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Immigration Law and Policy: Before and After September 11, 2001

Erick C. Laque

Migration has always been a significant part of human life. For millennia, humans have traveled from place to place, slowly populating the entire world. The tendency to migrate in search for a better life existed then, and it still exists today. Human migration in ancient times was mostly due to starvation, lack of cultivation, or war. On the other hand, human migration in modern times serves the purpose of uniting families, escaping persecution, or more importantly, finding better employment opportunities. Migration has affected many countries throughout the world in both positive and negative ways. The problems it has created in the modern world can be traced to the cheap labor demand in growing economies. The movement of cheap labor from undeveloped countries quickly became a liability as a recession began during the early 1970s. The recession of 1973 ultimately led to political, economic, social, and cultural issues in many regions around the globe; however, most notably in the United States (US). Many countries have benefited from immigration in the past; however, modern immigration is not always perceived as a possibility of economic growth for the receiving country. In fact, at times the rate of immigration grew so rapidly that it threatened the US with many issues. The rapid growth of immigration has occurred more noticeably in the US with the entrance of several thousand immigrants each year, specifically the growth of undocumented immigrants. Undocumented immigrants, also known as illegal aliens, have brought much attention to the US government, who have been changing and passing new legislation since its creation in the 18th century. In Europe, the movement of immigration can be mostly seen in the West, where countries constantly receive large groups of immigrants from Africa and Eastern Europe. On the other hand, the US mostly receives immigrants from Central and South America who attempt to cross the US-Mexican border every year. Despite the well protected border between the US and Mexico, these undocumented immigrants try to cross in every which way. They leave their families and risk their lives in order to reach the land of opportunities. On the contrary, they will reach a land in which their rights will be constantly violated, not a country which proudly guarantees a wide range of rights and individual freedoms. Understanding the politics of international migration and border control policies is not only important in regards to national security and economic growth, but also important in revealing changing conceptions of sovereignty and the role of the state in policy development. This paper argues that immigration law and policy will be more open when external threats increase and more closed when geographical concentrations, chain migrations, and internal threats increase.

Literature Review

A number of authors have contributed a vast amount of data to the study of immigration. While some authors have attempted to reveal the restrictive changes in immigration policy development using an empirical case-study method, others have focused more on the determining factors that lead to migration in the first place. The following review of six empirical studies is beneficial to further understand the various hypotheses already developed by several authors. Their results will not only shed light on certain issues of immigration, they will also serve as additional evidence in support of this paper.

One of the more recent studies on immigration policy development was conducted by Fennelly and Frederico (2008). The purpose of their study was to examine the determinants for restrictive immigration policies. In their study, Fennelly and Frederico focused on region of residence, using data from a 2004 telephone survey of a sample of 1888 adults representing the nation's population. They tested the hypothesis that "rural Americans are more likely to support restrictive immigration policies than individuals in urban and suburban communities" (p. 151). The outlook of immigration policy has gradually become more restrictive throughout the past few decades. Accompanied by negative media attention, the growth of immigration in the US has developed a negative attitude. These negative feelings, according to Fennelly and Frederico, "abated somewhat at the end of the decade," however, "they spiked again after the September 11th attacks of 2001" (p. 152). Before conducting the study, Fennelly and Frederico suspected that rural residents would be more supportive of restrictive policies than urban or suburban residents would because rural residents have less contact with immigrants in their daily lives. Another factor could be that rural residents are generally much older, poorer, less educated, and more politically conservative. These variables have been shown to be correlates of hostility toward immigrants and immigration. Other variables may include "background characteristics, such as age, income, and education, contact with immigrants, political predispositions, and attitudes toward multiculturalism" (p. 154). Moreover, Fennelly and Frederico observed each variable and concluded that economic hardship, income level, and years of education were the most relevant. They speculated, however, that residents with more years of education may feel less restric-

tive towards immigration policy because “education is yet another component of socio-economic status on which rural residents are disadvantaged, compared to urban and suburban residents” (p. 156). Fennelly and Frederico explained that economic hardship can foster negative attitudes toward immigration, fueled by a concern that immigrants pose a threat to one’s personal well-being or that of one’s family. Their study found that rural residents hold the most restrictive views on immigration, which confirmed their initial hypothesis. In addition, Fennelly and Frederico indicated that the effect of rural residence on immigration policy attitudes was mediated by attitudes toward “multiculturalism, the perceived traits of immigrants, and the perceptions about the costs of immigration” (p. 151). In their final analysis, the perception that immigrants are a burden on the US appears to be the most important single predictor of support for restrictive immigration policies. It is interesting to note that people who support restrictive immigration policies are older, have low incomes, have little education, and are mostly conservative. This might account for the more restrictive laws passed in predominantly conservative areas. Based on findings mentioned above, it would be possible to test whether there is a correlation between conservative cities and restrictive policy development.

