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**The U.S. Immigration Policy Shift: from the 2008 Obama's Comprehensive
Immigration Reform to the 2016 Trump's Immigration Reform Plan**

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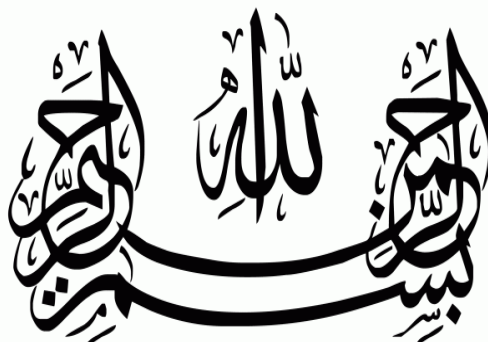
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Declaration

I hereby declare that this thesis represents my own work which has been done after registration for the degree of PhD at the University of Oran 2, and has not been previously included in a thesis or dissertation submitted to this or any other institution for a degree, diploma or other qualifications.

Signature

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Dedication

In loving memory of my dear parents

To my son Rassim

To all my beloved ones

Abstract

Immigration has long been fundamental to the emergence of the United States as a leading power. Nevertheless, it encountered intensified policy debate. The crux of the study is to analyze the basic immigration policies adopted by Presidents Barack H. Obama and Donald J. Trump. In this regard, the study focused on the Obama and Trump administrations, highlighting the most critical immigration regulations passed during their tenures. While examining both administrations from the two major political parties, the work concluded that both presidents issued a series of immigration provisions, broadening enforcement priorities. However, while President Obama combined his enforcement measures with temporary relief programs, President Trump relied on a high-profile enforcement policy. In terms of methodology, the target population for this research included early immigrant arrivals, minority groups; mainly Latinos, Asians, Muslims, and Blacks, and illegal immigrants. The data was collected from historical documents, surveys, and reports. The study relied on a mixed-method, combining qualitative and quantitative methods. Besides, it used the historical, ex post facto, and correlational methods. The work revealed that despite their different ideologies, both presidents passed immigration enforcement measures that aimed at minimizing the number of immigrants to the lowest possible levels, and caused immense harm to the immigrant population. Highlighting the extended impacts of the Trump anti-immigrant rhetoric, the study detected the threat posed on American unity. Driven by different motives and following distinct strategies, both presidents impacted the U.S. longstanding features as a nation of immigrants, aggravating the issue to the point of threatening the country's unity.

Table of contents

Declaration	II
Acknowledgments	III
Dedication	IV
Abstract	V
Table of contents	VI
List of Acronyms and Abbreviations	VIII
List of Figures	X
List of Maps	XII
List of Tables.....	XIII
General Introduction	1
Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms	5
1. The U.S. Immigration Policy Towards Early Arrivals (1780-1875).....	6
1.1. Early Immigrant Groups to the U.S.....	6
1.2. The U.S. Laissez-Faire Immigration Policy (1780-1875)	15
1.3. Social Status of European Immigrants in the U.S.	19
2. Redesigning Immigration Policy in Response to New Asian Immigrant Groups.....	26
2.1. The New Asian Immigrant Population.....	27
2.2. Exclusionary Laws Targeting Asian Immigrants.....	29
2.3. The Impact of the U.S. Immigration Laws on Asian Immigrants	36
3. Latino Immigrants Redesigning the U.S. Immigration Policy.....	37
3.1. The Move of Latino Workers to the U.S.	37
3.2. The Immigration Policy Related to Latino Immigrants.....	39
4. U.S. Immigration Policy Based on Qualitative Features.....	45
4.1. The Introduction of INA 1952	46
4.2. The 1965 Amendments.....	47
5. The Impact of Refugee Displacement on the U.S. Immigration Policy	50
5.1. The U.S. Membership in the U.N. Refugee Protocol.....	51
5.2. The Admission of Refugees to the U.S.	51
Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy	58
1. External Terror Threatening the U.S. National Security	59
1.1. Historical Record of the U.S. Experience with Foreign-born Terrorism.....	59
1.2. Muslims Perceived as Terrorists	63
1.3. The U.S. 20 th Century Immigration Regulations Related to Foreign Terrorism	64
2. The Effects of the September 11 Terrorist Attacks on the U.S. Immigration System	73

2.1.	The 9/11 Foreign Terrorists' Violations on U.S. Immigration Law.....	73
2.2.	The U.S. Major Counter-terrorism Legal Measures.....	76
3.	Assessing the U.S. Counter-terrorism Measures Targeting Non-citizens	86
3.1.	The Violation of Immigrants' Rights Under the U.S. Immigration Regulations	86
3.2.	The Impact of the Post 9/11 Immigration Regulations on the U.S. Mainstream	96
Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations		106
1.	Immigration from a Democratic and Republican Perspective	107
2.	Immigration Policy Under the Democratic President Barack Obama.....	111
2.1.	Comprehensive Immigration Reform Proposals During the 109 th and 110 th Congresses.....	112
2.2.	Senator Obama's Stance Regarding the CIR	120
2.3.	President Obama's Comprehensive Immigration Reforms 2008/2012.....	123
2.4.	Obama's Reliance on Executive Authority to Overcome the Failure of CIR.....	125
2.5.	The Outcomes of Obama's Immigration Enforcement	132
2.6.	Obama's Non-executive Actions on Immigration.....	134
3.	Trump's Immigration Enforcement Plan.....	146
3.1.	The Main Elements of Trump's Immigration Reform plan	152
3.2.	President Trump's Actions on Immigration	164
Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies		183
1.	The Impact of Immigration Enforcement Measures on Targeted Immigrant Groups	183
1.1.	The Socio-economic Impacts of Immigration Laws at Home on Immigrants	185
1.2.	The Influence of Anti-immigration policy on the Rate of Hate Crimes.....	194
2.	The Effects of Immigration Enforcement Laws on U.S. economic and Social Institutions	199
2.1.	Immigrants Contribution to U.S. Economy	199
2.2.	Immigrants' Integration into the American society.....	205
2.3.	Economic and Social Consequences of Immigration Enforcement Policy.....	214
3.	Impacts of Immigration Enforcement Policy on Immigrant Descendants.....	220
3.1.	The Rise of Nativism Within the American Society	221
3.2.	Anti-immigration Sentiments Leading to Division Within the American Society	224
General Conclusion.....		233
References.....		236

List of Acronyms and Abbreviations

APIS	Advance Passenger Information System
BLEUSA	Blacks in Law Enforcement of America
BLM	Black Lives Matter
CAA	Cuban Adjustment Act
CAP	Criminal Alien Program
CBO	Congressional Budget Office
CBP	U.S. Customs and Border Protection
CIA	Central Intelligence Agency
CIR	Comprehensive Immigration Reforms
CLASS	Consular Lookout Automated Support System
CMU	Communication and Management Units
DACA	Deferred Action for Childhood Arrivals
DHS	Department of Homeland Security
DOJ	Department of Justice
FBI	Federal Bureau of Investigation
GAO	Government Accountability Office
GDP	Gross Domestic Product
IAP	Immigration Advisory Program
ICE	Immigration and Customs Enforcement
IIRIRA	Illegal Immigration Reform and Immigrant Responsibility Act
INA	Immigration and Nationality Act
INS	Immigration and Naturalization Service
IRCA	Immigration Reform and Control Act
KKK	Ku Klux Klan
LE	Law Enforcement
LPR	Lawful Permanent Resident
NSEERS	National Entry-Exist Registration System
NSP	National Strategy Plan
PAS	Pennsylvania Abolition Society
PISCES	Personal Identification Secure Comparison and Evolution System
PRM	Population, Refugees, and Migration
SCIRP	Select Commission on Immigration and Refugee Policy

SCOMM	Secure Communities
UDHR	Universal Declaration of Human Rights
UN	United Nations
USAPA	USA PATRIOT Act
USBP	U.S. Border Patrol
USCIS	U.S. Citizenship and Immigration Services
VSP	Visa Security Program
VWP	Visa Waiver Program

List of Figures

Figure 1: The Evolution of North Western European Immigration to the U.S.A. (1820 – 1870)	10
Figure 2: Mexican and Central American Immigrants in the United States, Legal permanent Flows and Total Population, the 1900s-2000s	42
Figure 3: Employer Sanctions Investigations for FY 1988 to 2003	44
Figure 4: Refugees Flow into the United States	81
Figure 5: Nationality of Special Interest Cases	93
Figure 6: The Educational Level of U.S. Immigrants from South and East Asia (2016)	97
Figure 7: Involuntary Part-Time Workers, Share of Total Employment, 2006-2010	100
Figure 8: Percentage of Foreign Workers Aged 25 and Over in the U.S. Labor Force by Education	101
Figure 9: Declining Share of Americans Says Growing Number of Newcomers from other Countries Threatens American Customs and Values	108
Figure 10: Republicans and Democrats’ Diverging Opinions on Immigrants (Since 1994)	109
Figure 11: Immigration as a Threat	110
Figure 12: Removals, Fiscal Years 2000-2010	129
Figure 13: Hate crime incidents against Muslims spiked after 9/11	149
Figure 14: Public Opinion on Border Wall	155
Figure 15: Illegal Alien Removals (1990-2013)	163
Figure 16: Refugee Admissions Have Fallen to New Lows	167
Figure 17: Continuous Decrease in the Proportion of Muslim Refugees to the U.S.	168
Figure 18: Entrepreneurship Rate Among Refugees, immigrants, and U.S.-born Workers	170
Figure 19: ICE Arrests Went up after Trump Took Office, but Remain Lower than During Much of Obama’s Tenure	174
Figure 20: Immigration and Customs Enforcement Deportations	175
Figure 21: Removals of Unauthorized Immigrants (2017 to 2018)	175
Figure 22: Over a Decade, DACA Recipients Add \$460.3 Billion to the Economy	178
Figure 23: The National Economic Losses as a Result of the Removal of Unauthorized Immigrant Workers	178
Figure 24: Total number of Mexicans Who Died While Crossing into the U.S., 2004-2018	184
Figure 25: Average Daily Population of Immigrant Detainees, FY 1994-2019	186

Figure 26: Degree to which Respondents by Race Cited Illegal Immigration as Causing a Great Deal of Worry, 2001 and 2007 195

Figure 27: Degree to which Respondents by Ideology and Party Identification Cited Illegal Immigration as Causing a Great Deal of Worry, 2001 and 2007..... 195

Figure 28: U.S. Public Opinion about Immigration and Crime and Unemployment 197

Figure 29: Immigrants Without a Four-Year College Degree as a Share of All Workers in Selected Occupations and Industries: March 2018 201

Figure 30:Immigrants’ Educational Attainment 206

Figure 31: The Share of Foreign-born Workers in High-skill Occupations (1995 to 2018).. 208

Figure 32: The Educational level of U.S. born and Immigrant Groups in 2016..... 210

Figure 33: CBP & ICE Annual Budgets, FY 2003-2021 214

Figure 34: Foreign-born Share of Various Medical and Health Care Jobs and Foreign Share of U.S. Population 2018 219

Figure 35: Foreign-born Share of Cleaning Occupations and Foreign Share of U.S. Population (2018)..... 219

Figure 36: Anti-Asian Hate Crime in the U.S. Rises During Pandemic Year 230

List of Maps

Map N° 1: U.S.-Mexico Border.....155

List of Tables

Table 1: Schedule of Eastern Hemisphere Preferences in 1952 and 1965 Immigration Acts..	48
Table 2: Source Region Composition of U.S. Immigration 1920-2009	49
Table 3: Summary of Terrorism Incidents and Costs, by Visa Category	103
Table 4: CBP Budget and U.S. Border Patrol Budget and Agents by Fiscal Year	128
Table 5: U.S. Nobel Prize Winners in Chemistry, Medicine and Physics : 2000-2020	204

General Introduction

General Introduction

Immigration was the root of the very existence of the United States as it was the cornerstone of what would emerge as the world's superpower. The very first and the pre-dominating immigrant group to the U.S. was composed highly of White Anglo-Saxon Protestants from Britain, who considered themselves the founding fathers and the real Americans. That made the U.S. mostly British in ancestry and Protestant in faith, resulting in the discrimination and the exclusion of the subsequent immigrant groups that arrived from diverse regions and backgrounds, holding different linguistic and religious features, and belonging to various ethnic and racial groups.

Considered the best destination for different immigrant groups, the U.S. received a massive number of immigrants. Despite their diverging patterns, all immigrant groups shared the same motives, seeking religious freedom, economic prosperity, and political stability. Differently expressed, they all believed in what is known as the 'American Dream.' Unfortunately, though those immigrant groups helped in developing the country, they were treated unequally. The increasing numbers of immigrants with their diverse origins led to widespread negative sentiments among early settlers, especially the working middle class, accusing immigrant workers of taking their jobs, exploiting the riches of the country, and threatening its identity and security. That resulted in the changing and the reshaping of the U.S. immigration policy from an inclusive one, known as the laissez-faire immigration policy, to a restrictive immigration policy aimed at limiting the number of immigrants to the lowest possible level and setting the quality of accepted newcomers.

At the dawn of the twenty-first century, the U.S. faced miscellaneous events that redesigned its immigration policy, questioning the efficiency of its immigration laws. Despite its undeniable importance, opponents of immigration questioned the contribution of immigrants to American development. Besides, immigrants were perceived as intruders putting the U.S. socio-economic status and security at risk. That gave rise to anti-immigration sentiments, deepening internal conflicts between early settlers and recent immigrant groups. Those conflicts resulted in enduring harm, affecting immigrants and American citizens alike.

Albeit the fact that the immigration process was a long-acknowledged characteristic of the country, its policies sparked intense controversy and political contention largely fuelled by

General Introduction

anti-immigration sentiments. Belonging to two different political parties, Presidents Obama and Trump issued a set of important measures aimed at regulating the immigration system.

In connection with American national identity, sovereignty, and security, both administrations took a set of measures devoted to regulating immigration. They adopted immigration policies that intended to decrease immigration numbers. Several immigration enforcement measures challenged long-held notions about the U.S. history as a nation of immigrants and its commitment to human rights.

Immigration enforcement measures were perceived differently by Democrats and Republicans. On the one hand, the impact of immigration policies on particular immigrant groups led several civil rights activists and immigration proponents to question their relevance. They argued that restrictive immigration policies along with existing political, economic, and social boundaries encumbered immigrants' integration process. On the other hand, anti-immigration advocates raised a contentious debate over the negative cultural, economic, and political impact of immigrants on the U.S., emphasizing the urgent need for more immigration restrictive legislation.

The study revolved around three main objectives. First, it aimed at identifying crucial phases of U.S. immigration history. Besides, it analyzed the impact of social and economic factors, national security, and cultural diversity on U.S. immigration policy. More importantly, the work sought to show that regardless of their different political partisanship, both Obama and Trump passed restrictive measures causing many implications on the immigrant population and even threatening American unity.

The present work studies the immigration policies adopted by the two administrations and the set of immigration measures introduced during their tenures. It is an attempt to demonstrate that despite the wide focus on President Trump's anti-immigration stance, both presidents passed enforcement measures depicting the continuing salience of national and ethnic struggle between the white segment and the other ethnic groups. It revolves around two core questions. First, why did the American public opinion and the Media widely over-speak Trump's harsh immigration policy in comparison to Obama's enforcement policy? Second, to what extent did the immigration policies adopted by both administrations impact the immigrant population and the American unity?

Immigration policies adopted by the Obama and Trump administrations occupied a significant share of scholarly interests. Although Trump was widely publicized as the harshest

General Introduction

anti-immigration president in American history, several studies demonstrated that Obama was responsible for the passage of several immigration enforcement measures, sharing almost the same implications as his Republican rival. For instance, a study showed that the number of deported aliens during the Obama presidency exceeded that of Trump's era. Most critically, researchers argued that the implications caused by the Obama immigration policy were as harmful as those of the Trump administration, resulting in several deaths, family separation cases, and other human rights violations. However, due to his negative rhetoric delivered in public, President Trump was constantly defined as the harshest anti-immigration president in US history (Ramos, 2018), putting American unity at risk.

In terms of Methodology, the target population for this research included early immigrant arrivals, minority groups; including Latinos, Asians, Muslims, and Blacks, in addition to illegal immigrants. The data was collected from historical sources and documents, surveys, and reports made by other researchers. The study relied on a mixed-method, using both qualitative and quantitative methods. Besides, the work used the historical method to collect relevant information and review critical events. Moreover, the ex post facto method was employed to form the studied groups based on the pre-existing characteristic. Apart from these methods, the study used the correlational method to investigate the relationship between Obama and Trump's immigration policies without controlling or manipulating them.

The first step in understanding the U.S. immigration policy process is related to covering the history and terms associated with it. Thus, the first chapter provides a historical overview of immigration patterns in the United States and how they changed from a predominantly European origin to wide-ranging immigrant sources, including Asian, African, and Hispanic regions. All along, it studies the changing patterns in U.S. immigration policies.

Reviewing the contemporary era, the second chapter sheds light on the September 11 terrorist attacks and the 2008 economic recession and how they shifted U.S. immigration policy. Combining national security with immigration policy, the U.S. passed several provisions tightening its border patrol and enhancing immigration enforcement measures at the internal level. Those measures were highly adopted by the Obama and Trump administrations, emphasizing their necessity in protecting the U.S. well-being.

The third chapter analyses immigration policies adopted by the Obama and Trump administrations. It draws a comparative study between both presidents, highlighting similarities and differences between their immigration policies. It also examines the different legal

General Introduction

challenges both administrations encountered. Most critically, it shows that despite the common perceptions portraying President Trump as the strongest advocate for immigration enforcement, President Obama shared the same stance, recording the highest number of deportations.

Chapter four addresses the impact of immigration enforcement measures of the Obama and Trump administrations on immigrants and their descendants, which generated controversy over the U.S. respect for human rights conventions. Reflecting on their experience, the chapter provides data about the differing assimilation rates among immigrant groups belonging to multiple racial and ethnic backgrounds. Besides, it demonstrates how white supremacy that raised during Trump's presidency served as a racial barrier, not only affecting the assimilation of immigrants but also threatening American unity.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Introduction

The United States of America tends to be the favourite destination for many immigrants who would like to begin anew. Most sought the American tradition of individual freedom and the pursuit of happiness. The U.S. history with immigration started earlier than its creation. After its discovery by the Italian explorer Christopher Columbus, many European empires struggled to control the newly discovered land. Eventually, the British Empire succeeded in colonizing the rich land full of natural and mineral resources. In 1776, British rule came to an end, and the U.S. got its independence. Though the colonial period came to an end, British principles became an indispensable feature of American society. The newly established nation faced many hurdles while setting its affairs. Thus, it had to follow British characteristics. The urgent need for the United States to populate its lands and provide a labor force for its agricultural and industrial sectors coincided with severe political, social, and economic crises in Europe and other parts of the world. Thus, it attracted several groups from different places. Millions of Europeans moved to the U.S. seeking political refuge, economic opportunity, and religious freedom. During the last two decades of the nineteenth century, the U.S. witnessed massive industrial transformations, attracting other immigrant groups. Immigrants came to the U.S. in different waves, each with its ethnic origins. The waves received diverging treatments. While the first wave of European immigrants was most welcome, subsequent waves faced discrimination. The changing pattern in immigrant sources was the driving force behind that inequality. The admission of new immigrant groups received two different opinions. Advocates considered those new waves a positive addition to the American economy and society. Opponents, basically the founding fathers, saw those immigrants as intruders who would corrupt the American identity. Except for a few limitations, the U.S. adopted an inclusive immigration policy towards the early arrivals. However, the growing number of immigrants with different racial and ethnic composition prompted the government to pass laws controlling immigration. Immigration became one of the most divisive issues in American politics. As a result, several amendments were passed to restrict entry into the U.S. Some groups were even subjected to exclusion laws.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

1. The U.S. Immigration Policy Towards Early Arrivals (1780-1875)

Immigration to the U.S. started before its establishment as a nation. After its discovery by Christopher Columbus, many European colonists headed to the Americas (Hillstrom, 2009). Since they were the first to reach the land, they considered themselves the founding fathers. Those early arrivals were seeking great economic opportunity and religious freedom that were limited in Europe. European colonists, namely businessmen, used indigenous people as their primary source of labor. However, millions of those natives died from European diseases such as the plague epidemic (Pringle, 2015). Thus, the colonists turned their attention to another source of labor; immigrants. After its independence, the U.S. faced the same hurdle and sought to populate its states. The newly established country adopted an immigrant inclusion policy, welcoming millions of immigrants, mainly from Europe.

