into consideration the conditions in each state is crucial to make decisions that apply specifically to the specific ethnic, language or cultural groups residing in the United States because each group may have different needs. Most immigrants who come to this country want to offer a more promising future to themselves and their children. That is why they are hardworking, productive, and determined to provide their children with upward mobility over time. If they cannot work and do not have rights — or if they are separated from their children because of deportation — their children will not have an opportunity to succeed in life. We should not punish those children whose parents are just simply trying to give them a better life.

Hispanic Immigration in the South

Hispanics are the nation’s largest immigrant group. It is estimated that 47 million (about 15.5 percent of the total U.S. population) live in the United States. Of those 47 million, 25 percent reside in the country illegally. Most of them came to the United States as part of an immigration wave that started gaining force in the 1970’s. As a consequence, the federal, state, and local enforcement have used deportations, workplace raids, and limitations on government services and benefits to control immigration. This has created discrimination against Latinos who want to live peacefully in this country. The Pew Hispanic Center estimates that 7 to 8 million undocumented immigrants are in the U.S. workforce. (Passel, 2009)

According to the Consortium for Latino Immigration Studies (Lacy, 2007), since the early 1990’s (between 1990 and 2005), the following states have experienced an impressive increase in their Latino population that surpasses the national rate: Arkansas, Alabama, Georgia, North Carolina, South Carolina, and Tennessee. The Latino population in these states has increased by 447 percent, while it increased 85 percent nationwide.

Most Latinos that have immigrated to this country in the recent years are Mexicans, and they tended to choose the Southeast because it offered several job opportunities such as construction, poultry processing, and agricultural jobs (Lacy, 2007) — options they did not have in their home country. At the same time, companies in the Southeast benefited from the cheap labor they could hire. These companies took advantage of this unique situation, paying low salaries to people who had no other option to make a living. The reality for many of these Mexican employees has never been ideal. Most Hispanics who come to the South are undocumented young men who may not know English very well and have not graduated from high school in their country of origin. Ideally, we would offer them the opportunity to learn English in order to help them adapt to the United States. Schools would help Latinos and other ethnic and linguistic groups adapt to the American culture.

Unfortunately, no illegal immigrant can attend a state-supported college or receive any scholarships in South Carolina, for example. Therefore, they typically find jobs such as in agriculture, construction and factories that do not require intellectual skills. The population of immigrants is rapidly increasing in the South. The U.S. Census Bureau expects the Hispanic population to reach 9.5 millions by 2025, a total of 30 percent of the population of the total population in the South. That is a total of 40,000 people a year from 2005 to 2025.

According to a new law in South Carolina, all South Carolina businesses that employ more than 100 workers must verify the legal status of their workers. If the employees are undocumented, they need to be removed because they are not authorized to work. In addition, in June 2008, South Carolina became the fifth state in the United States to pass the broad illegal immigration reform in order to check for the eligibility status of workers. All employers must verify the legal status of their workers using a South Carolina driver's license, an ID card, or the documents needed to obtain one (Lewis, 2008). Licenses from other states with the same eligibility requirements are also acceptable. The final option is to use the U.S. Department of Homeland Security's online database called E-Verify. It is free to enroll and use. This illegal immigration reform discriminates immigrants who have worked and lived in the United States (Lewis, 2008).

The problem is that many of these employees have worked for years in South Carolina, and they have to provide for their families. The immigration reform passed in South Carolina will have devastating economic consequences for the state because tax payers will be the ones providing for the families of unemployed immigrants. Where will the families go? Is there a plan to help them? Does the state have the right to separate the children who are U.S. citizens from the parents who have to be deported? Unfortunately, some of those children end up dropping out of school so that they can work to provide for their families. That is why many never get to go to college. The current immigration law does not take into account the harm of separating parents from their children who are American citizens. The judge in charge is left out with no option in a deportation case. Approximately, 3.1 million children who are U.S. citizens have one parent who is undocumented. We need immigration laws that meet the reality of these families. Who will take care of these children if the parents are deported? Andrea Nill (2009) states that "we need immigration laws that meet the reality of 2009, reduce illegal immigration, and strengthen the rule of law by replacing the chaos and exploitation of undocumented immigration with the control and regulation of an orderly and humane system." Although the United States claims to welcome diversity, discrimination continues to take place. Hispanics are typically paid less because they have a low level of education and their status in this country is inferior compared to those who are legally born here.