Additional studies regarding rural and urban areas have also been developed. For instance, Farmer and Moon (2009) inspected the differences between immigrants that chose rural destinations and those that chose urban destinations. Farmer and Moon hypothesized that since the 1960s, migrants choosing rural destinations are less fluent in English, slightly older, much less educated, far more likely to be unskilled, more likely to be married, and more likely to be undocumented (p. 221). The research collected data through household surveys from 1982 to the present. The surveys were mainly conducted using purposive sampling of 100 communities in west central Mexico. The surveys analyzed specific immigrant attributes, including “education, occupation history, English fluency, age, marital status, whether or not the migrant was undocumented, whether or not the immediate family members have prior experience migrating to the US, and whether or not the individual originates from a small town rather than a metropolitan area” (p. 226). All of the above-mentioned factors were found to have a significant role in determining why foreigners choose to migrate and where they decide to go. For example, there is a strong connection between English proficiency and migration destination selection. Immigrants who have less English proficiency are more likely to migrate to rural areas and earn less. The lack of language proficiency will certainly limit the immigrant’s ability to integrate into society and fully maximize the skills he or she possesses. Furthermore, Farmer and Moon also determined that age is a leading factor, in which “younger migrants are in the entry and experimentation state of employment, whereas older/middle-age are more career established and may migrate in response to opportunity for substantial economic/career gains” (p. 227). The findings for this research, on the other hand, did confirm the primary hypothesis, concluding that there are substantial differences across an array of important social demographic characteristics between migrants traveling to rural and urban areas. This study can be helpful because it demonstrates that there may not be one single or more prominent reason for migration. Although Farmer and Moon did not specifically analyze policy development, their references to specific immigrant characteristics was certainly helpful.

In a similar study, Massey and Espinosa (1997) evaluated contemporary theories of international migration by using data gathered in 25 different Mexican communities. They used Mexico-U.S. migration as their main test case. In their study, Massey and Espinosa refer to a unique source of data that allows them to link migration, both documented and undocumented, to a set of predictors. In doing so, they also seek to evaluate the effectiveness of recent U.S. policy developments. The recent policies that have been implemented assume that undocumented immigrants make a cost-benefit calculation in deciding whether to migrate internationally. Massey and Espinosa concur that, “U.S. policymakers have sought to deter illegal migration by raising the costs and lowering the benefits of undocumented movement” (p. 940). The study began by developing a model to determine what factors cause immigrants to migrate to the US and what factors enable this movement once it has begun. Interestingly, they also analyze what contributing factors cause immigrants to return to Mexico. Their empirical analysis of the factors that initiate Mexico-US migration suggests that the foundations of US immigration policy are flawed. The dynamic expansion of migration between Mexico and the US does not follow from simple changes in the objective costs and benefits of international movement, but from the operation of the state’s self-perpetuating interests (Massey et al.). The data used in this study is derived from simple random samples which were gathered in Mexico from 1987 to 1992. One of the first observations the study established was that most immigrants return home during the months of December and January in order to spend the holidays with their families. On the other hand, Massey (1979) reported that initial fieldwork indicated that a large number of migrants also returned in July, but that this was just the case for one community. The fieldwork conducted for this study was completed through snowball sampling, meaning the results of the Mexican community samples enabled them to determine where in the US the migrants had gone. As a result, interviewers were sent to those locations in order to gather