1.1. Early Immigrant Groups to the U.S.

One of the most challenging problems that early colonizers had to solve was to provide the workforce for their economic institutions. The service of indentured servitude and the enslavement institution emerged as the best solutions to overcome labor shortages. European and African aliens were the most used to provide America with the necessary elements to fill job vacancies. However, the two groups were perceived and treated differently.

1.1.1. Immigrants as Indentured Servants

Despite different estimates, most historians agreed that the majority of early European immigrants arrived to the U.S. as indentured servants. Some suggested that approximately half to two-thirds of white immigrants to the American colonies between the 1630s and 1776 were indentured servants (Bilder, 1996). Immigration was considered as the primary supplier of laborers. The majority of immigrants who arrived at the British American colonies during that period were bound to a labor contract.

In effect, a slave was a term used for both white and black indentured servants. Indentured servitude appeared way long before the recognition of the U.S. as a nation. Following the British colonization, thousands of white immigrants came to British colonial America under the indenture. During the seventeenth century, approximately 75 percent of Virginia's settlers were white servants (Craven, 1971). The first wave, mainly from England, settled in Virginia in 1620 (Smith, 1947). Later, a considerable number of Scottish, Irish, and German immigrants joined (Galenson, 1984).

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

The Virginia Company was the first to present such a system in 1609, under which immigrants were to work for seven years under its control. In return, the company ensured the transportation costs of the settlers. Even so, due to the harsh conditions those workers experienced, their numbers decreased. Many immigrants fled to live with the natives. Concerned about the continuity of its enterprise, the company punished captured workers. Once captured, the Company managers executed fugitive immigrants, leading to increased mortality rates (Galenson, 1984).

The harsh conditions and cruel treatment led to a significant decline in white immigration from 1612 to 1619. As a result, the value of labor witnessed a considerable increase. In an attempt to attract new immigrants, the company introduced a new deal in 1619. According to the new arrangement, the company rented new immigrants to work as planters for one year. However, this time private farmers had to yield to several conditions. First, any act of violation against new immigrants would lead to severe punishment. Second, if any servant fell ill, it was the responsibility of the planter to provide care. Besides, in the case of death, employers had to pay the rent to the company. By doing so, new immigrants would benefit upon their arrival from a place to live and training from the old planters. Since most employers refused to adhere to those conditions, rental agreements were quickly abandoned (Galenson, 1984).

The British colony received two other categories of immigrants; redemptioners and transported convicts. Those immigrants did not come as indentured servants, but they had to serve for a certain period. The period ranged from four to seven years, depending on the immigrant's age. For instance, in 1715, Maryland passed a statute indicating that:

Whosoever shall transport any servant into this province without indenture, such servant being above the age of twenty-two years, shall be obliged to serve the full time of five years; if between eighteen and twenty-two years, without indentures, six years; if between fifteen and eighteen, without indentures, seven years; if under fifteen, without indentures, shall serve till he or they arrive at the full age of twenty-two years (Smith, 1947, p. 755).

Under the parliament's authority, merchants were allowed to import large numbers of convicts to provide laborers for the British colonies; about 50,000 convicts were transported to the colonies between 1718 and 1775 (Smith, 1947). During that period, colonizers treated immigrants as commodities. Commercial interests guided the flow of immigrants. Unlike the current immigration requirements, the criminal record of immigrants was insignificant.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Despite job incentives provided by the Virginia Company, the number of white immigrants continued to decline. The company stipulated adequate and fair treatment of rented workers. However, masters used to beat their workers (Galenson, 1984). Besides, in the mid-seventeenth century, sugar cultivation prospered in Barbados, the West Indies, and the Chesapeake colonies. The new crop resulted in harsh working conditions, which significantly decreased the number of indentured servants. Thus, the cost of indentured servitude increased by 60 percent (Galenson, 1984). That prompted the colonists to search for an alternative labor source, replacing white indentured servitude with black slavery.

Besides those voluntary arrivals, British colonizers dragged millions of involuntary African aliens to the Americas. Following their settlement during the 1700s, European colonists needed people to provide labor for colonial agriculture and industry. Thus, they brought involuntary immigrants from the African continent as slaves. From 1619 to 1867, an estimated 10 million enslaved Africans were deported to the Western Hemisphere, with the United States taking the largest share (Eltis, 2001).

According to John Rolfe's diary, 20 Africans were brought to Jamestown under slavery in 1619 (Washington, 2002). However, the process developed with the Triangular Slave Trade between the three poles; Europe, Africa, and the New World. According to this framework, Europe was supposed to supply the African tribes with manufactured goods in exchange for enslaved Africans. After that, enslaved aliens moved by force to the New World (Whatley, 2014).

The early colonists came from different European countries; France, Germany, Britain, Spain, Portugal, and other nations. Each immigrant group had a specific reason; either to seek religious and political freedom, to spread their religious views, or to improve their economic conditions. Those nations depended mostly on the slave trade to accomplish their goals. During the 1660s, the news about the deplorable working conditions of servants reached England. That frustrated the white workers' spirits to immigrate. Thus, Britain passed several acts to manage the labor status of white laborers (Coombs, 1972). But the legislation was insufficient, leading to continuous drops in the number of European immigrants. As a result, the African slave trade became widely adopted, providing colonists with the labor force.

Africans occupied unskilled agricultural labor. Thus, a racial division of labor occurred. While white laborers occupied skilled crafts, black Africans handled unskilled jobs. The geographical distribution of white and black immigrants differed according to their jobs. White

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

workers settled in the Chesapeake and the Central Colonies, where skilled labor was in great demand. In contrast, the West Indies and the southern colonies were the leading regions in using enslaved Africans (Galenson, 1984).

The increased expense of white-skilled laborers combined with the growing agricultural production led to a significant rise in the value of skilled and unskilled laborers. The solution was to train enslaved Africans in skilled jobs. Black Africans worked and lived under cruel conditions, which resulted in massive mortality rates. As a result, the importation of enslaved African aliens increased to overcome death rates and fill labor shortages. The slave trade became more profitable, leading to growing numbers of the black population in the U.S. from about 750,000 in 1790 to 1,378,000 in 1810 (Violet, 1980).

In 1789, the French National Assembly announced the Declaration of the Rights of Man and the Citizen (Ludwikowski, 1990). The declaration listed several fundamental rights, notably the freedom of man. Those rights became a source of inspiration for many enslaved blacks in the U.S. Thus, several rebellions occurred. Alongside those rebellions, slavery abolition occurred in Britain, calling for the banning of the slave trade. The state of Pennsylvania was among the first states to join the movement. In 1787, the Pennsylvania Abolition Society (PAS) and other anti-slavery societies called to end slavery and the American slave trade (Finkelman, 2009). The call received a positive response as all the Northern states passed gradual Emancipation acts. On the federal level, the government passed laws prohibiting the importation of slaves and the African slave trade. Eventually, the U.S. banned the slave trade in 1865 (Sowle, 1968). As a result, the rate of forced African immigration decreased. The abolition movement caused another severe labor shortage, leading to an acute economic crisis in the U.S. Immigration re-emerged as the most appropriate alternative. Thus, the import of European laborers reappeared.

1.1.2. The Resurgence of European Immigration to the U.S.

Following its independence, many Europeans moved to the U.S., chasing the American Dream¹. However, the founding fathers considered those immigrants as intruders who would corrupt American values. The first wave of immigrants was mostly from the North and Western parts of Europe. They sought a more independent and financially secure life, which was harsh to achieve in their homelands. From 1820 to 1840, more than 750,000 German, British, and

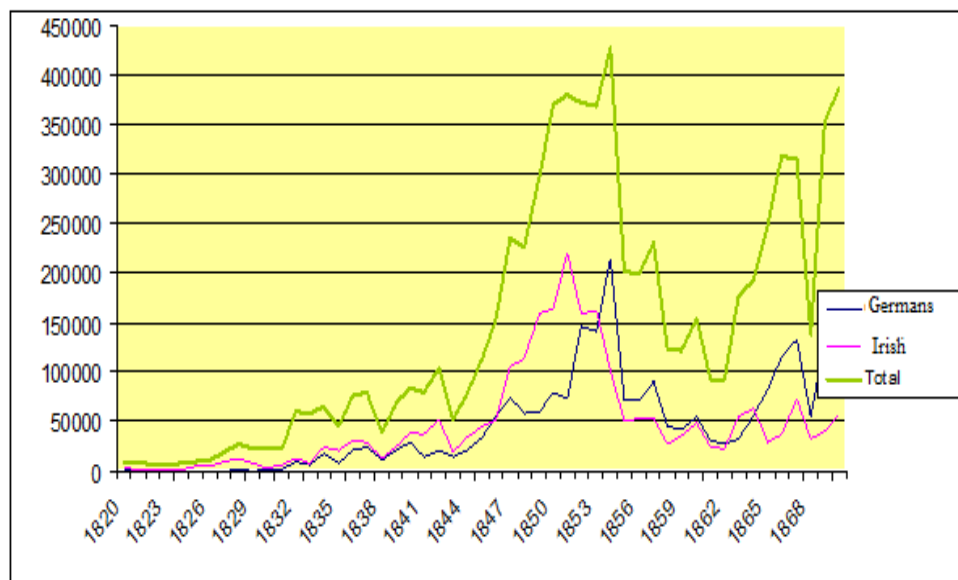
¹ The American Dream is a common slogan reflecting the idea that the U.S. is a land of equality, justice, and democracy.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Irish immigrants arrived in the U.S. (Martin & Midgley, *Immigration: Shaping and Reshaping America*, 2003).

Immigration from Ireland and Germany to the United States existed as early as the 1500s. However, from the 1820s to the 1850s, the number reached about 450,000 Irish and German immigrants (see Figure 1). The great wave of north-western Europeans was encouraged by the Laissez-Faire immigration policy. The U.S. increased immigrant admissions to maintain its economic growth, fill the labor shortage, and populate the isolated regions, namely the western part.

Figure 1: The Evolution of North Western European Immigration to the U.S.A. (1820 – 1870)



Source: The Dillingham Commission Reports, vol. 3, pp. 66-82. Retrieved from: Maha, S.-S. (2011). *The Migration of Europeans to the United States at the Middle of the 19th Century – the Irish and German Wave. CES Working Papers*, P. 559.

The Irish were among the first groups to arrive in the U.S. Immigration from Ireland to America started as early as the seventeenth century (Lockhart, 1988). Due to the severe living conditions the Irish experienced in their home country, many of them fled to America in search of a better life (Adams, 1932). Despite the harsh conditions of the journey, the Irish continued the process because they believed it was worth the risk. According to the American historian and academic administrator Carl Wittke, Irish immigrants represented the largest share of immigrants arriving in America; the number of Irish immigrants to America reached more than

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

four and a quarter million from 1820 to 1920 (1939). Similar to their immigrant counterparts, the Irish believed in the American Dream.

Most Irish immigrants were Catholics escaping poverty and starvation in their home country (Wittke, 1939). The Great Potato Famine of 1845-52,² and religious persecution during the 1800s were the main reasons behind those great waves of Irish immigrants (Tagore, 2014). The Irish escape was encouraged by an inclusive American immigration policy.

The number of Irish immigrants began to increase after the local famines in Ireland, ranging from 1816-1819, 1821-1822, to 1830-1831. In 1827, their number reached 20,000 immigrants (Miller & Wagner, 1994). However, the most severe blight occurred between 1831-1842, leading to severe deterioration in their living conditions. Eventually, the number of Irish immigrants increased significantly, reaching about 104,000 between 1846 and 1847 (Miller & Wagner, 1994). The Irish continued to immigrate to the U.S. in massive numbers. From 1845 to 1855, the U.S. received 1.8 million Irish immigrants (Tagore, 2014).

Regarding religious persecution, Catholicism was the most widespread faith in Ireland, leading to great cruelty from the predominantly Protestant British society towards the Irish. Irish Catholics were subject to many facets of discrimination; they were not allowed to hold public offices, vote, work in education, manufacture arms, or serve in the military or civil services (Ignatiev, 2008). The Irish felt discriminated against in their home country, which prompted them to move in massive numbers to the U.S., where they believed they could be free to exercise their faith and improve their living conditions.

However, not every Irish who wanted to immigrate to America was allowed. During that period, the U.S. required particular conditions for the entry of immigrants. The American embassy asked Irish immigrants to provide three necessary documents to obtain the visa. First, Irish immigrants had to present testimonies to ensure that the individual had no illness or disease. Besides, they had to provide economic provisions or paper works to ensure that the new arrival would not be dependent on the state. Finally, the immigrant had to provide a clear criminal record (Daniels, 2002). Unlike its previous immigration provisions, the U.S. set a number of requirements, insisting on receiving beneficial individuals to help in developing its economic and social status.

² Ireland's Great Potato Famine, also known as the Great Hunger of 1845-1852 (*An Gorta Mor*), was a harsh period in Irish history full of starvation and disease which resulted in escalating emigration in Ireland between 1845 and 1852.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Once they arrived in the U.S., most Irish immigrants settled in urban districts in East Coast cities, including New York, Boston, Philadelphia, and Baltimore. However, the living conditions in those districts were harsh. Irish immigrants lived in tight tenements under unsanitary conditions. That led to the spread of dangerous illnesses, which resulted in several deaths among Irish immigrants (Brighton, 2008).

Another major group of immigrants to the U.S. was German. The first wave of German immigrants arrived in the United States on October 6, 1683, at Philadelphia (Cunz, 1953). German flows into America continued to increase, becoming the second-largest group of immigrants in the United States (Spickard, 2007). Similar to their Irish counterparts, German immigrants had numerous push factors that drove them to leave their home country and immigrate to the U.S. During the 19th century, German immigration increased due to different political, social, and economic events in Europe.

The Napoleonic war (1803–1815) drove thousands of Germans to escape to the U.S. On his way to Russia, Napoleon marched through the German lands. Napoleon raised taxes, set new laws, and forced many Germans to join the French army (Huh, 2013). Despite its end, the Napoleonic war left the German economy crashed. Long years of war left Germany with a stumbling trade and collapsing agriculture, which led thousands of Germans to immigrate to the United States.

Also, the potato rot occurred in Germany and led to a high increase in the grain prices; potato prices rose 425 percent from 1845 to 1847 (Nadel, 1990). Not only the price of potatoes rose, but food in general. Due to bad weather conditions, Germans experienced a bad harvest season, which resulted in great famine (Muehl, 2002).

Furthermore, Germans were used to the rule of impartible inheritance, which meant that an owner's parcel of land was to go to the eldest son, and in some cases, it could go to the youngest (Luebke, 1999). The rule changed to include the division of land among all heirs in the Southwestern German states. The new system received much opposition among German farmers. Thus, they sold their lands and immigrated to the U.S.

Besides, many pull factors in the United States attracted German immigrants. America provided more labor opportunities with high wages. According to Moritz von Furstenwarther, German artisans received better payment in America; they could earn about \$1.50 per day (Muehl, 2002). The U.S. also provided low land prices, which were necessary for German farmers.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Besides, American advertisements played a significant role in fostering German immigration. German immigrants in the U.S. used to send to their relatives in Germany, picturing the U.S. as a solution to German's economic issues (Tagore, 2014). The letters motivated farmers who had lost their lands back in Germany. Between 1870 and 1890, the United States began offering cheap land to anyone willing and able to pay a small fee for the land, improve and cultivate it (White, n.d.).

The U.S. urgent need for laborers coincided with the German lack of employment. Thus, German immigrants came in huge numbers and settled in different areas of the United States. However, New York City was the most appropriate shelter for the poor ones. By the end of the 1850s, it hosted about 100,000 German immigrants (Wittke, 1939). German immigrants settled in the American western region because they were looking for wooded areas where they purchased farms (Wittke, 1939), since most German immigrants were farmers.

As of the 1880s, immigration patterns in the U.S. changed as the country received immigrants from new regions with unfamiliar features. The immigrant population shifted from the old immigrant stock of northern and western Europeans to predominantly Jewish and Catholic arrivals from southern and eastern Europe (Fleegler, 2013). In 1882, about 87 percent of new arrivals were from northern and western Europe, and only 13 percent were from southern and eastern Europe. However, in 1907, the share of southern and eastern European immigrants increased to 81 percent, while the rate of north-western European immigrants decreased to 19 percent (Martin & Midgley, 2003). Immigration from Europe's southern and eastern regions continued to increase (Hillstrom, 2009). From 1880 to 1914, the number of southern and eastern European immigrants to the United States reached 20 million (Martin & Midgley, 2003).

Eastern and southern immigrant groups included Italians and Jews from the Austro-Hungarian Empire, Russia, Romania, and some areas controlled by the Tsar of Russia. Despite the changing patterns of immigrants' source countries, they all escaped to the United States for the same reasons; low wages and unemployment, disease, forced military conscription, political instability, and religious persecution.

Many push factors drove Italians, precisely the southerners, to immigrate to the United States. The living conditions in south Italy were very harsh. The south region was dominated by the northerners who despised southerners and saw them "as barbarians fit only for exploitation" (Meltzer, 2001, p. 54). Things became worse in the 1870s when the government obliged the southern peasants to pay 90 percent of their crops in taxes, leading to severe poverty.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Besides, the Cholera epidemic threatened the lives of thousands of Italians in 1887 (Violet, 1980). As one Italian peasant said: "it is either starvation or immigration" (Parenti, 1975, p. 34). Southern Italians were experiencing harsh living conditions, which caused many deaths. They found no solution but to immigrate.

Italian immigrants moved first to European countries, notably France, Germany, and Britain. Only a few headed to the U.S.; in 1820, only 30 Italians arrived in the U.S. (Foerster, 1969). However, the outbreak of wars in Europe led to the deterioration of European conditions, which drove many Italian immigrants to change their destination to the U.S. Determined to better their living conditions, from 1880 to 1920, about 4.2 million Italians left to the United States. Most of those immigrants were poor and unskilled farmers. The majority, about 80 percent, settled in urban areas. By 1900, the number of Italian immigrants to the U.S. decreased due to a financial crisis known as the Panic of 1907 and World War One (Hillstrom, 2009).

Furthermore, in the early 20th century, Austria-Hungary became a predominant source of immigrants to the United States of America. From the early 1880s until 1914, about 1.5 million Astro-Hungarian immigrants escaped to the U.S. (Hillstrom, 2009). The economic hardship in the Austro-Hungarian Empire, which included Poles, Czechs, Germans, Ukrainians, Serbs, and other ethnic groups, drove many to immigrate to the United States. Back home, the majority of Austro-Hungarians worked in the agricultural sector. However, as the aristocratic class took control of all the land and resources, most peasants were left landless. Many Austro-Hungarian peasants were left jobless and were unable to supply their families. Besides job opportunities, the Donation Land Claim Act³ introduced by the U.S. attracted millions of Austro-Hungarian immigrants.

Another major group that came from Eastern Europe was composed of Jewish Russians. The period from 1881 to 1914 witnessed the arrival of 1.5 million Jewish immigrants to the United States (Spitzer, 2015). Religious persecution was among the main reasons behind their immigration. A series of pogroms against the Jewish subjects drove many to escape Russia. Jewish Russian immigrants came to the United States in two waves. The first one was in 1881-1882 when pogroms spread in Russia. The second wave of Jewish immigration paralleled the second wave of pogroms from 1903 to 1906 (Spitzer, 2015). Eastern European Jewish settled in coastal cities and occupied a handful of manufacturing industries.