Solution

President Barack Obama ought to look for a path to help immigrants become legal; immigrants who are long-time residents but lack legal status. Fortunately, he is currently addressing this issue. He states, "they have to have some mechanism over time to get out of the shadows." (Preston, 2009). He intends to impose fees on those who violated the law, but they will have an opportunity to claim for their citizenship. He also prepares to reinforce the vigilance on the border to control illegal immigration and restrain companies from hiring new illegal workers. Obama said he wants to prevent family separation, which is one of the challenges that immigrant workers face when they are deported. He recognizes that by separating families, their children will become an economic and social burden to the United States.

In addition, we need to provide our teachers with resources and intercultural training to help these immigrants adapt to the American culture. School districts should modify their curriculum according to the needs of the new population. From 1990 to 2000, the number of Hispanic kids in American schools increased; they make 4 percent of the total population of children in schools in the South (Young, 2005 p. 12). In addition, we also need to provide our schools with bilingual faculty and staff who will help immigrants have an adequate education.

In addition, we also need to enact some changes in our public-safety and health-care systems. Often times, immigrants do not know how to interpret federal, state, and local laws. Therefore, we need a system that helps this minority group understand and respect these laws. Regarding health services, most Latinos are afraid to use health-care resources because they think they can be misunderstood, taken advantage of, or even deported. Therefore, we need to provide this population with information in their mother language in clinics and hospitals and have staff that can help these patients communicate with their nurses and doctors.

A way to solve this problem is to give Congress more responsibility over immigration and immigrant policies. Considering that members of both the Senate and House of Representatives are elected by the people, Congress members are more subject to lobbying than Supreme Court judges who are appointed. Through lobbying, immigrants have an opportunity to persuade legislators to enact pro-immigrant laws.

In addition, Congress members represent different states and, thus, different interests. People who want pro-immigrant policies may lobby Congress members from their state to vote for those policies. Therefore, by giving Congress some power over immigration issues, aliens do not need to rely only on the Supreme Court for pro-immigrant decisions. Instead, they can also rely on the legislative branch, which is more diverse and, thus, represents different and competing interests. Thereby, by depending not only on the good judgment of nine judges but also on the diversity of the Congress, immigrants will have more opportunities to have pro-immigrant policies enacted. Whereas a xenophobic majority may persuade the federal government to enact laws that discriminate immigrants, states that will benefit from an influx of immigrants (e.g. need for labor) will protect aliens from the national, xenophobic majority. Thereby, letting the states decide what immigration and immigrant policies they are going to enact is better than leaving such a power in the hands of the federal government.

In conclusion, the U.S. federal system is built in a way that makes immigrants depend too much on the goodness of the Supreme Court judges to rule in their favor. If the Supreme Court shares with the states and Congress its responsibility over immigration issues, the chances are greater that good immigration and immigrant policies will be enacted. Hence, with good immigration and immigrant policies enacted, not only immigrants but also U.S. citizens will benefit from them. If we do not embrace and find reasonable solutions to accommodate this growing population in the United States, we will see a high rate of school drop outs, more crime, and an increase in social and economic racism. We have to learn from our past mistakes. The presence of the Latino population is a reality, and we should adapt to it. We must create an immigration system that improves our security and reaffirms our heritage as a nation of immigrants — a nation that offers immigrants from all around the world a chance to achieve their dreams. Hopefully, some day, Americans will abandon their prejudice against immigrants.

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