further information. Some of the information collected through the interviews included a detailed history of labor, migration, property, and marital status. Massey and Espinosa also looked at the underlying factors that contributed to migration. They used education, labor force experience, US experience, documentation, and kinship ties to the US as variables to measure the likelihood of migration to the US. Massey and Espinosa concluded that “no matter what their education or years of labor market experience were, undocumented migrants are confined to the same menial jobs in the US: busboy, maid, dishwasher, gardener, factory worker, and agricultural laborer” (p. 948). After looking at the effectiveness of recent US policy developments, Massey and Espinosa agreed that the US has in fact passed legislation to deter migration. For example, Congress reduced the number of visas available to Mexico, thereby reducing the amount of documented migration. Prior to 1965, there were no limits to the legal entry of Mexicans; however, since then various restrictions have been successfully applied (Massey et al.). Additional problems were created as a result of the decrease of documented workers entering. As Massey and Espinosa noted, “these actions actually raised the cost of migration by increasing the size of visa backlogs, multiplying the legal expenses associated with documented entry, and inflating the waiting time for receipt papers” (p. 949). Congress also attempted to reduce the levels of undocumented migration by increasing the budget for the Border Patrol and imposing sanctions on employers who knowingly hire illegal workers. In response to how social capital plays a crucial role in initiating undocumented migration, Massey and Espinosa suggested that the evidence gathered determined that “people with ties to migrant family members and who have lived where migration is prevalent are far more likely to migrate illegally than people without these social resources” (p. 957). Further findings, although contrary to what most US citizens and politicians believe, indicated that wage ratio and peso devaluation in Mexico are not leading predictors of migration. Peso devaluation, for example, actually reduced the likelihood of migration because of the high costs to enter illegally. The study concluded that three fundamental forces are at work in promoting Mexican migration to the US. They are social capital formation, which occurs because people who are related to US migrants are themselves more likely to migrate, human capital formation, which states that the chances of migrating increases with the more US experience a migrant accumulates, and market consolidation, which concludes that Mexicans migrate in order to search for ways to self insure against threats to family income, especially when there is a growing economic insecurity (Massey et al.). In respect to US policies, the study concluded they were counterproductive. The repressive measures do not stop the flow of migration, but instead increase the costs of both parties. Massey and Espinosa concluded that, “The US pays a high price through the creation of a new population of marginalized residents disconnected from the rest of society—unhealthy, poorly educated, with little stake in the future of the country, its government or its way of life” (p. 992). The conclusion of this study provides further evidence for the reasons foreigners choose to migrate. In contrary to the previous study, Massey and Espinosa were able to develop determining factors for migration.

In this next study, Kandel and Massey (2002) attempt to develop a formal theory of the culture of migration and test it using various data collected. They argue that children from families involved in US migration have a higher chance of deciding to live and work in the US. For young men, especially, migration becomes a rite of passage, and those who decide to not attempt it are seen as lazy and undesirable by potential mates (Kandel et al.). Kandel and Massey created the following equation for the purposes of determining the likelihood of migration: $US\ aspirations = f(+involve, +prevalence, controls)$. As explained by Kandel and Massey, “US aspirations indicates an aspiration to live or work in the US, involve indicates the degree of family involvement in international migration, prevalence is the prevalence of migratory behavior in the community, and controls refers to a set of personal, family, and community characteristics that are held constant in estimating the effect of former variables” (p. 983). In order to support their hypothesis, Kandel and Massey used data gathered from the results of random sample questionnaires. The surveys were given to students from grade 6 through 12 in Zacatecas, Mexico during the 1995-96 academic year. The sample of 7,061 students represented a hypothetical population of about 230,000 people. Students were informed that the survey was confidential and to not write their names, since there were sensitive questions regarding undocumented migration. The questionnaire included the following two questions about aspirations in respect to the US: “Would you like to go to the US some day to work?” and “Would you like to go to the US some day to live?” (p. 986). The results of these two questions supported the study’s initial hypothesis. Only 37% of respondents in families with no migrant experience answered “yes,” whereas 62% of respondents whose father had made at least three trips answered “yes.” Although lower in every category, the desire to live in the US is likewise positively associated with greater family involvement in international migration (Kandel et al.). In reference to gender, the study found that 51% of males and 27% of females among families less involved in migration expressed a desire to work in the US. For those with the more involved families, the respective percentages were 71% and 53%. By examining the research results, the process by which pro-migration values are socially transmitted do appear to

be gendered. For example, Kandel and Massey explain that “the aspiration to work in the U.S. is more strongly connected to family influence and personal experience for females than it is for males” (p. 998). The quantitative analysis also supported the argument that the likelihood of children to want to work in the US increases with the amount of family migration. The problem is that these children begin to look out of Mexico for economical opportunities and social mobility, which causes them to invest in the prospect of migration instead of investing in resources for mobility with Mexico.