³ Passed in 1850, the act provided white settlers with free lands to inhabit the Oregon territory.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

The U.S. was the first choice for the East European Jewish. However, during the 1890s, they faced a large scale of hostility (Higham, 1975). Many Jews changed their way to Canada. To populate its newly opened Canadian West, Canada introduced several opportunities to Jewish immigrants, especially in the agricultural sector. Considering the U.S. as their best destination, some Jews infiltrated the U.S. through the Canadian borders, either legally or illegally. Referring to both the U.S. and Canada, President Harrison clearly expressed his opposition to Jewish immigration, stating that it "is neither good for them nor for us" (Harrison, n.d). Thus, a considerable number of laws were enacted to restrict immigration to the U.S.

Though differing in their patterns, immigrant groups that arrived in the U.S. during the seventeenth and eighteenth centuries shared the same motives, seeking economic prosperity, religious freedom, and political stability. Besides, they experienced similar reactions from early settlers who considered them outsiders threatening their already established features.

1.2.The U.S. Laissez-Faire Immigration Policy (1780-1875)

Given its urgent need to populate its territories and provide labor force for its economic sector, the U.S. opened its borders for thousands of immigrant groups from northern and western Europe. However, there were some limitations imposed on other immigrant categories.

1.2.1. Inclusive Policy

The core of the Laissez-Faire approach was economic liberalism (Basu, 2008). The approach encouraged international exchange between countries without the intervention of governments. Advocates of the Laissez-Faire supported international labor immigration. Economists argued that labor was a commodity like any other goods (Richards & Martin, 1983). Thus, free trade in the labor force was indistinguishable from free trading in goods. According to this approach, the process was beneficial for both importing and exporting countries. By receiving labor immigrants, the importing country would fill job vacancies at a lower wage. In exchange, the exporting one would reduce unemployment rates, increase home wages, and generate a return flow of human and financial capital.

The Laissez-Faire approach received much criticism, precisely, from importers who found that immigrants would be too dependent on the host country and would preserve low wages. Nevertheless, it was adopted by many American political leaders throughout American history. Thomas Jefferson, one of the founding fathers, was among the firsts to support the Laissez-Faire policy. The former U.S. President argued: "that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life,

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

liberty and the pursuit of happiness" (Dolbeare & Cummings, 2004, p. 49). Jefferson favored the liberty of individuals and their right to pursue happiness. The U.S., like many industrial countries, followed the Laissez-Faire approach and encouraged international labor. The American government embraced the Laissez-faire approach by welcoming a large number of immigrants without imposing severe requirements.

Commercial priorities drove the American immigration process. Before its independence, the British American colony received a large number of immigrants as indentured servants. However, due to the urgent need for laborers, the immigrant status was neglected. Male and female felons, vagrants, and political prisoners were shipped to the colonies and served there. Later, with the establishment of the United States of America, the U.S. government passed several amendments to the immigration system and imposed new restrictive measures considering the quality and quantity of the immigrant community.

The first wave of Northern and Western European immigrants was encouraged by the American Laissez-Faire immigration policy (Martin & Duignan, 2003). The policy allowed immigrants to enter the U.S. without restrictions. Following its independence from British rule, the number of immigrants in the U.S. increased heavily. They were attracted by large American demands for laborers. The federal government, shipping companies, private railroad companies, and churches promoted immigration to the country (Martin & Midgley, 2003).

The newly established country welcomed thousands of European immigrants. Between 1783 and 1820, an estimated 250,000 immigrants entered the U.S. (Martin & Duignan, 2003). Benefits were mutual; both needed each other. The U.S. needed those immigrants to defend its unstable frontiers, populate its isolated states, and strengthen its economy. Moreover, the U.S. depended on immigrants to reinforce its army. Thus, the U.S. federal government recruited big numbers of immigrants in military; they made up one-third of the regular soldiers in the 1840s (Briggs, 2003).

Besides, many of American western regions were unpopulated. The American government provided cheap, even free, lands for the new immigrant farmers to encourage them to move westward. Moreover, due to the need for laborers, several private railroad companies hired thousands of Irish and German immigrants to build railroads and canals (Martin & Duignan, 2003).

Immigration was encouraged through the enactment of several laws that encouraged immigrants to move to the U.S. The American government passed laws encouraging

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

immigrants to settle in its unpopulated areas by providing free lands, precisely in the west region. For some Americans, those resolutions would be beneficial. As stated by Representative George R. Riddle: "The sooner we dispose of the unsettled and uncultivated territory, the better it will be for the people of the U.S." (Anderson, 2011, p. 118). Thus, pushing immigrants to move into the unpopulated west would improve the American economy. In contrast, for some opponents, that would decrease American revenues. Following their resettlement, the number of cheap labor decreased, as did the price of land.

Passed in 1850, the Oregon Donation Act granted free lands to new settlers who intended to live on the frontier in some states like Florida and Oregon. The legislation aimed at pushing new waves of immigrants to settle in unpopulated states (Bergquist, 1957). However, there was a great debate over the enactment of those laws. As industrialists, most northerners opposed the Donation laws. The movement of immigrants to the west meant a significant loss of cheap labor to the industrialized north. However, for some northerners, precisely factory owners, that would provide them with new customers for their goods.

The U.S. passed other laws granting free lands to new settlers, such as the Homestead Act. Passed in 1862, the Act made western lands available to the native-born and immigrants alike. It allowed new immigrants to claim 160 acres of public land on one condition, that they settled and cultivated the land for at least five years (*The Homestead Act of 1862*). However, it received many objections. The law led to an escalated debate between diverging opinions, including New York Tribune editor Horace Greeley and the U.S. House Speaker Galusha Grow who were against the law, and proponents like the Free-Soil Party.⁴

According to opponents, providing free land would be unfair to those who had paid for the land. It would also lessen government revenue. Thus, in 1860, President Buchanan considered it unconstitutional and vetoed the bill. In contrast, supporters argued that by moving into the west, isolated regions would become inhabited, overpopulation would decrease in large cities, and the problem of unemployment would diminish (Anderson, 2011). Moreover, according to New York Representative John Kelly, the Homestead bill would improve America's commercial transaction. Also, it would reinforce the American standards of physical and moral freedom (Anderson, 2011). After several attempts, on May 20, 1862, the law was finally approved by President Abraham Lincoln (*The Homestead Act of 1862*).

⁴ The Free-Soil Party was a political party in the U.S. It opposed slavery and called for the freedom of man.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

The Contract Labor Law passed in 1864 was another resolution that encouraged immigration by advancing money for passage. According to the law, private employers could recruit foreign workers from Europe and pay their transportation expenses to the United States. However, due to severe pressure from U.S. labor groups, the act was repealed in 1868 (Anderson, 2011).

Along with those inclusive immigration provisions, increased hostility towards some immigrant groups drove the American government to pass restrictive immigration laws. Besides economic competition, diverging racial and ethnic backgrounds resulted in discriminatory acts against certain immigrant groups.

1.2.2. Restrictive Laws Interrupting the U.S. Inclusive Immigration Policy

The need for immigrants was accompanied by fears from the early settlers, who worried that newcomers would alter the culture and the identity of the United States. The U.S. Laissez-faire immigration policy in favor of immigration was interrupted by anti-immigrant sentiments. Eventually, the U.S. government passed several laws restricting immigration to particular groups.

Under the Naturalization Act of 1790, Congress passed its very first law addressing naturalization requirements. According to the act, only free white immigrants could obtain American citizenship after living two years in the United States with no need for fees or admission tests (LeMay, 2012). Besides, it granted citizenship to beneficiaries' children who were under twenty years at the time of naturalization (LeMay, 2012). Limited to the white population, the act excluded individuals of other races, including American Indians, indentured servants, enslaved and free blacks, and Asians. The legislation was considered a move that resulted in the spread of racism.

Hostility towards newcomers continued to increase as settlers thought of them as foreigners who had no strong ties to American identity (LeMay, 2012). In response, the U.S. government became even more prudent in granting naturalization by extending the required period. It passed several amendments to the Naturalization Act. Congress increased the residence period to five years through the passage of the 1795 Naturalization Act (LeMay, 2012). In 1798, Congress revised again the act by extending the residence period required for an alien's citizenship eligibility from five to fourteen years (LeMay, 2012).

During the same year, U.S. Congress passed another significant legislation, the Alien and Sedition Acts of 1798. Passed by the Federalist party under the presidency of John Adams,

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

the act increased the period of residency required to grant immigrants U.S. citizenship from five to fourteen years. Besides, it allowed the president to apprehend, restrain, and remove immigrants who had resided in the United States for 14 years before the naturalization and were originally from countries that were in dispute with the U.S. The Executive Branch, as well, was authorized to deport noncitizens considered as a threat to national security (*Transcript of Alien and Sedition Acts (1798)*). The act received wide criticism prompting Congress to repeal the provision in 1802 (Kilberg, 2013).

In 1819, the federal government became more involved in immigration matters. It asked ship captains to collect and report data on the immigrants they brought to the United States; otherwise, they would pay penalties (Anderson, 2011). The procedure was applied only on vessels arriving at Eastern ports. However, it restricted free immigration. Then, in 1850, the measure extended to include the Western ports (Violet, 1980).

The transition from a fully inclusive immigration policy to a restrictive one for some immigrant groups led to many variables in the immigration integration process. While the early settlers experienced a few limitations, subsequent immigrant groups were constrained by some restrictive measures, which affected their social status.

1.3.Social Status of European Immigrants in the U.S.

Dissimilarity in religion, culture, and language set new immigrants apart in a country that was still mostly British in ancestry and Protestant in faith. Tensions rose between early settlers and newcomers. Established settlers feared that those newcomers would be too dependent on them for their security and welfare. As the American historian, Marcus Lee, put it: "Who is to feed them? Who is to teach them to fight the Indians, or grow tobacco, or clear the marshy lands and build a home in the malaria-infested swamps? These immigrants certainly are a problem" (Vedder, Gallaway, & Moore, 2000, p. 348). The founding fathers considered new immigrants as foreigners who would corrupt all the values and principles they established, which defined the American nation.

Besides economic concerns, religious affiliation was the most significant impediment those Catholic immigrants had to face in an overwhelmingly Protestant community. Because of their urgent need for money, Catholic German and Irish immigrants worked for low wages. Those immigrants were considered a threat to the first immigrants who feared losing their jobs. Consequently, they suffered from various anti-Catholic and anti-immigrant movements calling

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

for their expulsion. Many political organizations spread across the U.S., seeking immigration restrictions.

The Know-Nothing Party was one of the most influential anti-immigrant organizations. It was a political movement embodied in the American party. The party was composed of Protestant clergymen, journalists, and other opinion leaders who had anti-alien and anti-Catholic sentiments (Martin & Midgley, 2003). It received much attention and prosperity in Massachusetts, where a large portion of immigrants settled. The core values of the movement were to prevent Catholics from being an essential part of American society.

Anti-Catholicism was present in the United States since its inception. It had its roots in British nationalism, which was threatened by the competing imperial ambitions of Catholic Spain and France. However, tensions rose due to the growing number of Roman Catholics; they reached two million in 1850 (Bennett, 2008). American protestants were afraid of losing their position if those Catholic immigrants continued to come to the U.S. Protestants accused Catholic immigrants of trying to bypass the Protestant position by replacing Protestantism with Catholicism.

The Know-Nothings spread in states where the highest number of Irish and German immigrants settled, like New York and Massachusetts (Cole, 1994). According to the Know-Nothings, American-born of a Protestant origin was superior to newly arrived immigrant groups on the basis that Irish and German immigrants were poor and Catholics.

From the perspective of the anti-Catholic wealthy, being poor or bad depended on an individual's religious affiliation, race, and class (Gallman, 2000). Because of the unsanitary conditions in which they were living, Irish immigrants suffered from many epidemics. The American Protestants considered the Irish way of life as a result of their religious affiliation. Thus, they were perceived as a threat that would endanger the entire nation (Gallman, 2000). Many anti-Catholic voices called for a reduction or even a ban on immigrants from non-Anglo-Saxon countries. Know-Nothings argued that American culture risked losing its principles and values if the number of Catholic immigrants, namely the Irish, continued to increase.

After taking over the U.S. government office; the entire Senate and the House of Representatives, the Know-Nothing Party issued several anti-immigration legislation. They intended to curb the increasing number of Irish immigrants. Among the measures that were taken was a constitutional amendment stipulating that immigrants who had passed 21 years of naturalization would have the right to vote in the Commonwealth of Massachusetts. The

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

amendment was not approved; however, another one followed. The General Court issued a decision to extend the period of residence to 21 years before immigrants could obtain the right to vote in the federal elections (Bean, 1922). Besides, the decision included religious restrictions and the daily reading of the Protestant King James Version of the Bible in public schools (Mulkern, 1990). Anti-immigrant measures reached other northern states such as Connecticut, Rhode Island, Maine, and New Hampshire. The American party claimed to spread those measures to limit the power and influence of immigrants on American society.

Once in New York, Boston, and Philadelphia, Irish immigrants were subject to racist prejudices from the early western European settlers. They were classified as the "minority and foreign other" (Cohen, 1997, p. 106). Irish immigrants suffered from bigotry and hateful discrimination from American citizens who used to mock their speech, customs, and even their Catholic faith. They faced injustice in different fields, especially in labor markets and schools.

Irish immigrants were accused of placing their allegiance to the Pope before the ideals of American citizenship. Most native-born Americans, including those of northern Irish descent, were of Protestant stock; the new Irish immigrants were Catholic. In the nineteenth century, many Protestants thought of the Pope as a worldly prince who ruled vast landholdings in Italy, and his followers as subjects of an alien government (Yans-McLaughlin & Lightman, 1997, p. 47).

Similar to their home country, Irish Catholics faced religious bigotry in America. During the Irish immigration to America, the U.S. remained British in culture, values, and of course, remained lawful to Protestantism (Brighton, 2008, p. 134). The early settlers accused the Irish of planning to eradicate Protestantism and spread Catholicism. Thus, violence against Irish Catholics broke out in different cities. Furthermore, few Irish immigrants were skilled workers. Most were unskilled laborers, uneducated, and lacked trade skills (Wittke, 1939). As a result, they held unskilled jobs in factories, mills, and canneries for low wages and under harsh working conditions (Hillstrom, 2009). The lack of capital and skills made it more difficult for Irish immigrants to improve their social status.

Working hard, Irish immigrants started to integrate gradually into American society. Their participation in the Civil War granted them a strong position in America (Douma, Rasmussen, & Faith, 2019). Besides, Irish immigrants had several advantages that helped them assimilate quickly. Other than speaking English, the Irish occupied jobs in the factories, mills,

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

and canneries that were quite common during the Industrial Revolution. More importantly was the sheer number of Irish immigrants, which granted them a great deal of political influence, leading to a strong Irish political power.

Despite the obstacles Irish immigrants faced, they succeeded in raising their economic and social positions. Americans demonstrated their acceptance of Irish immigrants through different areas. Religiously, Americans started celebrating St. Patrick's Day (Klein, 2019), which was an Irish religious holiday. Besides, the number of Irish immigrants increased heavily, reaching a half million in the 1840s (Hillstrom, 2009). That helped the Catholic Church gain additional members.

Unlike the Irish, German immigrant transition to America was much easier because the German journey to the U.S. was well planned. They sold their lands and brought with them money to invest in the U.S. German artisans and farmers headed to wooded areas where they could purchase farms from Irish and American pioneers. Because it was their specialty back home, German immigrants succeeded in farming and were able to control the U.S. economy. The majority were skilled tradesmen and ruled German immigration to America.

Despite their rapid success, German immigrants also faced discrimination in America. Language barriers were among the hardest struggles they had to endure. Americans were afraid that the German would alter the U.S. established values and principles. Consequently, they enacted laws in schools to eliminate the German language. Some scholars such as Noam Chomsky asserted the importance of language: "questions of language are basically questions of power" (Chomsky, 1979, p. 191). German immigrants believed that by spreading the German language, they would ensure quick success in America. In many schools, the Germans sought to make the German language equal to the English one by teaching subjects in German or both German and English.

However, there was increased opposition from the Anglo-Americans who felt that the wide use of the German language would disrupt all American values and sovereignty (Tagore, 2014). Anglo Americans insisted on the sacredness of the English language and enacted laws that eliminated the German language and reinforced the English one, such as the Bennett Law of 1889. The law stipulated that children were obliged to enrol in public and private schools. Most importantly, it considered teaching English as a defining feature of the school (Luebke, 1999).

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Despite those impediments, Irish and German immigrants successfully integrated into American society. Due to their positive contribution to the development of the American economy, those new immigrants were no longer perceived as a threat or outsiders, but rather as American citizens. As historian James Bergquist said: "New Immigration from England, Ireland, and Germany brought many of the working classes to the growing industrial centers and to the coal-mining regions. Many of the English and Germans had previous experience in the industrial cities of their homelands" (Bergquist, 2007, pp. 264-265). The arrival of thousands of immigrants in the United States helped spur American industry. During the Age of Mass Migration, immigrants provided the workforce needed by most newly established factories.

Besides, professor Bergquist argued that those new immigrants brought with them skills and experiences that helped them hold skilled occupations and become skilled tradesmen (Bergquist, 2007). In 1870, about 37% of German-born workers were employed in skilled-occupations (Daniels, 2002). The need for immigrant labor facilitated the integration of Irish and German immigrants into American society.

Early European immigrants also contributed to productivity improvements within agriculture, which played a significant part in developing the American economy. Germans represented the most important and the largest group of farmers (Nunn, Qian, & Sequeira, 2017). In Pennsylvania, German farmers introduced new varieties of seeds, which helped improve productivity (Kollmorgen, 1942).

While anti-immigrant sentiments toward the Irish and German communities declined, they grew more intensively towards subsequent immigrants from eastern and southern Europe. New immigrant groups from those regions experienced increasing levels of discrimination from early settlers, including those of Irish and German ancestry.

The period from 1875 to 1920 witnessed the arrival of new immigrant groups from different areas. Each group had its own culture, beliefs, traditions, and religion. The big shift in immigrant sources created a great sense of fear among Americans and earlier European immigrant groups. They feared that those newcomers would alter American values and principles. Thus, the U.S. government changed its immigration policy from an inclusive to a restrictive one. The new policy required the quality and capabilities of newly arrived immigrants.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Southern and eastern European immigrant groups faced increased levels of discrimination. Relying on some old American prejudices, supporters of restriction argued that those immigrants would badly affect the American nation both economically and culturally. Antagonism against the new wave was clearly shown through Woodrow Wilson's speech in which he complained:

Immigrants poured in as before, but ... now there came multitudes of men of the lowest class from the south of Italy and men of the meanest sort out of Hungary and Poland, men out of the ranks where there was neither skill nor energy nor any initiative of quick intelligence; and they came in numbers which increased from year to year, as if the countries of the south of Europe were disburdening themselves of the more sordid and hapless elements of their population (1902, p. 212).

Americans saw those new waves as a threat to their public health and safety, social ideals, and economic progress. The big shift in immigrants' origins led to the adoption of a new immigration policy based on qualitative restrictions which helped in eliminating undesirable aliens.

Prejudices against the new category of immigrants included anti-Catholicism, anti-Semitism, and anti-radicalism. American Anti-Catholicism dated back to the Reformation⁵ and the religious wars of the sixteenth and seventeenth centuries which caused a large scale of bigotry against Catholics. Americans considered the support that both the monarchical and authoritarian regimes got from the Catholic church as a threat to their independence and democracy (Fleegler, 2013). The shift in immigration from north-western European immigration to south-eastern European immigration led to the re-emergence of that bigotry, mainly because Catholicism was widely spread in that part of Europe.