Another study on policy development was carried out by Rosenblum (2004). He examined state preferences for migration and their capacity to influence policy outcome. He drew his conclusion on the results of 88 in-depth interviews conducted with Mexican and other Caribbean Basin policymakers. The respondents were experts on migration, trade, and development, and most had policymaking or diplomatic experience. The study was consisted of open-ended questions that addressed preferences on migration, trade flows, and relevant policies. The qualitative findings of this particular study allowed inferences to be drawn about state views. One of the answers sought through the open-ended interviews was how immigrant-sending states weigh the pros and cons of migration to the US. Rosenblum found that the respondents were strongly positive about the provision of hard currency, the reduction of unemployment, and the added human capital borne by returning migrants. The most common concern regarding noneconomic factors was the exploitation of immigrants, especially undocumented immigrants. A second set of questions sought respondents’ opinion about US policy. The findings here indicated that the respondents viewed the economic integration and restrictive immigration policies in the 1980s and 1990s as cruelly ironic and as evidence that undocumented migration is a policy problem, not a structural one (Rosenblum).

In the same year, Pries (2004) concentrated on a qualitative and quantitative empirical study of the life and work trajectories of 648 individuals. The purpose of the research was to establish the empirical existence of the transmigration phenomenon by examining the influence of personal, familial, time, job, and community-related factors (Pries). Unlike the previous studies in regards to the reasons behind migration, the findings here concluded that there is no common trajectory or pattern in the life courses of Mexican migrants. According to Pries, “Sequential migration can lead to various outcomes depending on a household’s collective decisions and strategies, individual strategies, luck, and period or cohort effects” (p. 29). Migration can either lead to successful immigration and incorporation in the US or successful return migration from the US.

Methodology

This research was carried out through in-depth interviewing of 13 immigrants, which included nine men and four women, ranging from 18 to 59 years old. The sample included immigrants who have arrived in the US before and after the events of 9/11. The population was reserved to immigrants who currently reside in the City of Danbury. Thus, subjects were sought out through availability, purposive, and snowball sampling. The in-depth interviews covered various issues and developed a qualitative analysis of the results, determining, for example, the leading factors contributed to migration. The research objective also reveals why immigration law and policy became so restrictive and how these changes have been affecting migration to the US since the early 19th century. The information gathered through the individual in-depth interviews was in response to 20 open-ended questions about the respondent’s life and opinion on immigration policy. The initial 13 questions focused on specific attributes, such as country of origin, age, gender, occupation, and marital status. There were also questions that sought to determine what the positive aspects of migrating were, compared to the negative aspects of migrating. Questions 14 to 20, on the other hand, mainly focused on the respondent’s opinion on immigration policy. For example, question 16 states: “Do you feel that it became harder or easier to enter the US after 9/11? Why?” Minor problems did occur in the process of this study. The most difficult obstacle was locating immigrants who were willing to sit down for at least an hour and share personal information. On the other hand, I did have less trouble conducting interviews in Spanish and Portuguese. It would probably be more intimidating for the respondent if they could not conduct the interview in their own language; thus, I decided to speak either Portuguese or Spanish depending on the person’s nationality. There was clearly a higher level of comfort ability with the respondents who did reply in a foreign language.

Findings: In-depth Interviews

A qualitative analysis of the respondent’s attributes revealed many contributing factors to their reasons for migration. One of the first attributed recorded was age, in which the youngest respondent was 18 and the oldest 59. I concluded that age was an important factor because it was linked to the certain migration goals an immigrant would have. Age can be viewed, for example, as a measure of an individual’s employment career. In fact, the interviews suggested that older respondents immi-