Anti-radicalism was also deeply rooted in the American society, it had its origins from the French Revolution when people were afraid that the French would bring their ideology to the United States. Similar anti-radical fears arose when German refugees from the Revolution of 1848 escaped to the United States (Fleegler, 2013). During the late 19th century and early 20th century, anti-radical sentiments escalated dangerously across the United States, mainly

⁵ The Reformation movement, known also as the Protestant Movement, emerged during the 16th century under the leadership of the German monk Martin Luther. The movement emphasized the importance of the Protestant Tradition.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

due to the large number of immigrants who arrived to the United States at that time (Arnold, 2011).

Moreover, though anti-Semitism in the United States was weaker than in Europe, Jews experienced many facets of discrimination in the United States. American prejudices had a serious impact on Jewish educational level, social interaction, and job opportunities. For instance, before the late 1940s, there were legally enforced restrictive covenants which prohibited Jews from living in many areas. Besides, universities limited quotas on the number of Jews that could be admitted (Tobin, 2003).

Those newcomers who were largely composed of Catholics and Jews were considered as spies to the Catholic church. The prominent Georgia politician and former populist leader, Tom Waston argued that those Catholics were enemies who would threaten the U.S. safety (Higham, 2002). Fears among old immigrants, who were overwhelmingly Protestants, resulted in a great degree of antagonism against the new Catholic and Jewish immigrants. The newly arrived Catholics and Jews were seen as strange inhabitants who came to the U.S. to pave the way for their fellows in order to spread their religions and destroy the American values and principles.

Besides those prejudices, scientific racism played a major part in escalating bigotry against the newcomers. Depending on Charles Darwin's theory which argued that a racial hierarchy existed, anti-immigrant supporters considered Anglo-Saxon Protestants at the top of the order, followed by south and east Europeans, and finally Asian Americans and African Americans on the bottom. This racial hierarchy was strongly supported by the American conservatist Madison Grant's book, *The Passing of the Great Race*, in which he argued that any group's intellectual and physical skills were determined by biological differences which were immutable (Fleegler, 2013).

Madison and other Protestant conservatists considered biological differences as inherited characteristics, and that environment was absolutely irresponsible. According to them, the individuals' race and religious affiliation were the principal core which defined to which class they would belong. Thus, they considered those newcomers as a threat to their superior heritage and who would undermine their values.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

In contrast, there were other scholars who opposed Madison's theory. Franz Boas⁶ was against the previous view. He strongly fought against this racial theory. In his book *the Mind of Primitive Man*, Boas argued that the so-called savages, as well as civilized people shared the same mental ability, and insisted that this judgement was to be applied to all people regardless of their races (Degler, 1989). Depending on his research, Boas attacked racial theories and fought discrimination against minority groups. He insisted on the power of environment, rather than genetics, in determining the intellectual achievements and social circumstances of new immigrants (Fleegler, 2013). Unfortunately, Boas' arguments, in addition to other supporters' efforts, had no influence until the late 1930s, and attacks against new immigrants continued.

All those features were driven by a prominent notion adopted by Republicans known as "America First". It was a slogan that appeared by the late 1910s and early 1920s. The slogan revolved around a nativist standing among the white supremacists, arguing that "they were the only "America First" society" (Diamond, 2018). White supremacists composed mainly of the early European settlers considered themselves the original inhabitants of the United States, excluding any other group with a different language, religion, race, and ethnicity from the American society.

After being considered as a necessity to strengthen the American image around the world, the Americans' attitude toward the new immigrants changed to become a sense of fear. A variety of factors led to a new restricting immigration policy. First, during the 1890s, a serious economic depression hit the U.S. causing extreme losses. Additionally, there was a big shift in the sources of immigration from north and west Europe to south and east Europe. All that created a sense of absurdity and fear among the American government and society. More importantly was the urgent need for laborers which diminished due to the innovation of new technological machines that replaced men to do the work. As a result, several restrictive amendments were introduced to limit immigration.

2. Redesigning Immigration Policy in Response to New Asian Immigrant Groups

Attracted by the new labor opportunities provided by the Industrial Revolution, the number of immigrants to the U.S. continued to increase. By the end of the American Civil War

⁶Franz Uri Boas (July 1858–December 1942) was a German-American anthropologist and a pioneer of modern anthropology. He was known as the "Father of American Anthropology". His work is associated with the movement of anthropological historicism. Boas obtained his doctorate at Kiel in 1881. His dissertation, "Contributions to the Understanding of the Color of Water", dealt with the absorption, reflection, and the polarization of light in seawater.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

(1861-1865), immigration to the United States reached its highest rates (Hillstrom, 2009). Those large waves of immigrants came alongside massive industrial transformations within the United States, which required huge numbers of laborers. Both immigrants and American-born ran to those job opportunities (Hillstrom, 2009). The majority of immigrants were from Asia. Increased hostility towards the new immigrant groups prompted the U.S. government to pass unprecedented restrictive laws excluding several immigrant groups.

2.1. The New Asian Immigrant Population

Immigration to the United States was not only the preserve of Europeans, Asians also immigrated to the United States in large numbers. The first wave of Asian immigrants was mostly composed of Chinese, Japanese, and Filipinos.

The first Asian immigrants to come to the United States were from China. In the middle of the 19th century, Chinese immigration to the United States surged up (Zong & Batalova, 2017). Many factors pushed Chinese immigrants to leave their homeland and head to the U.S. Civil wars, including the Red Turban Uprisings (1854-1864), the Taiping Rebellion (1850-64), government corruption, high taxes, and poverty led to massive numbers of Chinese immigrants fleeing China. The United States in turn provided many opportunities that attracted Chinese immigrants, notably job vacancies.

Chinese immigrants arrived in the United States in two great waves. From the 1850s to the 1880s, the U.S. received about 30,000 Chinese immigrants. Most were from the southern Chinese Canton (Hooper & Batalova, 2015). When the news of the 1848 discovery of gold at Sutter's Mill in California reached China, more than 20,000 Chinese farmers, middle class merchants, and entrepreneurs rushed to the U.S. (Teitelbaum & Asher, 2009). The number continued to increase to reach over 63,000 Chinese immigrants by the 1870s (Campi, 2004). Signed in 1868, the Burlingame-Seward Treaty⁷ paved the way for further Chinese immigrant groups (*U.S. department of state*). The majority settled in the Western regions of the U.S. They held low-skill jobs as manual laborers in mining, construction, agriculture, and transcontinental railroad construction.

Given their dedication and ability to work long hours at low wages, Chinese laborers became the strongest competitors for white workers. Most employers preferred hiring Chinese

⁷ Signed in 1868, the Burlingame Treaty established several basic principles that aimed to ease immigration restrictions on the Chinese. It promised the Chinese the right to free immigration and travel within the United States.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

workers rather than whites. Thus, an escalated anti-Chinese sentiment started to occur among labor unions' demanding the immediate halt of Chinese immigration. Furthermore, most Chinese immigrants came to the U.S. as sojourners. Chinese immigration to the U.S. was provisional as many intended to go back home once they collected enough money to supply their families. Most U.S. citizens considered them opportunists who plundered America's wealth (Campi, 2004).

The anti-Chinese movement was a regional issue that first appeared in California. Then, it developed into a national phenomenon. The first group of Chinese immigrants arrived at California. Despite their racial and ethnic differences, they were welcomed. The welcome of the first wave of Chinese immigrants was due to an acute shortage of workers. American miners and businessmen wanted to take advantage of cheap Chinese labor to achieve economic growth. According to historian Lucy Saler, by 1870, Chinese workers represented 46 percent of the total workforce in the four major industries in San Francisco and made-up 25 percent of the waged workforce in California (Park, 2004).

The increasing proportion of the workforce in California coincided with severe economic depression and high unemployment rates from 1873 to 1878 (Chin & K. Tu, 2016). Thus, many Americans started to blame Chinese laborers for their miserable situation. Tension increased as those sentiments turned into violent acts against the Chinese. Subsequently, the U.S. government enacted a series of laws preventing Chinese immigration.

Besides Chinese immigration, the United States took in Japanese immigrants who, like most previous groups, fled the economic depression. Japanese immigration to the United States began in small numbers. Then, during the 1890s, they began arriving in large numbers, from about 2,000 immigrants in 1890 to 72,000 by 1910 (Pew Research Center, 2012). The Meiji Restoration in 1868⁸ led to economic difficulties, which were the main aspect that drove thousands of Japanese to immigrate to the United States. Japanese immigrants sought economic opportunities in the United States, especially when Chinese immigrants were prevented from entering. The Japanese were hardworking like the Chinese. Thus, American industrialists replaced Chinese workers with the Japanese. Similar to previous immigrant groups, discrimination was the most challenging obstacle that Japanese immigrants had to face.

⁸ Japan entered into a new age; the age of industrialization and modernization. Industrialization which required a lot of money drove the Japanese government to impose heavy taxes on Japanese farmers who were poor and couldn't pay the new tax. As a result, about 300,000 farmers lost their lands. Consequently, Japanese poverty rates escalated.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Regardless of the source country, all immigrant groups came to the United States in search of political stability, economic prosperity, or religious freedom. However, each group was subject to different acts of discrimination. Regardless of their race or ethnicity, Americans viewed the new waves of immigrants as a threat to their culture, values, and most importantly, their economic status.

2.2. Exclusionary Laws Targeting Asian Immigrants

The big change of immigrant source countries resulted in continuous anti-immigrant sentiments towards the new immigrants who were considered as strangers because of their different culture, religion, and race. Thus, the federal government became highly active in regulating the U.S. immigration policy. Unlike the previous wave, the new immigrant groups had to face several restrictions imposed by the federal government. The U.S. altered its Laissez-faire immigration policy by imposing new restrictive laws based on the national origin of admitted individuals.

Before becoming a national regulation, Chinese exclusion movements occurred first in the western region, precisely in California. Due to the Gold Rush most of Asian immigrants, largely the Chinese, were concentrated in California. Anti-Chinese sentiments were strengthened by many political responses. The first to react was John Bigler, California governor (1852-1856), who insisted on the legislature to adopt some restrictive measures to stop Asiatic immigration. He suggested rising taxation as the most effective solution. Though Bigler's proposals found no response from the legislature, they marked the inception of a formal political movement against the Chinese immigration (Daniels, 2002).

Further attempts were made to pass anti-Chinese laws. Eventually in 1855, the legislature took Bigler's proposals into consideration and enacted a law that discouraged the immigration to California of individuals who could not obtain citizenship. According to the 1789 federal statute, citizenship was permitted only to free white individuals. Thus Chinese, as well as the other non-white groups, could not be naturalized. Also, the law imposed taxation of fifty dollars on each incoming Asian (Kanazawa, 2005).

In 1858, the same legislature passed two other bills that prohibited Chinese immigrants to enter California. Anti-Chinese sentiments spread to reach even public schools, and resulted in the enactment of segregation acts which barred Asians from attending public schools (Eaves, 1910). Discrimination of non-white children, including the Chinese, from public schools was

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

clearly stated in an 1855 school law which precisely mentioned that only white children could attend schools (Kuo, 1998).

The Chinese Exclusion movement was a serious reconsideration of the U.S. immigration policy. It paved the way for the introduction of new U.S. immigration restrictions based mainly on race, ethnicity, class, and culture. Except for a limited number of laws, immigration regulations were a regional matter. Each state was the primary responsible on setting its immigration policy (Waters & Pineau, 2015). However, as immigration started to gain huge concern, the federal government expanded its role in regulating the country's immigration policy.

By the year 1875, anti-Chinese movement started to gain a more national formula through the passage of the Page Act, which prohibited the admission of criminals and prostitutes (Martin & Midgley, 2003). The federal government claimed that the act would prevent the entry of a small class of criminals. In fact, the law targeted all Chinese women. The majority of Chinese women who immigrated to the U.S. during the 1870s were either prostitutes or second wives of polygamous marriages (Abrams, 2005). The U.S. considered those Chinese practices as a threat to their religion and values. As an orthodox society, prostitution and polygamy were considered as deeply antithetical to American values. That was the apparent reason of the act. However, there was a hidden purpose for this act which was to prevent Chinese children from obtaining American citizenship.

The American fourteenth amendment declared that every person who was born or naturalized in the U.S. had the right to become an American citizen (*Fourteenth amendment Section 1: Constitution Annotated: CONGRESS.GOV: Library of Congress*). Thus, every immigrant child could have the chance to obtain citizenship, including Chinese children. That resulted in a great sense of fear among the Americans. Thus, there was an urgent need to reduce Chinese birth rates. In order to do so, the U.S. prohibited the entry of Chinese women by passing the Page Act, which barred precisely all Chinese women from entering the United States.

The year 1882, however, marked a significant transition in the U.S. immigration history. On May 6, 1882, the U.S. Congress passed the Chinese Exclusion Act, which prohibited Chinese labor immigration to the United States for ten years and barred Chinese residents from obtaining U.S. citizenship (Campi, 2004). The act was the first federal law ever passed that restricted the immigration of a group of people on the basis of their race or nationality.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

The Chinese Exclusion Act was renewed after ten years with the passage of the Geary Act. On May 5, 1892, the Senate and House of Representatives enacted the Geary Act authorised by representative Thomas Geary. According to the law, all Chinese should obtain certificates of residence within one year or were to face deportation (Yung, Chang, & Lai, 2006). Any Chinese immigrant who failed to register was convicted as an unlawful immigrant who should be imprisoned for no more than one year, and thereafter deported from the U.S. (Chin & Tu, 2016). However, on the guidance of the Chinese politicians and various attorneys, Chinese community refused to register.

American public opinion was divided between two different opinions. Opponents who were against the act, mainly Chinese, and described it as inhuman and racist. And proponents who supported the act and argued that it would protect the American identity. Among the strongest Chinese opponents who stood up against the Geary Act considering it a discriminatory law was the Chinese six companies. They argued that as friendly nations, the Geary Act was an unfair treatment to Chinese subjects in the U.S. Chinese six companies asked to fight the act both from inside and outside the U.S. On the internal scale, the group advised Chinese immigrants not to register, and asked each Chinese to contribute by \$1 to revoke the act. Furthermore, the six companies asked the Chinese government to stand against the act, especially that it violated the Burlingame Treaty between China and the U.S. (Chin & Tu, 2016). The six companies' campaign was extremely efficient in convincing Chinese not to apply for residency (Dewey, 2015).

Despite those arguments, on May 15, 1893, the Court upheld the U.S. Congress and made a verdict to immediately deport the Chinese immigrants. Although the deportation sentence was issued, it was not valid. The court gave more time to Chinese immigrants to register (*Fong Yue TING v. United States, 149 u.s. 698 (1893)*). Insufficient financial resources tended to be the main obstacle standing against applying the provision. As Attorney General Olney argued, the budget of \$25,000 assigned to deport the 93,445 unregistered Chinese immigrants was insufficient (Chin & Tu, 2016).

Practically speaking, the deportation process was impossible, mainly due to the huge number of Chinese immigrants in the U.S. during that era, not to mention the little amount of money devoted to accomplish the mission. Thus, many officials were obliged to postpone the execution of the Geary Act. Democratic President Grover Cleveland refused to implement the Geary Act until Congress would act by providing enough money. Similarly, Attorney General Richard Olney instructed U.S. attorneys not to make any procedures related to *fong yue Ting*

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

case⁹, unless under court's order; until necessary arrangements for the Geary Act's execution would be organized (Chin & Tu, 2016).

Anti-Chinese politicians expressed their outrage towards the executive branch for not enforcing the law. Representative Eugene Loud stated that they should either apply the Geary Act procedures or withdrew it. However, those requests for the enforcement of the Geary Law were unsuccessful. Congress knew that the \$60,000 was insufficient for the executive branch to cover the expenses of deportation, and salaries and expenses of officers. According to the House Foreign Affairs Committee report, an estimated \$6,000,000 was needed to enforce the law (Chin & Tu, 2016).

In contrast, some members of congress considered executive inaction the main reason behind the inefficiency of the Geary Law. Senator Waston Squire insisted on the importance of applying the law even on a small number of Chinese immigrants. He believed that actual deportation of Chinese who failed to register would have a huge impact on the rest of Chinese immigrants due to the deterrent punishment. Thomas J. Geary in his turn supported Squire's opinion. He argued that the executive branch was supposed to be severe in applying the law on the 5th day of May (Chin & Tu, 2016). Thus, Chinese immigrants would recognize how serious was the American law.

The only chance remained for the Americans was to extend the registration deadline and give the Chinese a second chance to register. Thus, a six-month period was granted to Chinese to register as McGeary proposed, and which would be according to him not just fair for the Chinese, but also economically wise (Chin & Tu, 2016). Those exclusionary laws against Chinese immigrants resulted in a decline in their number. From 132,300 Chinese in 1882 to 107,000 in 1890; 89,963 in 1900; 71,531 in 1910; and 61,000 in 1920 (Library of Congress, n.d.) Consequently, hostility towards the Chinese decreased.

Anti-Asian sentiments continued to emerge as Japanese immigrants replaced their Chinese counterparts in the labor market. Japanese immigrants first came to the U.S. in small numbers. There were about 2,039 in 1890, and 2,844 in 1899. However, the year 1900 witnessed a huge increase in Japanese immigration, the number reached 12,628, which led to the first emergence of anti-Japanese agitation (Ferguson, 1947). Those Anti-Japanese sentiments were reinforced by a series of legal resolutions attempting at limiting the number of

⁹ The case is a compilation of three cases in which the petitioners, who were Chinese workers, were arrested and detained for failing to comply with Article 6 of the May 5, 1892 Law, c. 60.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Japanese immigrants. On May 7, 1900, a mass meeting was held in San Francisco ended up with a decision to extend the Chinese Exclusion Act and apply it on the Japanese (Buell, 1923). That decision received positive reaction from the California legislature that asked the congress to restrict the entry of Japanese.

In order for anti-Asian sentiments to gain political effect in legislation, the Japanese and Korean Exclusion League was organized in California on May 14, 1905. The initial purpose of the league was to limit Asiatic immigration. The league was so influential that it succeeded in convincing the San Francisco Board of Education to segregate Japanese pupils in public schools (Ferguson, 1947). However, due to severe Japanese protests, President Theodore Roosevelt suggested to end Japanese immigration, but in its turn, the San Francisco Board had to revoke the resolution to avoid political implications between the U.S. and Japan.

Growing tension over Asian immigration resulted in the Gentlemen's Agreement between the United States and Japan. In 1907, Japan and the U.S. made an arrangement by which the Japanese government agreed on restricting the issuance of passports to Japanese who would like to immigrate to the United States. Despite those efforts, agitation towards the Japanese did not settle down. Numerous discriminatory bills were introduced during the California legislative session of 1909 (Hichborn, 1911). Despite the failure of those bills, the Republican, Democratic, and Socialist parties continued to pass resolutions to limit Japanese immigration to the U.S.

In the 1911 California legislative session, the Senate passed a bill prohibiting aliens not eligible for citizenship to own a property in the state (Hichborn, 1911). Despite its failure to pass in the Judiciary Committee of the Assembly, the senate renewed its resolution. The chance of passing an Anti-Japanese law improved by the Democrats' success in winning the majority of seats in both California legislative chambers, in addition to winning the presidency.

Democrats who were in favor of Anti-Japanese immigration contributed in the passing of the 1913 Alien Land Law. According to the law, aliens who were ineligible to citizenship and their companies were prohibited from purchasing agricultural land, or leasing such land for a period exceeding three years. The law was purposely directed toward Japanese immigrants who were almost engaged in agriculture. They even became a dominant power in farming by controlling a large number of farms in California. In 1909, about 30,000 Japanese immigrants were engaged in California's agricultural sector in 1910 (Iwata, 1962). Though the law passed, Japanese immigrants continued to come to the U.S.; the period from 1913 to 1920 witnessed

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

the arrival of 77,936 Japanese to the U.S. Also, their farming activities in California kept on flourishing (Ferguson, 1947). The Japanese succeeded in bypassing the law by establishing land companies with U.S. citizens holding a majority of shares, or by purchasing land in the name of their children with U.S. citizenship.