grate more frequently than younger respondents. In particular, respondent number three, who was 43 years old, had migrated back to his country of origin (Brazil) four times. On the contrary, respondent number one, who was 22, had never returned to his native country (Mexico). The first set of questions asked the respondents what were the positive and negative aspects of life in their native country. The open-ended question allowed the respondents to also share their thoughts on the positive and negative aspects of migrating. The positive and negative aspects of life varied. Respondent number nine stated that the most negative aspect is the distance from her family. Current immigration laws do not allow undocumented immigrants to leave the country or they would be penalized with a 10-year ban to immigration benefits. Many of the respondents also stated the same, declaring that being distant from their family for so many years can really be emotionally stressful. In regards to the positive aspects of actually migrating, remittances and employment benefits were among the most common answers. A large reason to immigrate to the US is for employment opportunities. As the respondents implied, these opportunities are not available in the home countries. Respondent number two from Mexico explained that \$10 US dollars is equivalent to 100 pesos. In order to earn that much money in Mexico, many people are required work 10 hour shifts under awful conditions. Therefore, immigrants who can afford to migrate to the US, legally or illegally, can find better employment here and send a large amount of money back to their native country to support their families. Respondent number six had not seen his two daughters for eight years; however, since his arrival, he has sent at least \$500 back each month. Further analysis concluded that education was a major factor economic success in the US. Not only does level of education speak to the ability to advance and excel in the local labor market, but it also is important in the daily functioning of the individual to assimilate into the society. Only two respondents had further education, so the sample is not large enough to determine if education really does play a role in occupational status in the US. On the other hand, the two respondents who had education passed college held more prominent jobs. For example, respondent number seven had a degree in Brazil, but she was unable to find a job. She decided to come to the US because she had familial ties, and as a result she now owns her own beauty salon in Danbury. With regard to immigration policy, 100% of the immigrants interviewed agreed that it was harder to obtain a green card now than it was prior to 9/11. They also agreed that it was more difficult to cross the border now than it was prior to 9/11. Despite their opinions on current U.S. immigration policy, 100% of the respondents still declared that they are confident that the government, under President Obama's administration, will pass legislation that will allow millions of undocumented immigrants to become lawful permanent residents.

Findings: Historical Developments of US Immigration Policy Pre- 9/11

Although initially open to immigration, most notably in the 19th century, the US decided to close its borders due to the high influx of illegal immigrants and the threat to national security, especially after the attacks on September 11, 2001. Today, approximately 2,000 miles and an infinite number of problems separate the border between the US and Mexico, which is now one of the most heavily guarded borders in the world. As a result, a number of laws and policies have been implemented in order to regulate the entry of immigrants into the country. Changes in immigration law and policy have had significant association with increases in security long before 9/11. For example, the Immigration Act of 1882 excluded the admission of convicts, paupers, and those viewed as mentally ill because these populations, according to the proponents of the act, would be unemployed and thus be dependent upon public funds for financial support. The Chinese Exclusion Act was passed the same year, which completely closed immigration from China and banned any Chinese immigrant from becoming a US citizen. The act was evidently very restrictive, since the US widely accepted Chinese immigrants for work during the mid-1800s. It is interesting to note, however, that the act was repealed in 1943 when the US and China became allies during World War II. As stated by Potocky-Tripodi (2002), "The laws of the 1880s introduced three major new elements into our immigration policies: (a) restrictions based on personal characteristics, (b) restrictions based on national origin, and (c) protection of American labor." According to Potocky-Tripodi (2002), these three elements shaped future US policies on immigrants. In regards to the protection of American labor, the Federal government had implemented restrictions on the number of immigrants allowed to enter the US by setting limits on the number of legal entries. The restrictions were most likely due to the cycles of economic depressions in 1870, 1907, and later in 1921, which eventually fueled concerns of immigrants displacing Americans in the labor force. The Immigration Act of 1917, for example, excluded illiterates and restricted admission of Asian immigrants. Also, as a strengthening of US anti-immigration policies, the Immigration Act of 1924 restricted European immigration to 150,000 a year and established a national origins quota system based on the 1890 census. Guerette (2007) declared that over the next several decades a series of immigration policy reforms were introduced that altered the landscape of legal

immigration in response to “geo-political interests, economic conditions, and prevailing political ideology” (p. 10). As a result, a period of liberalization of US immigration policy formed from 1940 to 1980 (View Table 1).