Consequently, another furious Anti-Japanese movement re-emerged. Numerous Anti-Japanese organizations were formed including the California Oriental Exclusion League, the Los Angeles County Anti-Asiatic Association, and the Native Sons of the Golden West. All those groupings shared a common purpose which was to eliminate any further Japanese immigration. They considered the Japanese as a threat to the whole country. In a conference held in San Francisco on March 13, 1919, William I. Traeger, representative of the Los Angeles County Anti-Asiatic Association, accused the Japanese of trying to colonize California. He insisted on the importance of enacting laws to prevent Japanese immigration to preserve California's sovereignty and independence (Oyagi, 2015).

Anti-Japanese advocates passed another law to fill the loopholes of the previous one. In 1920, the California Alien Land Law was enacted. The law deprived aliens who were ineligible to citizenship of the right to lease or purchase agricultural land and stocks (Oyagi, 2015). Since Japanese immigrants were unable to obtain citizenship, the law purposely limited Japanese investment in the agricultural field through reducing their chance to obtain land. By doing so, Americans could weaken Japanese financial incomes which would eventually force them to leave the U.S.

Despite the numerous attempts which were made to reduce Japanese immigration, no law proved to be efficient. Unlike the Chinese immigrants who were subjected to many exclusion acts limiting their entry to the U.S., the Japanese succeeded in protecting their position. That was mainly due to common political and economic advantages between both countries.

Politically, Japanese victories in the Sino-Japanese war (1894-95), and the Russo-Japanese war (1904-05) contributed in making Japan one of the most powerful nations in the world (Bailey, 1932). The U.S. desire to build a solid relationship with Japan, prevented the U.S. government from passing any legislation that would impact the relationship between both countries. Thus, any Anti-Japanese resolution which would cause agitation against Japanese immigrants was revoked.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Moreover, the Japanese active role as a strong ally during W.W.I gave it an opportunity to express its eager desire to confirm racial equality. That was clearly expressed in the Japanese proposed clause for the Treaty of Versailles which insisted that:

The equality of nations being a basic principle of the League of Nations, the High Contracting Parties agree to accord as soon as possible to all alien nationals of states, members of the League, equal and just treatment in every respect making no distinction, either in law or in fact, on account of their race or nationality (Axelrod, 2019).

The prevalence of white supremacy in the U.S., where most Japanese immigrants settled, drove Japan to introduce the above proposal. Japan's main purpose was to assert equal treatment among U.S. immigrants regardless of their race or nationality. However, determined to preserve its values and principles, the U.S. rejected the Japanese proposal and introduced further exclusionary acts. Public fears increased to reach almost all Asian immigrants, which led to the passage of the 1917 Act. The law expanded exclusion to include all immigrants from the Asia-Pacific triangle, known at that time as the Barred Zone (Bromberg, n.d.).

The early 1920s witnessed a great shift in the U.S. immigration policy. Numerical restrictions replaced the previous qualitative restrictions through the enactment of two major discriminatory laws, known as the quota Acts. In 1921, the U.S. government introduced the Emergency Quota Act. The law was based on the quota plan introduced by Senator Dillingham. The plan provided that each European nationality had a quota equivalent to 5 percent of the number of foreign-born individuals of that nationality residing in the United States at the time of the 1910 census (Emergency Quota Act (1921), n.d.).

The 1921 law was followed by another more restrictive and racist law issued in 1924. Unlike the Emergency Quota Act, which was directed precisely towards European immigrants, the 1924 law was directed toward all immigrants, including Asians. Known also as the Johnson Reed Act, the 1924 Act had a racist ideology. It did not only limit the number of immigrants, but also discriminated South and East European immigrants in favor of North and West European immigrants. Instead of using the 1910 census, the 1924 law used the 1890 census during which the average of North and West European immigrants was higher. In addition, even Japanese immigrants, whose immigration was regulated by diplomatic means, were excluded (Alvarez, 2017). The law barred Japanese immigrants who were not eligible to obtain American citizenship. In addition, the law provided that immigrants had to be examined in their mother country prior to their arrival by staff of local American consulates in order to protect the U.S. from any potential epidemic (Alvarez, 2017).

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

2.3.The Impact of the U.S. Immigration Laws on Asian Immigrants

Mass migration from Asia to the U.S. was characterized by a growing racist feeling among native whites. Anti-Asian sentiments were clearly shown through the escalated level of bigotry and violence towards Asians. Eventually, subsequent immigration laws were passed that banned Asians from entering the United States, restricted land ownership, banned interracial marriage, and restricted naturalization (Ishisaka & Takagi, 1982).

Though they constituted a substantial proportion of the U.S. population, mainly on the western region, Chinese immigrants experienced increased levels of hostility and persecution. Besides the set of discriminatory laws, several violent crimes were committed upon the Chinese, including arson, assault, robbery, burglary, kidnapping, and murder (Cole & Chin, 1999).

Similar to the black community, the Chinese were prohibited from witnessing against the white population. The U.S. government imposed further limitations on the Chinese, placing heavy burdens upon their economic, social, political, educational, cultural, and religious activities (Cole & Chin, 1999).

More importantly, restrictive immigration laws targeting the Chinese resulted in a growing number of detentions and deportations. Perceived as criminals, detained Chinese suffered from several inhumane conditions, as they were denied even the right to communication with their families. Deportation also caused immense harm to the Chinese community, leading to the destruction of numerous Chinese enterprises and industries (Cole & Chin, 1999).

Public and political attitudes towards Japanese immigrants were similar to those of the Chinese. Anti-Japanese advocates insisted on the exclusion of Japanese because of their impossible assimilation into the American society. Race tended to be a significant reason behind Japanese maladaptation. As pointed out by Valentine S. McClatchy during the hearing of the House Committee on Immigration and Naturalization in July 1920, racial characteristics, heredity, and religion prevented Japanese immigrants from being assimilated (Asato, 2005).

Americans treated Asians as aliens due to their different physical appearances and cultural beliefs. Those anti-Asian sentiments were reflected in several discriminatory immigration laws that led to the deterioration of Chinese and Japanese immigrants' economic, social, and educational conditions.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

3. Latino Immigrants Redesigning the U.S. Immigration Policy

Hispanics occupied a large share of immigration to the United States. The majority moved to the United States in search of better job opportunities. Due to the restrictive measures imposed by the U.S. government, several Hispanics violated the U.S. immigration law and entered the country illegally. The steady increase in illegal entry led to further restrictive measures aimed at preventing further illegal crossings.

3.1.The Move of Latino Workers to the U.S.

Similar to early European and Asian immigrant groups, immigrants from Latin America sought economic prosperity and political stability in the United States. Due to the massive amount of economic downturn, many Latinos immigrated to the United States in search of employment opportunities. While some Latinos entered the country legally, several others crossed the U.S. borders illegally.

3.1.1. Legal Entry

Despite its early existence, it was not until the 1960s that Latino immigration to the U.S. sparked high importance as their numbers increased steadily. Before the 1960s, less than one million Mexican and Central American immigrants lived in the U.S., about 25 percent of all U.S. immigrants (Brick, Challinor, & Rosenblum, 2011). However, the beginning of the 1960s marked an important transition in Latino immigration to the U.S. The number of Latino immigrants, namely Mexican and Central American immigrants, increased heavily. Their share jumped from 25% after World War II to 40% in the early 1960s (Brick, Challinor, & Rosenblum, 2011).

Concerning Mexico, the beginning of the 20th century marked the arrival of large numbers of Mexican immigrants. Among the most motivating factors was the issuance of the Bracero program. With the break out of World War Two, massive numbers of U.S. citizens left their jobs, including farmers, and joined the military force leading to severe labor shortages. To overcome this problem, the Bracero program, a temporary worker program, was introduced. Signed on August 4, 1942, the program was a bilateral temporary guest-worker agreement between the U.S. and Mexico (Mandee, 2001). According to that program, U.S. employers were allowed to import temporary workers from Mexico. The program expanded with the end of W.W.II, which coupled an expansion in U.S. economy. It aimed at importing unemployed Mexican workers to fill labor shortages in the U.S. agricultural sector. About 2 million Mexican workers moved to the U.S. under the Bracero program (Mandee, 2001).

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

3.1.2. The Flow of Illegal Entries

Alongside those legal immigrants, massive numbers of illegal immigrants headed to the U.S. (Mandel, 2001). While thousands of Mexican workers were eligible to sign up for the Bracero program, thousands of others were unauthorized to apply. Ineligible Mexican workers sought another way to benefit from agribusiness expansion in the U.S., breaking the U.S. immigration law and entering the U.S. illegally (Hernández, 2006). Besides, the end of the program in 1964 left many Mexicans jobless (LeMay, *Illegal Immigration: A Reference Handbook*, 2007). Thus, huge influx of Mexican laborers looked for another way to retain their jobs and entered the U.S. in an illegal way. The majority of those illegal immigrants were former temporary workers who participated in the Bracero program (LeMay, *Illegal Immigration: A Reference Handbook*, 2007).

Both, legal immigrants and unauthorised immigrants shared the same push factors; poverty, unemployment and political turmoil, that drove them to leave their home country and look for a better alternative. As one of the world's largest economic countries with better employment opportunities, also, a country known for its political democracy, the U.S. tended to be a good choice, which resulted in an enormous immigration pressure.

The end of the Bracero program harmed both the Mexican temporary workers and the U.S. employers. Mexicans provided a cheap labor force and were of a great importance to the U.S. economy. However, U.S. employers had several choices to compensate their loss, either by replacing workers with machines or moving their business overseas. In contrast, Mexican workers remained jobless and had no other choice but to immigrate in an illegal way to the U.S.

By the end of the program, thousands of Mexicans continued to come to the U.S. and their numbers increased to reach about half a million per year. Those illegal immigrants were motivated much more by their previous employers who kept on hiring them in an illegal way. Thus, they left Mexico and stayed in the U.S. permanently.

Furthermore, following the passage of the Immigration and Naturalization Act of 1965, which limited immigrant visas to 20,000 visas per country each year, large numbers of immigrants all over the world wanted to cross the U.S. borders even in an illegal way. Most of undocumented immigrants were from the Hispanic region, with Mexicans at the top making 60 percent of Hispanic illegal immigrants (LeMay, *Illegal Immigration: A Reference Handbook*, 2007).

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

During the 1970s, the number of illegal immigrants ranged between two to 12 million (Keely, 1982). The great influx of illegal immigrants resulted in concerns that the nation had lost control over its borders. The same period witnessed a severe crisis in U.S. economy. Dissatisfaction among different groups occurred, and U.S. citizens, especially blacks, blamed illegal immigrants on depressing wages, increasing unemployment, and rising cost of living. In an attempt to eliminate illegal immigration, different provisions and measures were proposed.

Regardless of the U.S. immigration restrictions, large-scale immigration continued. Mexico and Central America experienced several economic and social hardships, pushing thousands of their population to immigrate to the U.S. As of the 1960s, Mexico witnessed remarkable population growth, which led to a rapid growth in its working-age population. However, the growing share of the labor force was combined with a severe economic downturn in Mexico, increasing the number of unemployed Mexicans (Brick, Challinor, & Rosenblum, 2011). In a similar vein, economic challenges combined with civil wars in Guatemala (1960-96) and El Salvador (1980-92) drove a substantial share of their population to immigrate to the U.S. (Brick, Challinor, & Rosenblum, 2011).

During the 1980s-1990s, the number of Mexican and Central American immigrants to the U.S. increased steadily. Mexican population doubled from more than 2 million in the 1980s to more than 4 million in the 1990s. Besides, Central Americans increased from less than 500,000 to more than one million in the 1990s (Brick, Challinor, & Rosenblum, 2011).

3.2.The Immigration Policy Related to Latino Immigrants

Concerned about the growing number of illegal entries from the Latin region, the U.S. government passed several immigration laws, including measures aimed at limiting the number of undocumented Latino immigrants. The immigration restrictive measures revolved around employer sanctions, border enforcement, and interior restrictive provisions.

3.2.1. Immigration Enforcement Measures

The surge in Latino immigration to the U.S. led to several changes to the U.S. immigration policy. The U.S. Border Patrol was concerned mostly with the increasing number of undocumented Mexican immigrants. Although there was no clear evidence, nor accurate deportation records, some scholars agreed that the U.S. conducted several deportations against illegal immigrants and Mexicans in particular. Despite those early deportations, it was not until 1954 that the U.S. government announced its official immigration law enforcement. In response to the growing number of illegal aliens, in May 1954, Attorney General Herbert Brownell issued

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

the Operation Wetback campaign. The campaign ordered the deployment of about 800 Border Patrol officers along the southwestern U.S. border, leading to the deportation of one million individuals (Hernández, 2006).

A growing sense of anger among U.S. citizens, who accused illegal immigrants of taking their jobs and depreciating their wages, resulted in an urgent call to eliminate illegal immigration. Employer sanctions, border enforcement, and other measures were recommended as effective solutions. A great pressure from U.S. workers, especially poor blacks who perceived illegal immigrants as strong competitors to their job opportunities, resulted in the passage of the Immigration Reform and Control Act (IRCA). After a contentious debate, the law became effective on November 6, 1986. IRCA contained three major provisions. First, it enforced employment sanctions and eliminated the Texas Proviso, which exempted employers from any penalty for hiring undocumented workers. Second, illegal immigrants who had been in the U.S. since 1982, undocumented workers who had worked for a certain period in agriculture and temporary workers benefited from the legalization program and were granted the legal status (LeMay, *Illegal Immigration: A Reference Handbook*, 2007). Third, it recommended to tightly secure the U.S. borders.

The end of the Bracero program drove many Mexicans to enter the U.S. in an illegal way, which meant that their labor status was illegal. Though it was illegal for Mexican workers to enter the U.S. without documents, hiring them caused no sanction. Before 1986, employers bore no criminal liability for hiring undocumented immigrant workers (Wishnie, 2007). Under IRCA, employers who hired undocumented workers would be accused of criminal penalties. The purpose was to enforce illegal immigrants to leave the nation, or prevent their arrival in the first place by cutting off any chance to work (Bacon & Hing, 2010). The employer sanctions provision, however, was not new. The idea was first introduced in 1952,

when the immigration laws were overhauled to clamp down on subversives and Communists—a provision outlawing willful importation, transportation, or harboring of undocumented aliens was debated; one amendment proposed imposing criminal penalties for the employment of undocumented aliens if the employer had reasonable grounds to believe a worker was not legally in the United States (Hing, 2004, p. 155).

But it failed to pass. In 1971, the measure reappeared in response to the huge influx of Mexican illegal immigrants. In addition, the political turmoil of civil war in El Salvador, Guatemala, and Nicaragua, drove several waves of illegal immigrants from Central America to

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

join Mexicans. In 1973, Representative Peter Rodino, influenced by labor unions, presented the first serious bill introducing federal penalties on employers (LeMay, 2012). However, the bill failed again. The measure was recommended as the most effective tool to resolve the problem of illegal immigrants. The plan was to deprive those immigrants of being employed, which would enforce them to return to their countries.

In 1980, Select Commission on Immigration and Refugee Policy (SCIRP) suggested employer sanctions as an effective solution to limit the number of illegal immigrants (Bacon & Hing, 2010). The commission argued that by imposing penalties on employers for hiring undocumented workers employment opportunities would lessen. Eventually, undocumented immigration would decrease.

Despite being applied, the provisions passed through several debates. The U.S. government was divided between opponents and proponents of the employer sanctions provision. While some considered it as an effective way to reduce the number of illegal immigrants, others believed that it caused discrimination.

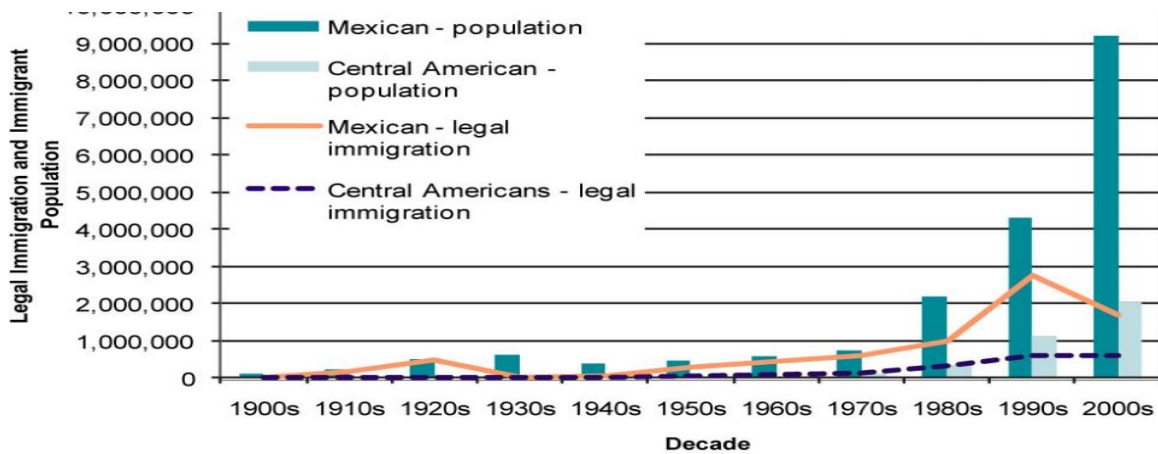
According to Senator Alan Simpson, one of congressional sponsors of the provision, the efficacy of employer sanctions in reducing the number of illegal immigrants was undeniable. Prior to the enactment of IRCA, the Immigration and Naturalization Service (INS) announced that 1.6 million aliens tried to pass the U.S. borders illegally. However, the number decreased to less than a million after IRCA (Hampe, 1992). Furthermore, the provision was applied by few numbers of employers hiring undocumented workers. Still, many undocumented workers were fired from their work. Thus, they were left jobless and would be forced to leave the U.S.

Despite those measures, undocumented immigration persisted, leading to a steady increase in the number of illegal entries. Rather than reducing the undocumented population, IRCA led to new immigrant flows based on family ties to IRCA-legalized aliens (Hampe, 1992). In precise, aliens from Mexico and Central American countries marked the highest entries. Following the enactment of IRCA, estimates showed a decrease in the number of undocumented aliens. However, that was not the result of the employer sanctions, but due to the legalization process, under which three million illegal immigrants were granted the legal status (Wishnie, 2007). The years following the passage of IRCA witnessed a great increase in the number of illegal immigrants.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

During the 2000s, the number of Mexican immigrants in the U.S. jumped from 4 million in the 1990s to more than 9 million. Also, immigration from Central America increased from one million immigrants in the 1990s to 2 million in the 2000s. Illegal entries occupied a remarkable share of Mexican and Central American immigration to the U.S. Of the overall number of the immigrant population in the 2000s, less than 2 million were legal permanent residents from Mexico and less than one million from Central America (see Figure 2). The dramatic increase of illegal immigrants to the U.S. during those years proved the failure of the IRCA.

Figure 2: Mexican and Central American Immigrants in the United States, Legal permanent Flows and Total Population, the 1900s-2000s



Source: DHS, Yearbook of Immigration Statistics, various years (Washington, DC: DHS); US Census Bureau, US Census, various years. Retrieved from Brick, K., Challinor, A., & Rosenblum, M. (2011). Mexican and Central American Immigrants in the United States. Migration Policy Institute.

Opponents argued that the provision was of no use. Growers were the most affected by the proposition due to their great dependence on undocumented workers. Both the National Council of Agricultural Employers and the American Farm Bureau Federation supported growers who made great efforts to repeal the employer sanctions.