Table 1: Distribution of U.S. Immigration Legislative Actions by Historical Period

Time Period	Legislative Action			
	Restrictive	Enforcement	Inclusive	Neutral Governance
1790-1900	13 (48%)	9 (33%)	3 (11%)	2 (7%)
1901-1940	13 (37%)	11 (31%)	5 (14%)	6 (17%)
1941-1960	4 (11%)	5 (13%)	26 (68%)	3 (8%)
1961-1980	9 (24%)	1 (3%)	22 (59%)	5 (14%)
1981-2006	12 (34%)	8 (23%)	15 (43%)	0 (%)
Total	50 (29%)	33 (19%)	71 (42%)	16 (9%)

Restrictive: policy established some measure which prevented or otherwise restricted the legitimate immigration of individuals or any group thereof; Enforcement: the policy established some provision which enhanced the enforcement capacity of government in response to immigration; Inclusive: the policy relaxed or made easier the ability to immigrate to the US for all or specific groups of migrants; Neutral governance: the legislative action did not accomplish any of the above classifications constituted some other change to government involving immigration by way of policy directive.

Note. From “Migrant Death,” by R. T. Guerette, 2007, p. 12.

The liberalization of immigration law and policy can be observed as early as 1947, when President Harry S. Truman spoke to Congress about a new set of principles of US foreign policy, known as the Truman Doctrine. This defining moment of the early Cold War period not only shaped conceptions of political order, but indirectly shaped conceptions regarding immigration (Rosenblum, 2002). During this time, immigrants were perceived in a more positive light. Society’s insecurities revolved around political ideology, rather than ethnicity, race, or country of origin. Thus, immigrants were welcomed and immigration policies were very lenient, especially to accommodate the thousands of post-war refugees fleeing communist countries. For example, legislation in 1948 (Displaced Persons Act), in 1953 (Refugee Relief Act), and in 1957 (Refugee Escapee Act) was passed to provide for those who were displaced by the war or who were escapees from communist regimes. The process of immigration to the US at this time was also beneficial because it gave more support to the Truman Doctrine and the conception that the Soviet Union was oppressive. It allowed the US to be recognized as the defender of liberty and freedom. As Zolberg (1995) acknowledged, a 1953 NSC memorandum suggested that the [Refugee Relief Act of 1953] served to “encourage the defection of all USSR nations and key personnel from the satellite countries” in order to “inflict a psychological blow on communism” (p. 123). The impact of this positive image of migration created by Cold War foreign policy can be reflected in the rapid reduction of American sentiment towards immigration. “In 1947, 72 % of poll respondents did not support the admission of 100,000 new refugees; however, by 1953, 47% replied that they supported the admission of 240,000 displaced persons” (Fetzer, 2000, p. 40). In addition to the previous acts regarding the permission of refugees, there was also the

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Immigration and Nationality Act (INA) of 1952, which was amended in 1965. The INA attempted to deflect criticism of America's national origins quota system by including an official prohibition against utilizing race, national origin, or ethnicity for admission decisions.

Consequently, the INA resulted in the increase of immigrants from Mexico, Latin America, and Asia. More significantly, the increase of Mexican migration was due to the renewal of the Bracero program in 1947. As a result, domestic labor shifted toward higher-paying industrial production jobs, while opportunities in agriculture became less appealing to American workers in terms of relative wages, working conditions, and social status. Given that there was a high demand for labor, thousands of illegal workers flocked to the US in search of employment. Over time these changes significantly affected the ethnic composition of the country as a whole. By the mid-1980s, concern over the number of illegal immigrants became dominant and immigration policy began to shift from an inclusive to a restrictive direction. From 1960 to 1990, the percentage of Hispanics and Asians increased from 3.5% to 9% and from 0.6% to 2.9%, respectively (Bean, Cushing, and Haynes, 1997, p. 126). The outcome of an increase in illegal immigration meant an increase in border apprehensions. The highest number of apprehensions by the Border Patrol was 1,693,000 in 1986, immediately prior to the passage of the Immigration Reform and Control Act (IRCA). A concern over the size of the illegal immigrant population led to the approval of IRCA, which allowed the legalization of several million unauthorized immigrants. Its three major provisions dealt with undocumented immigrants: (a) increased fines to those who hired illegal immigrants, (b) increased border control, and (c) amnesty granted to those who had lived continuously in the US since 1982 (Potocky-Tripodi, 2002). The purpose of declaring amnesty to undocumented immigrants was to provide a clean slate for the increased control provisions conveyed in IRCA. Rolph (1992) affirmed that "from 1986 to 1990, the budget allocated for the Border Patrol increased from \$154 million to \$262.6 million, which constituted the largest portion of the [Immigration and Naturalization Service's (INS)] budget for enforcement activities" (p. 45). With an increased budget, the Border Patrol was successful in maintaining levels of migration. Immigration quota levels remained fairly steady until the first legislative change was enacted in the 1990s. The Immigration Act of 1990 (IMMACT) actually resulted in a 40% increase in overall legal admissions. IMMACT increased the number of employment-based visas and established the H-1B visa program for highly skilled workers. Nevertheless, by 1993 Americans continued to favor decreased levels of immigration. According to Shanks (2001), polls taken in 1993 showed that 65% of Americans favored decreased levels of immigration, up from 42% in 1977. Evidence to such anti-immigrant opinion can be seen with the passage of Proposition 187 in California in 1994. Proposition 187, also known as the Save Our State initiative, became known as the most anti-Mexican law ever passed. In his campaign for re-election to the government of California, candidate Pete Wilson announced that one of his campaign goals would be the adoption of Proposition 187. The proposition declared that immigrants, principally Mexicans, both illegal and legal, were harming the economy and growth of the State of California. The beginning of Proposition 187 states:

The People of California find and declare as follows: That they have suffered and are suffering economic hardship caused by the presence of illegal aliens in this state. That they have suffered and are suffering personal injury and damage caused by the criminal conduct of illegal aliens in this state. That they have a right to the protection of their government from any person or persons entering this country unlawfully. Therefore, the People of California declare their intention to provide for cooperation between their agencies of state and local government with the federal government, and to establish a system of required notification by and between such agencies to prevent illegal aliens in the US from receiving benefits or public services in the State of California. (Proposition 187, Section 1)

Wilson was elected as Proposition 187 was approved. His main objective was to undermine illegal immigration and prohibit the access of immigrants to public benefits. The proposition created fear in legal immigrants because they felt they were in danger of losing their pensions, even though they paid taxes and social security throughout their entire lives. In December of 1994, only one month after its approval on November 9, 1994, a judicial order suspended the law. It was not suspended for violating the rights of immigrants, but rather because the US Constitution prohibits states from passing legislation in regards to immigration, which is under federal jurisdiction. Andreas (2000) explained that organizers and proponents of the bill suggested that it was intended to send a message to policymakers, even though the law was almost immediately struck down in the courts. Although this peculiar bill was rejected, the negative sentiment towards immigration led to a series of border enforcement pro-

grams along the US-Mexico border. Operation Gatekeeper, for example, was put into effect in 1994 by the US government under President Bill Clinton, with the purpose of improving security along the border. It is better known, however, for illegal detentions and a series of deaths. Still, additional funding for border enforcement was secured with the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA). It allowed 1,000 additional Border Patrol agents to be hired every year. The act also expanded the power of the INS by allowing for the detention and deportation of any illegal and legal immigrant who has been charged with or convicted of a drug offense or who otherwise possesses a criminal record. Some scholars have suggested that these methods are a failure, since they have failed to stem the flow of illegal immigrants entering from Mexico (Cornelius, 1998).

Findings: Historical Developments of US Immigration Policy Post- 9/11

The terrorist attacks on September 11, 2001 had an effect on the entire world, but they also had an effect on the future development of immigration policy. The most significant change was the widespread recognition of the link between military security and the effective control over global migration. The government's focus on the war against terrorism has essentially blurred the lines between immigration and terrorism. As stated by Miller (2005), 9/11 has brought about a near conclusive blurring of what by the late 1990s amounted to an already well-faded distinction between the legal offenses of undocumented laboring, criminal activity by aliens, and terrorism. The first steps taken in regards to policy development were very restrictive, including the passage of the USA PATRIOT Act in October 2001 and the Enhanced Border Security and Visa Entry Reform Act (EBSVERA) in May 2002. Instead of legalization of undocumented workers and reconsideration of the restrictive nature of prior immigration laws, Congress responded six weeks after the attacks on 9/11 with the passage of the PATRIOT Act. The PATRIOT Act, for example, authorized federal officers to arrest and imprison non-citizens on immigration grounds without legal review and without public disclosure. Importantly, this lack of legal oversight portends the use of immigration law for ends that do not relate directly to immigration enforcement (Kanstrom, 2003). Another measure taken to ensure the protection against the nation's threats was the creation of the Department of Homeland Security (DHS) in January 2003. The DHS absorbed several federal agencies, including the Coast Guard, Secret Service, Border Patrol, Immigration and Naturalization Service, Customs Service, and Transportation Security Administration. In addition, the DHS encompassed the Bureau of Immigration and Customs Enforcement (ICE) and the U.S. Bureau of Citizenship and Immigration Services (USCIS), which oversee the enforcement of immigration laws and handle immigration services, respectively. The Department of Justice (DOJ) acquired the jurisdiction over certain immigration policies, in particular the immigration court system, which is called the Executive Office for Immigration Review.

The aftermath of 9/11 and the decline of the US economy, which has certainly influenced the distribution of public benefits, such as health care and aid to the unemployed and homeless, have in turn reduced the receptivity of immigrants compared to that of the early 20th century. Since 9/11, various laws have also been passed in order to regulate immigration, or preferably, maintain its declination. One example of the measures taken in regards to illegal immigration was the decision of the US Supreme Court (USSC) on March 27, 2002. The decision professed that employers do not have to pay employed illegal immigrants any benefits or wages after they have been laid off. The decision came from the actions of Juan Castro, an illegal immigrant from Mexico who worked for Hoffman Plastic Compounds. He proposed the creation of a union in order to defend immigrants from the continuous abuse from companies that threatened to report working immigrants to immigration authorities. After being fired for his actions, Castro sought help through the National Labor Relations Board, who declared that he was fired under illegal terms. The company appealed, maintaining that he was not legible for benefits due to his illegal status. An administrative judge revoked the decision made by the National Labor Relations Board, ruling in favor of Hoffman Plastic. As a result, Castro decided to appeal again through the National Labor Relations Board, who ultimately annulled the decision made by the judge and demanded that the company pay Castro \$66,000 in restitution. Hoffman Plastic appealed to the USSC, leading to the decision that illegal foreign workers are not entitled to wages or any other benefits after being fired because these rights are reserved for American citizens and to those who reside legally in the US. As a result of this decision, illegal foreign workers became vulnerable to losing employment and being reported to immigration authorities. Although these foreign workers may work hard, long hours, they no longer have any guarantee, especially after this decision, that they will be paid their salaries, even if they attempt to dispute it in court.

Since 9/11, policies regarding terrorism have misappropriated immigration laws to promote anti-terrorism goals. As a result, immigration policy has lost its independent policy agenda. Virtually no new immigration policies have been created sep-

arate from terrorism policies since 9/11. In fact, even well-developed plans for immigration policy reform have been dropped since 9/11, as each reform was evaluated first for what it did for our national terrorism policy and potentially only second for its immigration goals. Much of this anti-immigrant sentiment has taken the form of suggested state legislation, in which over 1,400 bills on immigrant issues were filed in the state legislatures in the first half of 2007. There is a continuing concern for these bills, many of which propose restrictive policies, especially because there have been a number of proposed discriminatory laws against immigrants.

Conclusion

In times of a global market economy, it would be rather senseless not to question the American attitude of isolating itself by a wall that separates the free world from the well-guarded land of opportunities. While countries such as Canada look to not only legalize illegal immigrants, but to also improve their conditions of living, the US does just the opposite by alienating the contributions that illegal foreign workers have brought to the American economy, mainly in the agricultural sector. The xenophobia has turned into a serious problem in the US, especially after the attacks of 9/11, which has led many Americans to view illegal immigrants as potential terrorists. The deaths of illegal immigrants caused by the actions of the Border Patrol on the US-Mexican border have brought forth a dark reality: the US no longer treats its commitments in the international sphere with the same seriousness it portrays in its internal politics. Such statement can be made in light of the fact that the US quickly signed and ratified the American Declaration of the Rights and Duties of Man, the world's first international human rights instrument. This declaration stated in Article II that "All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor." In terms of developing an understanding of policy development, the evidence presented here suggests that policy is not solely a bottom-up process of localized interests, but rather the state is an important agent in its own right. What is clear from this research is that states that can best negotiate the complex challenges posed by migration will be those that achieve the advantage in our global age.

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