The pull-push factors were stronger. The urgent need of Mexicans for jobs, and the U.S. economic prosperity resulted in further influx of Mexican illegal immigrants. Furthermore, following the passage of IRCA, only 346,000 employers out of the 4.6 million employers in the U.S. admitted applying IRCA's verification requirements (Bacon & Hing, 2010). Despite the threats and sanctions imposed on employers, they did not want to lose the Mexican labor force because of its great benefits. Thus, direct and indirect recruitment of Mexican workers continued.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Another issue related to fraudulent documents arose. Despite their complying with the law, employers might be deceived by illegal immigrants who used fraudulent documents. In addition to breaking the law by entering the U.S. borders in an illegal way, undocumented immigrants were obliged to commit further violations to get hired, which would eventually cause them severe punishments. First, those violations included False Allegation of a U.S. Citizenship, under which illegal immigrants might present themselves as U.S. citizens to their employers by using fraud and false statements. The act was considered a felony, leading to five years of prison. Second, Social Security Fraud revolved around illegal immigrants' use of a fraudulent Social Security number since it was essential to obtain a job (Feere, 2013).

In fact, employer sanctions provision failed in reaching its goal. Following the passage of IRCA, results showed the inefficacy of the provision in reducing the number of illegal immigrants. Actually, it led to further complications.

Employment discrimination spread heavily. Instead of checking workers' eligibility, employers focused on the appearances and accents of applicants. Thus, foreign-appearing U.S. citizens were rejected without verification. Also, according to a study made by the Government Accountability Office (GAO) in 1990, 19 percent of employers had a discriminatory behavior. Undocumented workers who were lucky enough to get a job were denied their Labor Rights. They could lose their jobs at any moment and had no right for an indemnity.

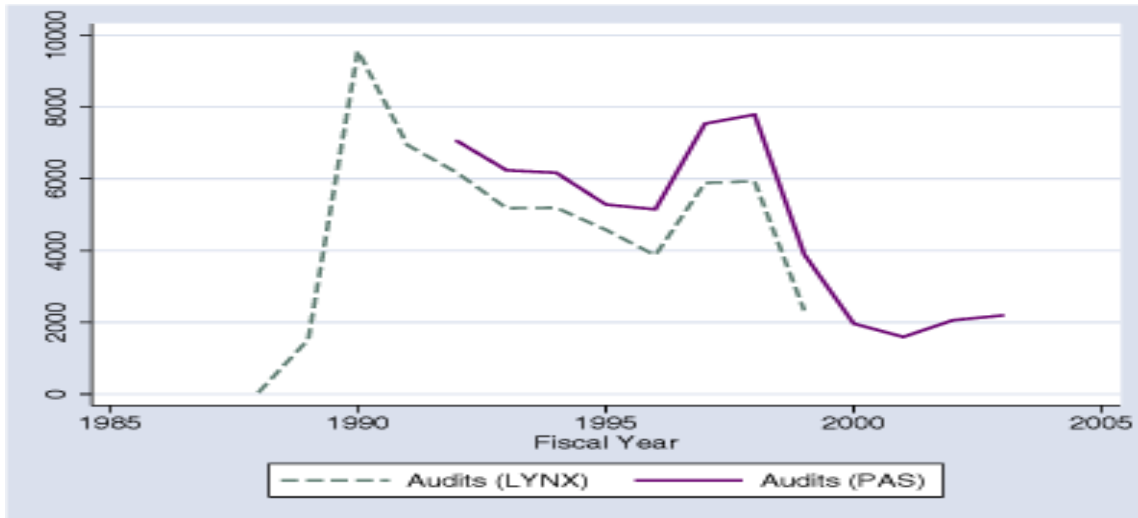
The U.S. Court received many cases in which employers made unfair labor practices with their undocumented workers. However, they were not charged guilty. Consequently, many groups, including the National Association for the Advancement of Colored People and the American Federation of Labor - Congress of Industrial Organizations, withdrew their support for IRCA.

Despite being valid, few government enforcements were made to apply the sanctions. A considerable decrease in employer audits and warnings to employers occurred. Basically, audits were I-9 forms under which employers were inspected whether they checked their workers' availability to work in the U.S. The early years following the passage of IRCA, the number of audits was high with 10,000 audits in 1990. However, their number decreased by time. Despite some small increases in the number of audits from FY 1997 to 1998 and from FY 2002 to 2003, general results showed a steep decline in audits' rates (See Figure 3). The increased number of illegal immigrants, who found no other solution but to work without authorization, had to endure discrimination in the work place without any right to complain.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Employers continued to exploit undocumented workers especially that there was no deterrent punishment.

Figure 3: Employer Sanctions Investigations for FY 1988 to 2003



Source: Office of Immigration Statistics Performance Analysis System G-23.19. Retrieved from: Brownell, P. (2005, September 1). The Declining Enforcement of Employer Sanctions. Retrieved from Migration Policy Institute: <https://www.migrationpolicy.org/article/declining-enforcement-employer-sanctions>

Due to the growing pace of undocumented immigration, the U.S. government passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), targeting undocumented aliens. IIRIRA included provisions related to border patrol, interior enforcement, and worksite restrictions. Title I ordered the employment of no less than 1,000 new border patrol agents, construction of 14-mile fencing, and the improvement of border equipment and technology. Besides, it imposed new civil penalties for illegal entry. The act introduced provisions related to apprehending, detaining, and removing deportable aliens. In this regard, it presented Section 287 (g), which allowed state and local law enforcement agencies to enforce federal immigration law. It permitted state and local law enforcement officers to engage in federal immigration enforcement activities, including investigation, apprehension, detention, and deportation. Key provisions regarding worksite enforcement included pilot programs to verify individuals' eligibility for employment and employer sanctions for intentionally hiring unauthorized foreigners (Illegal Immigration Reform and Immigrant Responsibility Act, 1996).

3.2.2. The Legalization Process

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

The legalization of unauthorised immigrants was another tool proposed to reduce the number of illegal immigrants. The legalization program addressed aliens who had resided in the U.S. in an illegal way, or temporarily to become permanent U.S. citizens. For temporary residents, agricultural workers benefited the most from the program. Also, it served humanitarian concerns by adopting refugees escaping political or racist turmoil. The program was first adopted in 1929 and then updated for several times (Nowrasteh, 2014).

The Immigration Reform and Control Act of 1986 combined with a restrictive policy and an amnesty program. First, it imposed civil and criminal sanctions on U.S. employers who knowingly hired unauthorized aliens. Besides, it introduced an amnesty program, legalizing about 3 million undocumented immigrants (Baker, 1997).

The IRCA presented two amnesty programs under which thousands of undocumented aliens were granted Lawful Permanent Resident (LPR) status. The first category included residents who had been in the U.S. since January 1, 1972. Those residents had to have good morals, be eligible and admissible for citizenship, and had never been involved in a terrorist activity (Kerwin, 2010). The second category was granted LPR status under the population-specific program. This program was devoted to serve the labor market. It adjusted about 1.1 million agricultural workers who worked at least for 90 days during 1984, 1985, and 1986 (Rytina, 2002). Cuban-Haitian entrants also benefited from the program.

The legalization approach received two different opinions. Supporters who believed that legalization would minimize the risk of discrimination in the workplace by increasing equal protection under the law. Also, a considerable increase in tax revenues would occur as more admitted workers started paying taxes. In contrast, others opposed the program for attracting more illegal immigrants. Moreover, since the majority of illegal immigrants were poor further governmental budgets were to be spent to support social services.

4. U.S. Immigration Policy Based on Qualitative Features

Changing features in the U.S. government system led to radical regulations to the immigration policy. In contrast to the 1920s immigration policy based on quantitative measures, the U.S. introduced immigration laws based on qualitative measures. The U.S. passed a number of immigration laws ending most of the nativist provisions based on racial profiling that discriminated against several immigrant groups.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

4.1. The Introduction of INA 1952

In 1952, the U.S. passed Immigration and Nationality Act (INA), known also as the McCarran Walter Act. Despite being vetoed by the U.S. president, Harry S. Truman, the INA was enacted on December 24, 1952, due to a major support by the U.S. Congress and the Democratic party. Though INA kept the previous features of the 1924 Act, it made significant changes to them. The fundamental features of the McCarran Walter Act were to keep the same provisions of the previous immigration policies. However, it added preferences for skilled aliens and relatives in parallel with the previous national-origins quota system. Besides, the act included court interpretations of immigration policies in order to ensure a fair administrative practice and procedures. INA revised all procedures related to obtaining or losing citizenship. Besides, it provided that all immigrants, regardless of their race, were eligible for naturalization. Furthermore, it gave great importance to security provisions (Campi, *The McCarran-Walter Act: A Contradictory Legacy on Race, Quotas, and Ideology*, 2004).

According to the McCarran Walter Act, both immigrants and non-immigrants should follow the same procedures related to fees, time of validity of non-immigrant visas, the number of entries permitted, and the waiving of passport and visa requirements. Finally, the act was considered as an efficient tool which helped in improving the immigration and nationality conditions. Despite those features, the Act still favoured immigration from Western European countries; the U.K., Germany, and Ireland, with 81.6 percent of the total numerical quota, while the share of South and East European countries was only 16 percent (Hatton, 2012).

Furthermore, INA provided parole authority under which the Attorney General had the power "to parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States" (*Chapter 2 - Parolees* 2019). Massive numbers of aliens from different parts of the world, rather than Western Europe, benefited from this privilege.

Favouring a group of people on the basis of their origins was for many Americans a discriminatory feature which should be banned. According to them, as a nation built on freedom and equality, an immigration system based on national origins quota was a dark side in the U.S. history which had to be erased.

As many opponents called for the reformation of the 1952 Immigration Act, American immigration policy based on the quota system witnessed a big shift. Also, major changes in the

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

political climate helped in strengthening those views. Free immigration policy gained more power as Democrats, who were in favor of it, won the elections and occupied an important position in Congress. Also, both American presidents, Kennedy and Johnson, at that period opposed the quota system. However, most importantly were the changes in the influential committee members of both the House of Representatives and the Senate. For the first time an Asian-American, Hiram Fong, was elected to the Senate. Also, Michael Feighan who supported reform of the quota system took chair of the committee after the death of Francis Walter, a severe restrictionist. In addition, Emanuel Celler, who was against the passage of the 1952 Act, chaired the House Judiciary Committee (Reimers, 1983).

Moreover, in 1958 the previous American president, Kennedy, published a book entitled *A Nation of Immigrants* in which he clearly demonstrated his negative perception on the quota system. However, his objection was not on the existence of such system. He objected the racist features of the quota system. Kennedy suggested that the immigration policy should be based on the capacity of individuals and their contribution in developing the American nation rather than their religious affiliation (Kammer, 2015).

The period following the death of President Kennedy witnessed great support to the reformation of the immigration policy based on the quota system. Subsequent President of the Democratic Party, Lyndon Johnson, insisted on barring all discriminatory legislations on those willing to enter the U.S., especially the talented ones. He was basically interested in what those new comers would bring to the country regardless to their origins. Thus, a set of amendments to the 1952 Act were introduced under the 1965 Hart-Celler Act.

4.2.The 1965 Amendments

With the spread of the Civil Rights movement and the victory of the Democrats in the elections of 1964, racist feelings lessened and the U.S. re-adopted an inclusive immigration policy. One year before the passage of the 1965 Act, the Civil Rights Act was enacted. The law barred every aspect of discrimination; whether of race, color, religion, sex, or national origin. However, some politicians argued that discrimination was not entirely eliminated. According to them, the U.S. immigration policy based on the quota system was discriminatory. For instance, in a congressional hearing, Attorney General Robert Kennedy stated that discrimination was still affecting the U.S. immigration law (FitzGerald & Cook-Martín, 2015).

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

After a series of qualitative and quantitative restrictions, the Immigration and Nationality Act of 1965 brought major changes to the U.S. immigration policy. Due to the emergence of new political, economic, and social movements, the U.S. overall perspective on immigration considerably changed. The 1965 Act was signed by President Lyndon B. Johnson and became effective in 1968. According to the act, family reunification exceeded employment and skills with the first, second, fourth and fifth preferences devoted to family members with 20 percent for each. Meanwhile, occupation-based preferences received little attention with no more than 10 percent of the overall Eastern Hemisphere total. Refugees' share was also modest with less than 6 percent (See table N° 1).

Table 1: Schedule of Eastern Hemisphere Preferences in 1952 and 1965 Immigration Acts

<i>Immigration and Nationality Act, 1952</i>	<i>Amendments to the Immigration Act, 1965</i>
(1) First preference: Highly skilled immigrants whose services are urgently needed in the U. S. and the spouse and children of such immigrants. 50% plus any not required for 2nd and 3rd preference.	(1) First preference: Unmarried sons and daughters of U. S. citizens. Not more than 20%.
(2) Second preference: Parents of U. S. citizens over the age of 21 and unmarried sons and daughters of U. S. citizens. 30% plus any not required for 1st and 3rd preference.	(2) Second preference: Spouse and unmarried sons and daughters of an alien lawfully admitted for permanent residence. 20% plus any not required for first preference.
(3) Third preference: Spouse and unmarried sons and daughters of an alien lawfully admitted for permanent residence. 20% plus any not required for first or second preference.	(3) Third preference: Members of the professions and scientists and artists of exceptional ability. Not more than 10%.
(4) Fourth preference: Brothers, sisters, married sons and daughters of U. S. citizens and an accompanying spouse and children. 50% of numbers not required for first three preferences.	(4) Fourth preference: Married sons and daughters of U. S. citizens. 10% plus any not required for first three preferences.
5) Nonpreference: Applicants not entitled to one of the above preferences. 50% of numbers not required for first three preferences, plus any not required for fourth preference.	(5) Fifth preference: Brothers and sisters of U. S. citizens. 24% plus any not required for first four preferences.
	(6) Sixth preference: Skilled and unskilled workers in occupations for which labor is in short supply in U. S. Not more than 10%.
	(7) Seventh preference: Refugees to whom conditional entry or adjustment of status may be granted. Not more than 6%.
	8) Nonpreference: Any applicant not entitled to one of the above preferences. Any numbers not required for preference applicants

Source: Keely, C. B. (1971), "Effects of the Immigration Act of 1965 on Selected Population Characteristics of Immigrants to the United States." *Demography*, 8, p. 160.

While for some, it was a modest reform, others considered it as a decisive break through in U.S. immigration policy. President Johnson argued that the newly enacted bill would not affect Americans' way of life or economic conditions. According to him, the new bill was ordinary and it would not bring any drastic changes.

On the one hand, advocates presented two reasons to believe that the new bill would bring a slow change in immigration patterns. Firstly, proponents argued that most immigrants from poorer countries would fail to qualify under the employment preferences. Secondly, the big share given to family reunification would certainly preserve the existing immigration

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

pattern. Attorney General Robert Kennedy argued that the restrictions imposed on Asian immigrants during the 1880s, which resulted in a small amount of Asian population, would diminish Asians' chance to pass. And there would be only about 5,000 Asian immigrants in the first year, and the rate would subsequently decline (Brimelow, 1995).

On the other hand, opponents argued that a large number of incoming immigrants, as well as a drastic shift in immigration pattern would result from the passage of the 1965 Act. However, records showed that the big shift in country source existed long before the passage of the 1965 Act. The number of immigrants coming to U.S. started to increase earlier than 1965. For instance, during the period from 1930 to 1939 the number of Asian immigrants reached 2,700 immigrants. Then, the number increased to 4,400 immigrants from 1940 to 1949. The number continued to increase to reach 5,400 Asian immigrants from 1950 to 1959 (See table N° 2).

Table 2: Source Region Composition of U.S. Immigration 1920-2009

	1920 to 1929	1930 to 1939	1940 to 1949	1950 to 1959	1960 to 1969	1970 to 1979	1980 to 1989	1990 to 1999	2000 to 2009
Europe	59.6	63.5	55.2	56.2	35.3	19.4	10.7	13.8	13.1
Ireland, Germany, UK	21.7	29.9	31.2	32.8	14.6	5.2	4.2	3.2	3.0
Other NW Europe	10.2	9.2	10.9	7.0	4.9	1.6	1.3	1.0	1.2
South Europe	15.9	14.7	8.0	10.0	12.0	9.4	2.5	1.5	0.7
East Europe	11.9	9.7	5.1	6.3	3.8	3.2	2.7	8.1	8.2
Asia	3.0	2.7	4.0	5.4	11.2	33.1	38.3	29.3	33.7
East Asia				2.8	5.1	12.0	12.3	8.6	10.1
Other Asia				2.7	6.0	21.1	26.0	20.7	23.6
America	37.0	32.9	38.3	36.9	52.1	44.8	43.2	52.6	43.1
Canada	22.1	23.3	18.8	14.1	13.5	4.2	2.5	2.0	2.3
Mexico	11.6	4.7	6.6	11.0	13.7	14.6	16.2	28.2	16.5
Caribbean	1.9	2.6	5.4	4.6	13.3	16.7	12.7	10.3	10.2
Central America	0.4	1.0	2.4	1.6	3.1	2.8	5.4	6.2	5.7
South America	1.0	1.4	2.3	3.1	7.8	6.4	6.4	5.8	8.3
Africa	0.1	0.3	0.8	0.5	0.7	1.7	2.3	3.5	7.4
Oceania	0.2	0.5	1.7	0.5	0.7	0.9	0.7	0.6	0.6
Not Specified	0.0	-	0.0	0.5	0.0	0.0	4.9	0.3	2.1
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Number (000s)	4,296	699	857	2,499	3,214	4,248	6,244	9,775	10,299

Source: Statistical Yearbook 2010. Retrieved from: Hatton, T. J. (2015). American Immigration Policy: The 1965 Act and its Consequences. Economics. P. 23.

Many factors contributed to the growth of immigration. Among those was the worldwide population explosion, especially in Mexico; where population increased from 35 million in 1960 to 100 million by the end of the century (Kammer, 2015). In 1983, journalist James Fallows stated that as the number of Latin America's population extremely increased, Latinos started to move northward to better their living conditions (Follows, 1983). Though there were many restrictions imposed on particular immigrant groups, several modifications in America's policies of exclusion followed. On December 17, 1943, the Magnuson Act was

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

passed, and lifted the Chinese Exclusion Act. The law made Chinese immigrants eligible for naturalization, and established an annual Chinese immigration quota of 105 (Chesley, 2009).

Furthermore, in 1946, President Harry Truman signed the Luce-Celler Act. According to the Act, Filipinos and Indians were admissible as quota immigrants and granted eligibility for naturalization (Võ, 2012). Moreover, about 400,000 people were permitted entry to the U.S. under the Displaced Persons Act (Desilver, 2015). All those immigrants who were made eligible for naturalization helped their relatives to immigrate to the U.S. Thus, those modifications led to several immigrant groups from different countries.

Though the growth of immigration started earlier than the passage of the Hart Celler Act, its significant contribution in increasing and changing the U.S. immigration patterns tended to be undeniable. For instance, the seventh preference introduced in the 1965 Act gave the chance to refugees from different parts of the world to enter the U.S. There were refugees from the Caribbean, Vietnam, Laos, and Cambodia (Hatton, 2012). Furthermore, the seventh preference permitted certain groups of refugees from the Middle East to enter the U.S. under several condition: to be fleeing from a communist country due to a fear of persecution related to race, religion or a political opinion. The share given to those refugees played a major part in changing U.S. immigration patterns.

The anti-discriminatory modifications brought by the 1965 Act were interrupted by several immigration laws based on national origins. Instead of following a comprehensible immigration policy, Congress passed laws which granted an immigration privilege based particularly on the national origin of the applicant. Prior to the 1965 amendments, many immigrants were excluded on the basis of their origins. However, the post 1965 period witnessed the passage of several laws that favoured some immigrant groups on the basis of their nationality.

5. The Impact of Refugee Displacement on the U.S. Immigration Policy

Wars occurring on different parts of the world had several drawbacks leaving behind thousands of displaced individuals and political escapees. Due to its commitment to humanitarian concerns, the U.S. found itself obliged to admit thousands of displaced people and refugees. The first initiative was the passage of the Displaced Persons Act of 1948, which allowed to the admission of more than 400,000 displaced people (Violet, 1980). The majority came from Europe; including Germany and Italy, escaping Nazism. Further amendments including the Refugee Relief Act of August 7, 1953 and the August 31, 1954 amendments were

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

introduced permitting the admission of about 214,000 refugees (Violet, 1980). The targeted group was refugees escaping the Communist regimes.

5.1.The U.S. Membership in the U.N. Refugee Protocol

Being a member of the United Nations Refugee Protocol required that any signatory nation should afford certain rights and protections to aliens who matched the refugee concept. According to INA, a refugee was:

An alien displaced abroad who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion (United Nations High Commissioner for Refugees, n.d.).

Since the U.S. joined the 1967 U.N. Protocol Relating to the Status of Refugee in 1968, Congress made several regulations in favour of refugees. However, the Immigration and Nationality Act was the basic platform that the U.S. Congress relied on concerning refugee admissions and resettlement. Under the INA, the asylum status was granted to aliens who were fleeing discrimination in their homeland due to their race, religion, nationality, being a member in a particular social group, or having a political opinion (*8 U.S. Code § 1158 - Asylum*). However, there should be a strong proof of a well-founded fear. Also, the Attorney General had to make sure that those aliens were not involved in the persecution of other people, were not accused of a serious crime, and were not considered as a threat to homeland security (Wasem, 2005, p. 2). If the applicants had the required conditions, they could be eligible to obtain the status of refugee without consideration to their origins.

5.2.The Admission of Refugees to the U.S.

The U.S. passed several laws in favor of refugee admissions. Among the most preferential laws were the Cuban Adjustment Act, the Indochina Refugee Adjustment Act, and the Foreign Operations, Export Financing, and Related Programs Appropriations Act for 1990. Those three acts, in addition to other laws, had one common factor which was to give a special treatment to refugees who were considered as distinct from other immigrants. The period from 1946 to 2000, witnessed the approval of LPR status to 3.5 million refugees and asylum seekers (Wasem, 2005).

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

The immigration process was based on two types; economic immigration and asylum seekers. Whereas job opportunities were the basic motive for economic immigration, political instability, wars and fear of persecution were the driving force of refugee movements. Many acts were passed to regulate the status of immigrants, however, there was not a clear distinction between a refugee and an immigrant. As the issue of political asylums raised, the U.S. congress passed several acts devoted just to the status of some particular refugee groups.

Following the fall of the Batista government in 1959, huge influx of Cuban immigrants fled to the U.S. Those immigrants were granted privileges which facilitated their settlement in the U.S. The period from 1962 to 1979 witnessed the arrival of thousands of Cubans who benefited from the parole provision in the INA. Unlike other refugees, who had to follow a special process to obtain permanent residence, Cuban immigrants received a preferential treatment under which they could obtain permanent resident status. According to the 1965 Act, in order to obtain nationality, one had to be sponsored by a family member or an employer. However, the Cuban Adjustment Act (CAA) enacted in 1966 provided that Cuban immigrants were made eligible for naturalisation without being sponsored by an eligible family member or employer. The CAA also permitted Cuban immigrants who had entered illegally and had been in the U.S. for at least one year to adjust to lawful permanent resident status without the need of any sponsorship¹⁰.

In order to benefit from the refugee program and get a permanent residence, Congress established two categories. The first one was named overseas refugee program. According to that program, a person had first to make an application which had to correspond to the definition of a refugee; to suffer from persecution¹¹. Then, if the applicant was approved, the refugee could obtain permanent residence.

The second program was to obtain permanent residence as a political asylum seeker. In contrast to the refugee program, beneficiaries of the political asylum program had to fill a claim for political asylum. Once those applicants reached the U.S., they had to be examined and demonstrate an established threat of persecution. However, under the CAA, Cuban immigrants

¹⁰ Lawful permanent residents, also known as immigrants and green card holders, are noncitizens who are legally authorized to reside permanently in the United States.

¹¹ Based on the Immigration and Naturalization Act, Congress defined the term "refugee" to refer to foreign victims of persecution. Any individual who is outside any country of such person's nationality ... and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

received preferential treatment by which they could obtain permanent residence without applying for political asylum or proving that they were refugees.

As Cuban president, Castro, declared that his government would enable Cubans to immigrate to the U.S., massive numbers of Cuban immigrants headed to the U.S. In April 1980, 125,000 Cubans moved to the U.S. on the Mariel Boat (Larzelere, 1988). Despite the Carter Administration's rejection to grant those Cubans the refugee status, most of them were recognized as refugees under the Reagan Administration which followed the CAA provisions. Cubans continued to benefit from the CAA, with more than 192,000 Cubans getting the permanent resident status from 1981 to 1994 (U.S. Department of Justice: Immigration and Naturalization Service, 1997). That led to a strong need to limit those numbers. As a result, in accordance with the Castro regime, the Clinton Administration adopted a new policy under which any Cuban refugee had to prove a credible fear of persecution in order to obtain permanent residence, otherwise they were sent back to Cuba.

In addition to Cubans, Congress favoured Southeast Asians; including Vietnamese, Laotians and Cambodians with several privileges. Due to the unstable political situation in Vietnam, Cambodia and Laos, a massive number of South-eastern Asians escaped to the U.S. as refugees fleeing from Communism; about 130,000 Indochinese resettled in the U.S. in 1976 (Leibowitz, 1983). Following the fall of Saigon, thousands of Indochinese refugees fled to the U.S. Those waves were supported by the national voluntary agencies. However, the lack of a cohesive refugee policy to manage those inflows led to several crisis managements. The increased number of Indochinese refugees resulted in a great demand on education, health, and employment resources. Thus, an urgent need to establish a well-defined refugee policy emerged.

Signed by President Ford on May 24, 1975, the Indochinese Refugee Assistance Act was the first move of the U.S. Congress (Silverman, 1980). According to this law, voluntary agency and state assistance funds were divided between the U.S. Department of State and the Department of Health, Education and Welfare. However, those contributions were not efficient enough to solve the problem of refugee resettlement.

Thus, in 1977, Congress passed the Indochina Refugee Adjustment Act which granted those refugees permanent residence retroactively to the date of their arrival. During the 1978 and 1984, about 175,000 Southeast Asians benefited from that privilege (*History, Art & Archives, U.S. House of Representatives, "Refugee Crisis"*). Passed by Congress in 1989, the

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Foreign Operations, Export Financing, and Related Programs Appropriations Act was based on two major provisions. The first provision, proposed by Senator Frank Lautenberg, stated that certain groups had just to assert a credible act of persecution instead of strong evidence (Numbers USA Education and Research Foundation). Those groups included Jews from the former Soviet Union, Estonia, Latvia, or Lithuania, Evangelical Christians, Catholics and Orthodox from Ukraine, and Nationals of Vietnam, Laos or Cambodia. Also, the provision gave each alien coming from those countries who was refused to obtain the refugee status the chance to reapply. More importantly was the written argument that each interviewing officer should give when denying refugee status to any alien of the listed groups.

Furthermore, the second provision authorised the adjustment to permanent resident status to any alien from the former Soviet Union, Estonia, Latvia, Lithuania, Vietnam, Laos and Cambodia who came to the U.S. as parolees during the period 1988 to 1994. Due to this provision, about 71,000 aliens were admitted (U.S. Department of Justice: Immigration and Naturalization Service, 1997). Those refugees benefited from a series of acts which were precisely enacted to regulate their status and provide them with extra privileges. Congress passed several refugee laws. However, as terrorism spread, there were many demands by conservatists to revise those laws to protect the national security.

The 1980 Refugee Act was preceded by several laws which admitted the entrance of particular groups of refugees to the U.S. One of those laws was the Displaced Persons Act of 1948 which allowed the entrance of refugees escaping Nazi, Fascist, or Soviet persecution. It also permitted groups of German laborers to enter the U.S. (Gatrell, 2000). In addition, on August 7, 1953, the Refugee Relief Act came into effect allowing 209,000 victims of national calamities and persons from European or Middle Eastern countries fleeing communism (Potulicki, 1956). Several laws concerned with refugee status followed, however, the 1965 amendments to the Immigration and Nationality Act played a pivotal role in the passage of the Refugee Act of 1980.

Signed on March 17th, 1980, the Refugee Act of 1980 was a major change in the U.S. refugee provisions. It received attention due to the four principles it brought. First, it set a federal policy in favour of further refugees. Second, the act provided for a new definition to a refugee based on the characteristics cited by the international United Nations (U.N.) Convention. Third, it established the principle of asylum in U.S. statutory policy. And finally, the Refugee Act adjusted the principle of resettlement assistance for a refugee (Leibowitz, 1983).

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

Those four aspects were considered as a positive change in the previous U.S. immigration policy, which was found inadequate compared to the international immigration policy. However, they raised many questions related to their implementations. In fact, the 1980 Refugee Act followed the foreign and domestic policy considerations rather than the U.N. Protocol standards. Shortly after the passage of the Refugee Act, about 15,955 aliens applied for political asylum. However, only 598 applicants were completed (Helton, 1984). Some argued that those restrictions were due to the fear of losing control of the immigration process. Others believed that political considerations were the dominant power.

Concerning the U.S. foreign policy, most applicants that received political asylum were from a Communist-dominated country, or particular Middle Eastern countries. On the domestic side, as the number of applicants started to increase, the U.S. government made many attempts to prevent new entrances. Aliens were returned home before reaching the American soil, or were sent to prison once caught, so that they would not have the chance to apply for asylum.

The passage of the law paralleled a massive influx of Cuban refugees to the United States. Instead of following the authorities provided by the new law, the U.S. Administration used the so-called parole authority. It was used in emergency cases to allow a temporary entry of certain individuals en masse as refugees. Instead of keeping refugee flows under control with 50,000 refugee admissions per year, the 1980 Refugee Act failed which resulted in massive influx of refugees.

To measure those inflows, two different amendments were introduced while debating the Simpson Mazzoli bill; one by Senator Huddleston, and the other by Senator Bumpers. From Huddleston's perspective, both refugees and immigrants had to be included into the same column. However, his amendment received many criticisms, especially from Senator Simpson, chairman of the immigration Subcommittee. According to Simpson, refugees and immigrants were two different groups and there should be no competition between them. Whereas immigration policy was devoted to family reunification, refugee policy was interested in helping aliens fleeing persecution. Thus, competition between the two groups would be unfair. Eventually, the amendment failed. The second amendment proposed by Senator Bumpers was to limit the number of refugees to 75,000 refugees per year, and that no further entries would be allowed without congressional approval. Likewise, the Bumpers amendment failed.

Senator Allan K. Simpson, co-author of the Simpson-Mazzoli bills, insisted on applying the employer sanctions in order to reduce the amount of immigrant influx. According to the

Chapter One: Historical Overview About the U.S. Major Immigration Political Reforms

employer sanctions, labor opportunities were the main pull factor that attracted immigrants, especially Mexicans, to come to the U.S. Therefore, limiting labor opportunities was relevant to controlling the massive flow of immigrants.

Both the Simpson and Mazzoli bills provided that the U.S. president had to insist on the use of a national identification card for any job application. Also, they imposed penalties on employers for hiring or recruiting individuals without the national identification card, as well as imprisoning workers working without national ID card. The provisions presented by both bills had the same concept, but differed in details. While the Simpson Bill imposed five years of imprisonment and a five-thousand-dollar penalty, the Mazzoli Bill was less severe with a maximum of two years of imprisonment and a five thousand dollar fine (Rodrigues, 1985).

New immigration restrictions resulted in a significant drop in the number of workers. That led to a controversial debate between supporters of immigration and anti-immigrant advocates. Specifically, employers, who relied heavily on undocumented immigrant workers to fill the labor shortage, opposed immigration enforcement laws. In return, opponents of immigration called for more restrictive measures.

Conclusion

The U.S. was established by immigrants who populated its territories and provided labor force for its agricultural and industrial sectors. Early arrivals from western European countries controlled the immigration process, setting their social, cultural, and religious components as the main features of the American identity. Other immigrant groups from different regions followed, leading to the emergence of nativist feelings among the early European settlers. Starting from the 19th century, the number of immigrants increased and their resource countries changed, increasing anti-immigrant sentiments against some races and ethnicities. Immigration opponents argued that newcomers were not able to assimilate into U.S. society properly. New immigrants were considered as aliens who would threaten the safety and peace of the country. Besides, they were accused of being responsible for population growth, displacing low-skilled American workers, and depressing wages. As of the 1910s, Anti-immigrant sentiments went up, asking for limiting the number of immigrant admissions to the U.S. Consequently, the U.S. Congress passed a set of laws restricting the entry of several immigrant groups. The acts limited immigration from several regions, including Asia, Africa, and Latin America. The U.S. altered its inclusive immigration policy to a more restrictive one. However, the economic benefits of immigration drove the federal government to revise those restrictive laws and adopt a new

strategy. During the 1960s, the U.S. resumed immigrant admissions, but with limited numbers and required skills. Despite those regulations, immigration remained as a central issue, leading to continuous policy debate.

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Introduction

The U.S. encountered continuous debate over its immigration policy, as the strategy changed over time. The country relied on several factors when setting its immigration policy. Economic, social, political, and security patterns tended to be the most critical ones. Before the 21st century, the U.S. placed greater emphasis on restricting immigration mainly for economic and cultural reasons. The U.S. war on terror existed before the 21st century. However, it did not spark much debate. In the early twenty-first century, the U.S. under the presidency of George W. Bush opted for a more comprehensive immigration policy. However, the process was interrupted by one of the most devastating terrorist attacks the country had ever witnessed. On the morning of September 11, 2001, a group of foreign-born terrorists attacked the U.S., causing the country thousands of deaths, and the destruction of one of its most important economic symbols, the World Trade Center. Immediate investigations revealed that the operatives were 19 foreign-born assailants who had managed to enter the U.S. using forged documents. More importantly, the terrorists had violated the U.S. immigration law, which allowed them to stay in the United States long enough and prepare for their terrorist operations. Hostility towards the foreign-born community increased among American citizens, who demanded a complete halt to immigration. Consequently, the U.S. undertook a number of counter-terrorism measures to ensure its national security. Immigration law enforcement was one of the most crucial features of the measures, especially that immigration became a U.S. national security issue. In addition to enhancing its border patrol, the U.S. revised the visa application process, and imposed tough security screening. Given the common immigrant status and religious affiliation of the September 11 attackers, the great share of the U.S. counterterrorism measures was directed toward foreign-born individuals from Muslim-majority and Arab countries. Targeting this particular group triggered considerable debate over the U.S. full commitment to different universal declarations preventing discrimination, torture, and injustice. Besides, immigration contributed largely to the U.S. educational and economic sectors. As a result, immigration regulation came under intense scrutiny, with many political and economic analysts questioning its effectiveness and whether it was worth the effort and the sums spent on it.

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

1. External Terror Threatening the U.S. National Security

Terrorism drew considerable universal attention in the wake of the present century as it turned from a regional issue to a global campaign. Terrorist groups extended their operational scope to the international level to get popularity. Though a number of analysts considered the 9/11 attacks the initial driving force behind the U.S. war on terror, the American experience with terrorism existed years prior to the September 2001 incident. The U.S. was a target to several terrorist plots. A number of foreign-born terrorist groups started to launch terrorist attacks as early as the 1970s (Jenkins, Willis, & Han, 2016). Those attacks passed through three major transitions; starting during the 1970s, reaching the peak in 2001, and fluctuating following the 9/11 attacks.

1.1. Historical Record of the U.S. Experience with Foreign-born Terrorism

In the wake of the twenty-first century, terrorism as a term raised considerable concerns among historians and scholars who ought to present the most adequate definition to this phenomenon. The difficulty of drawing a consistent definition to terrorism lies on the common aspects it shares with other forms of violence; including a state-based armed conflict, non-state conflict, one-sided violence, hate crime, and homicide. In an attempt to distinguish terrorism from different violent acts, Hannah Ritchie, Joe Hasell, Cameron Appel, and Max Roser presented a set of criteria precising what made an act a terrorist one.

They argued that terrorism included acts which were conducted by a subnational group or a non-state entity formed of individuals who were influenced by terrorist movements. The main aim of those organizations was to install fear among randomly selected victims by conducting violent acts aimed at reaching political, economic, religious, or social objectives (Ritchie, Hasell, Appel, & Roser, 2013). In accordance to the criteria listed above, the U.S. experienced several terrorist plots. Most of them were conducted by foreign-born perpetrators.

The first challenge the U.S. faced while issuing counter-terrorism measures was to define its scope. Due to the absence of a universal legal definition of the term by the General Assembly of the United Nations (Schmid, 2012), several U.S. agencies established their own interpretation of terrorism. The U.S. Federal Bureau of Investigation (FBI) introduced its first definition in 1986 binding terrorism to the illegal use of violence towards individuals or properties to intimidate or coerce a particular government in an attempt to attain political or social objectives (Winter, 2018). It was not until 2001 that the U.S. State Department brought another definition, stating that terrorism was a politically motivated violence used by

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

subnational groups or clandestine agents targeting civilians to gain popular support (Aznar & Alexander, 2006).

Furthermore, both the FBI and the Central Intelligence Agency (CIA) identified two types of terrorism; domestic and international terrorism. The agencies considered domestic terrorism attacks occurring within the U.S. conducted by one or more U.S. citizens. On the other hand, terrorist attacks were listed as international when they "occur outside the United States or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the local in which the perpetrators operate or seek asylum" (Aznar & Alexander, 2006, p. 12). From another perspective, the CIA considered international every terrorist attack directed by foreign governments or organizations towards foreign targets including nationals, institutions, or governments (Aznar & Alexander, 2006).

The world witnessed the emergence of several terrorist organizations, each with its own political and cultural contexts, and ideology. The Islamic Jihadi group, known as al Qaeda, emerged as the most controversial one in the wake of the 21st century. The Islamic group under the leadership of Osama Bin Laden was considered among the most dangerous terrorist organizations. In addition to different dispersed attacks, al Qaeda claimed responsibility on several terrorist attacks on the U.S. soil, including the first terrorist attack on the U.S. World Trade Center in 1993. Al Qaeda relied on different tactics, including hijacking, bombing, and suicide attacks (Wilkinson, 2005).

From 1968 to 2000, about 4,000 terrorist attacks occurred on the U.S. soil (Mannik, 2009). Most of those attacks were perpetrated by domestic terrorists within the U.S. soil. According to Christopher Hewitt, 79.7 percent of the terrorist attacks directed towards the U.S. at that period was domestic; compared to only 20.3 percent being international (2003). In addition to foreign-born terrorist attacks on U.S soil, several U.S. institutions abroad were targets to terrorist acts. While some of those terrorist plots failed, others cost the U.S. human and financial losses.

The U.S. concern with external terror started as early as the 1930s. Before the outbreak of the Second World War, the U.S. President Franklin D. Roosevelt issued an order to J. Edgar Hoover, the first FBI Director, to conduct investigations towards foreign-inspired subversion which might be conducted by Communist, Nazi, or Japanese perpetrators. In contrast to

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

common perception coining terrorism to the 21st century, Hewitt argued that the U.S. had a long history with terrorism, domestic and foreign one (2003).

Beginning in the 1950s, the U.S. went through several internal conflicts that led to devastating domestic terrorist attacks. Led by the Ku Klux Klan (KKK) and the National State Rights Party, the first terrorist wave began in 1954. White supremacist opposition to black civil rights in the south increased deaths against the black population. The wave ended in 1969, leaving behind 588 incidents and over 65 deaths (Winter, 2018). In response, an opposition group of black separatists and black nationalists defending the black community emerged during the 1960s and resulted in 475 incidents (Hewitt, 2003). The period from the 1960s to the 1970s witnessed the emergence of both the third and fourth terrorist waves. The former was conducted by the Revolutionary Left causing 500 incidents (Hewitt, 2003). The latter was composed of Puerto Rican independentists. The highlight of the 365 incidents was the assassination attempt on U.S. President Truman in Washington, D.C. (Glass, 2017). Ideologically motivated, the fifth wave peaked from 1969 to 1989, when several groups of Zionist Jews launched attacks targeting Arab institutions throughout the United States (Winter, 2018). The early 1970s witnessed the revival of the extreme-right. The movement lasted for more than two decades leaving behind some of the most devastating terrorist attacks, including the Oklahoma City bombing in 1995, and the bombing of the Centennial Olympic Park in 1996 (Aznar & Alexander, 2006).

The first external threat on the U.S. soil began in 1968. Although the United States was not targeted, a number of terrorist attacks against the Cuban community in exile by anti-Castro Cuban immigrants resulted in 168 accidents and more than 10 deaths (Hewitt, 2003). Another foreign-born terrorist attack on the U.S. took place on September 10, 1976. Seeking international support, a group of four Croatian separatists, as well as an American young woman, led by a man named Zvonko Bušić hijacked the TWA 355. Though the hijacking was intended to draw widespread media coverage in support of the Croatian independence, it ended with the death of police officer Brian Murray (Staff and wire reports, 2013). Since the perpetrators were not U.S. citizens, the incident was considered as the first international terrorist attack on the U.S. soil.

The late of the twentieth century brought a new type of terrorism, alleged to be based on religious motives. Terrorist attacks against a number of U.S. institutions and embassies abroad marked the beginning of long-term international terrorist plots against the U.S. Emerged during the 1980s, the Lebanese Islamist political party Hezbollah claimed responsibility for

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

several attacks on American institutions located in the Middle East, including the 1983 attack on the U.S. embassy in Beirut which left more than 49 deaths (Winter, 2018). This was followed by a more destructive attack targeting the U.S. Marine Corps base and barracks, also in Beirut, killing 241 people (Winter, 2018).

The movement grew larger with the emergence of a new Islamic organization known as the military base or Al Qaeda. Under the leadership of Osama Bin Laden, the organization launched a number of attacks on the United States abroad and even locally. Along with the numerous attacks on American embassies in the Middle East and even in Africa (Winter, 2018), terrorism in the 1990s became more established across American soil. On February 26, 1993, a group led by a convicted Pakistani terrorist, Ramzi Yusuf, launched the first terrorist attack on the U.S. World Trade Center. The attack cost the country 1042 injuries, 6 deaths, and the destruction of one of the U.S. most important economic pillars (National Commission on Terrorist Attacks upon the United States., 2004). Numerous terrorist plots followed including the Land marks plot in June 1993 (National Commission on Terrorist Attacks upon the United States., 2004), and the Atlantic Avenue Subway plot in 1997 (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Although it failed to achieve these plots, Al Qaeda did not stop. The risk escalated with Osama Bin Laden's instructions in 1998, which was followed by several attacks on the U.S. embassies in Kenya and Tanzania in August of the same year (Winter, 2018).

The U.S. started the 21st century with one of the most devastating attacks the country had ever witnessed. In spite of the losses resulted from the previous terrorist attacks, little attention was given to terrorism. The 9/11 incident with its devastating effects succeeded in rising the U.S., as well as the global, awareness on terrorism. With a rise of 0.12%, previously 0.01%, in the total rate of deaths caused by terrorists in the U.S., issuing severe counterterrorism measures became an indispensable stride.

On September 11, 2001, following the hijacking of four U.S. aircrafts approximately 2,981 people died (National Commission on Terrorist Attacks upon the United States). The attacks were conducted by 19 Arab hijackers, coming from Saudi Arabia, Egypt, U.A.E., Lebanon, and Yemen. After several attempts, the conspirators succeeded in entering the U.S. with non-immigrant visas (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). The fact that the 9/11 attacks took place inside the U.S. by a group of non-U.S. citizens drove the government to revise its security borders and impose new immigration enforcement policy. Hence, immigration regulations were among the most essential counterterrorism measures the U.S. took.

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

1.2. Muslims Perceived as Terrorists

Arab immigrant groups moved to the U.S. as early as the 1800s (Abu-Laban & Suleiman, 1989). Following the passage of the Immigration and Naturalization Act of 1965, which cancelled the national quota system, a second large wave of Arab immigrants headed to the U.S. (Wekhian, 2015). Arab immigrant groups to the U.S. were divided into two categories. While Christians occupied much of the early Arab immigrant groups, the 1960s wave contained mainly Arab-Muslims (Ammar, 2000). Most of them were professionals and entrepreneurs looking for economic prosperity or escaping political conflicts in the Middle East, including Palestine, Syria, and Iraq (Wekhian, 2015). Besides, increasing numbers of Muslim immigrants from south Asia, southeast Asia, and Africa joined the process (Tindongan, 2011). The number of immigrants from Islamic countries increased by more than 100% during the 1980s (Alkhazraji, 1997).

Arab-Muslim immigrants in the U.S. were perceived differently. While some could integrate, the majority experienced different acts of discrimination, whether in education, labor market, or other socio-economic sectors. In effect, the Muslim minority became among the most despised, targeted, and criticized immigrant category. Given their distinct culture, traditions, values, language, and religion, Arab-Muslim immigrants faced several acts of discrimination and segregation in the U.S. It was assumed that Arab-Muslim immigrants faced the biggest difficulties to assimilate in the U.S. (Tindongan, 2011).

Though many combined the 9/11 attacks with hostility and discrimination against Arab and Muslim immigrants, tension towards those immigrants existed earlier (Mamdani, 2002). Antagonism between the Western world and Muslims existed hundreds of years ago (Acim, 2019). The Western world portrayed Islam and Muslims as the "Other" and "the anti-thesis" of the western features (Acim, 2019, p 26). Islamophobia predated the 9/11 incident, as the common image towards Islam had long been a barbaric, inhumane, and evil religion that did not accept and refused to cohabitate with cultural diversity (Said, 1978).

Apart from their different religious belief and traditions, the othering of Muslims in the U.S. society was due to other factors, including imperialist and colonial interests (Suleiman, 1989), and political conflicts (Tindongan, 2011). The first major conflict between the U.S. and the Arab world occurred in the 1950s, when the U.S. expressed its support for the establishment of a Jewish state in Palestine (Suleiman, 1989). The menace of the Muslim Other among the American society exacerbated as a result of other events, including the Arab oil embargo of

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

1973¹², the American hostages in Iran in the 1980s¹³, U.S. military intervention in Libya in the 1980s, and the 1990s Gulf war (Tindongan, 2011).

Following those incidents, hostility towards Muslim immigrants in the U.S. intensified (Teague, 2018). Stereotypes conflating Islam/Muslims and terrorism escalated, leading to increased anti-Arab and anti-Muslim sentiments across the United States mainstream (Suleiman, 1989). Those negative sentiments resulted in several acts of racism and discrimination against Muslim subjects. In his article *Islamophobia Culture and Race in the Age of Empire*, Mehdi Semati argued that Islamophobia was an ideological response to conflicting politics, histories, societies, and cultures between Muslim countries and the Western world (2010).

The attack of September 11, 2001, worsened the Arab-Muslim immigrant's status, making them the most rejected immigrant group in the U.S. (Tindongan, 2011). In a post-9/11 era of Islamophobia, Arab-Muslim immigrants were subjected to misjudgement and mistreatment from the Western world, and U.S. public leading to tough immigration enforcement laws. Several calls escalated asking for the ban of immigration, elimination of student visas and Diversity Lottery Visa Program, and closing the U.S. borders with Canada and Mexico (Stock & Johnson, 2003).

1.3. The U.S. 20th Century Immigration Regulations Related to Foreign Terrorism

Foreign terrorist attacks on American soil caused massive regulation of immigration policy, particularly the issuance of visas. Common immigration violations among foreign terrorists prompted the United States to revise its immigration policy and impose new restrictive measures. In contrast to the current immigration policy requiring a visa to enter the United States, prior to 1884, entering the United States needed only a set of documents confirming the health of a foreigner and his clean criminal record. On July 5, 1884, Congress passed an immigration legislation ordering consulate officers abroad to issue visas to certain aliens (Betts, 2011). In 1917, Congress expanded the regulation to all foreigners traveling to the United States (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

¹² In October 1973, Middle Eastern OPEC nations stopped oil exports to the U.S. as part of the Arab coalition against enemy countries accused of supporting Israel against the Arabs.

¹³ A group of Iranian student demonstrators invaded the American embassy in Tehran, Iran and took Americans as hostages for 444 days.

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

It was not until 1952 that congress passed the Immigration and Nationality Act, which laid the basis for various U.S. immigration and visa regulations (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). The basic regulations of INA included granting the State Department the authority to deal with the issuance of visas, appointing immigration officers and consular authorities, and defining different visa categories and immigrant qualifications (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Consular officials at the State Department were primarily responsible for handling visa applications for both immigrants, who intended to remain in the United States permanently, and non-immigrants who attempted to travel to the United States temporarily for work, study, tourism, or other reasons (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). While the number of immigrant visas was limited by a specific statute setting the quota, the numbers for non-immigrant visas were managed through the eligibility of applicants (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

The visa process passed through several steps, including the adjudication process. The consulate had to verify the applicant's name against a large database known as the Consular Lookout Automated Support System (CLASS). Among the databases in CLASS was the tipoff watchlist containing names of known and suspected terrorists. Moreover, based on INA all non-immigrant applicants were required to pass a face-to-face interview. However, during the 20th century, the State Department encouraged waiving the interview for several applicants from certain countries (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

The U.S. Citizenship and Immigration Services (USCIS) agency provided seven categories of visas that gave foreigners the opportunity to reside permanently or temporarily in the United States for work, study, or other eligible reasons. For aliens seeking permanent residence, the U.S. provided the Legal Permanent Residence, known also as the Green Card, which permitted foreigners to reside and work in the U.S. permanently. If the beneficiary did not commit any serious crime that might lead to losing his/her green card and deportation, LPRs could apply for U.S. citizenship (Nowrasteh, 2016).

The U.S. Bureau of Consular Affairs provided temporary visitors with multiple visa categories based on different qualification patterns, including education, tourism, work, family ties, and humanitarian interests. Student visa (F-M) allowed foreigners to enter the United States temporarily to attend different educational institutions, including college, university, private elementary school, also to participate in vocational training program (Nowrasteh, 2016).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Foreigners seeking to tour the U.S. for business, pleasure, or enrolment in short recreational courses of study could pursue a Visitor visa (B-1/B-2) (Nowrasteh, 2016). A foreign citizen engaged to an American citizen could apply for the fiancé(e) K-1 visa which permitted the alien to join his/her partner in the U.S. on condition that they marry within 90 days of arrival. After marriage, the foreign partner could submit an application to change his/her immigration status to LPR (Nowrasteh, 2016).

The U.S. provided protection to aliens fleeing prosecution, or were under the risk of being prosecuted because of their race, religion, nationality, political opinion, or membership in a particular social group. These individuals could seek entry as refugees or asylum seekers. As for refugees, they should not be settled in another country, or violate any immigration law upon entry, such as imposing national security or public health risks. Refugees had to apply for a green card within a year of admission (Nowrasteh, 2016). Unlike refugees, asylum seekers had to apply in person at the U.S. border, and were often held in detention before being granted asylum (Nowrasteh, 2016).

Enacted in 1986, IRCA made exceptions by waiving the visa process for foreigners traveling from certain countries. Under the Visa Waiver Program (VWP), non-immigrants from participating countries could travel to the U.S. for business or tourism for 90 days without a visa (Grunblatt, 2008). However, in case aliens were seeking entry to study or to work they were required to obtain a visa. In addition to Canada, the program involved other 27 countries mostly from Europe, East Asia, and South America. However, the U.S. imposed a number of regulations to remain in the program. Participating countries had to cooperate with the United States government to ensure security by sharing passenger information (Nowrasteh, 2016).

At the beginning of the 21st century, the State Department issued 7,141,636, non-immigrant visas, including 3.5 million visitor visas and 300,000 student visas (U.S. Department of State: Bureau of Consular Affairs, 2000). Citizens from developed countries with economic prosperity had better chances of obtaining a U.S. visa. On the contrary, third country nationals were often denied visas on the ground of being intending immigrants. If third-country citizens were long-term residents with strong ties to a developed country, they would mostly be regarded as a good visa risk (Nowrasteh, 2016).

However, the visa did not permit entry into the United States. According to INA, "Nothing in this Act shall be construed to entitle any alien, to whom a visa or other documentation has been issued, to be admitted [to] the United States, if, upon arrival at a port

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

of entry in the United States, he is found to be inadmissible under this Act, or any other provision of law" (U.S. Citizenship and Immigration Services, 2019). The visa only indicated that a U.S. consular official at the U.S. Embassy had reviewed the application, and approved the applicant's eligibility.

Before the 21st century, INS was responsible for enforcing immigration law and preventing any violation. Located at ports of entry, INS inspectors were responsible for admitting legal entry and preventing illegal aliens into the U.S. Foreigners seeking entry to the U.S. had to pass through primary inspection through which the immigration inspector determined whether to admit the person or refer him/her to a secondary inspection (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

As for primary inspection, immigration inspectors were required under INA § 286 to ask passengers several questions regarding their identity, and the reason and duration of visit. The inspectors also reviewed travel documents for potential fraud, in addition to checking the name and searching for the passport number to determine if the passenger's name was on the U.S. watchlist. In case of suspicion, the inspector referred the passenger to a secondary inspection, during which travel documents were reviewed for potential fraud. Unlike the primary inspection, the secondary one had no time constraints. Also, during this phase, the inspector was provided with extra authority permitting him/her to check INS databases, call the FBI, and access to the IDENT biometric system; which contained digital fingerprints and photos of suspected criminals and terrorists (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Before the 9/11 attacks, the measure was overlooked leading to several foreign terrorist leaks.

Among the most critical concerns of transnational terrorists was ensuring their ability to pass the ports of entry of the target country. Since the 1990s, most operatives relied heavily on the use of fraudulent documents, aliases, and corrupt government officials to guarantee their entry (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). To assure sufficient time to prepare for their plots, terrorists committed several immigration violations to remain in the U.S.

According to an analysis conducted by Alex Nowrasteh, the U.S. witnessed 3,432 deaths caused by terrorist attacks from 1975 till the end of 2015. 154 foreign-born terrorists were responsible of 88 percent of the total rate; with 3,024 deaths (2016). The perpetrators used multiple visa categories to enter the U.S. With 54 holding the U.S. green card, the majority of terrorists were legal permanent residents who were able to leave and re-enter the U.S. The following category included 34 terrorists who entered the U.S. as tourists. 24 terrorists benefited

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

from the refugee and asylum status. 19 terrorists obtained an F-visa and entered the U.S. as students. Unable to enter the U.S. legally, 10 perpetrators entered, or stayed in the U.S. as illegal aliens.

Prior to the 9/11 incident, the U.S. was the subject of different terrorist plots, during which perpetrators used the same travel techniques used by the 9/11 hijackers. They were very interested in obtaining legal immigration status. To do so, terrorists committed repeated immigration fraud and violations, claimed political asylum, used aliases, and some married U.S. citizens to obtain the LPR status (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

According to a CIA analytic report issued in 2003, three of the perpetrators who carried out the first World Trade Center Bombing in February 1993 entered the U.S. using Saudi passports containing the same indicator of extremism that would be used later by the 9/11 hijackers (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Furthermore, operatives Gazi Ibrahim Abu Mezer and Lafi Taisir Mufleh Khalil committed serial immigration violations while planning for their unravelled attack on the Atlantic Avenue Subway in July 1997 (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Despite those foreign terrorist attacks, most of the 20th century terrorist attacks on U.S. soil were executed by native-born Americans. From the 1970s until the early 2001, native-born terrorist attacks led to the death of 305 American citizens. Only 17 people died in foreign-born terrorist attacks (Nowrasteh, 2016). Apart from few border security regulations, many of the U.S. counter-terrorism measures during that period were concerned with domestic regulations. Claiming that members of a Palestinian organization entered the United States for terrorist purposes, in 1972, INS showed significant scrutiny over foreigners entering the United States with student visas (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

In 1980, CIA made its first initiative by presenting the *Red Book*, a manual containing information related to forged passports, travel cachets, and visas used by terrorists (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Built on this latter, CIA produced a training video entitled *the Threat Is Real* aimed at raising awareness among border officials, customs officers, and consular employees on the various travel documents used by terrorists (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). The scrutiny increased during the Libyan crisis in 1984, during which the U.S. intelligence indicated that Libyan leader Muammar Qadhafi might have sent assassins in the U.S. using student visas. In response, the U.S. passed a registration program directed towards Libyan students. In the late 1980s, INS introduced further regulations

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

including a comprehensive national system. This time, however, the regulation was expanded to include all students (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Concerns over foreign students increased as investigations revealed that one of the first World Trade Center bombers, Eyad Mahmoud had entered the U.S. with a student visa and had overstayed his visa and was not arrested (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). In 1994, the Department of Justice (DOJ) issued an order to INS to present a student tracking system. In response, INS relied on biometric student identification cards to track foreign students. Moreover, in 1996, Congress required the creation of a system to track students from countries suspected of sponsoring terrorism (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Education for foreign students provided the U.S. economy with billions of dollars, reaching \$32.8 billion in 2016 (New American Economy, 2016). Imposing such program would deter foreign students and push them to other destinations. In addition to not being well-funded, the system faced many opponents, especially the higher education community (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Ultimately, the U.S. rescinded the program. Cancelling the tracking program would later provide one of the 9/11 hijackers, Hani Hanjour, the opportunity to enter the United States with an F visa (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Though voluntary, the U.S. made two initiatives concerned with storing information about aliens crossing its borders. In 1989, the U.S. Customs Service, the U.S. Immigration and Naturalization Service, and the airline industry presented the U.S. Advance Passenger Information System (APIS). Those initiatives permitted air and sea vessels carrying passengers to the U.S. to transmit the biographical data of passengers to authorities prior to their arrival (International Organization for Migration, 2010). Besides, a Passenger Name Records program was introduced concerned with collecting further details on the passenger, including the pursuance of ticket, contact details, and further requirements.

The U.S. concern about foreign-born terrorists increased in 1991 with the outbreak of the Gulf war. Worried about the entry of Iraqi intelligence agents, the White House ordered the State Department to expand the use of the terrorist watchlist (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Included in the National Automated Lookout System, tipoff contained biographical information about aliens suspected of being involved or associated with terrorist activity. Despite those measures, the U.S. government was very concerned with

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

preventing illegal immigration and reducing the number of refugees and asylum seekers (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Although none of the illegal immigrants crossing the southern border of the United States was involved in terrorist attacks against the U.S., securing the US-Mexico borders was of great importance to the American government. Based on its first formal national border control strategy passed in 1994, INS initially targeted areas with the largest number of border crossers from Mexico (Meissner, Kerwin, Chishti, & Bergeron, 2013). The U.S. issued other restrictive immigration regulations which interrupted the U.S. commitment to harbouring individuals escaping persecution. The growing number of refugees escaping persecution and illegal immigrants, mainly from Mexico, looking for job opportunities drove the U.S. government to pass further restrictive immigration laws to limit the number of those arrivals. Most notably, the U.S. passed the Immigration Reform and Welfare Reform Acts of 1996 that aimed at limiting the number of illegal aliens (Storrs, 2005). Those sets of laws were mainly targeting Mexican aliens who constituted the biggest share of illegal immigrants. With the increasing rate of Mexican illegal entry to the U.S., both Congress and the Clinton Administration agreed to double the number of border patrol agents along the US-Mexico borders by 1999 (Meyers, 2006).

As a country built on justice, equality, and liberty, the U.S. made considerable collaborations in terms of assisting refugees and asylum seekers. That was clearly shown through the passage of a number of laws devoted to the regulation of the refugee and asylum status. Among those regulations was the Refugee Act of 1980, which aimed at resettling refugees and asylum seekers. However, the act was interrupted by provisions introduced by the Immigration and Nationality Act of 1952. According to Section 212 (f) of INA, the president had an executive authority by which he could limit the number of admitted refugees and exclude particular groups. Several U.S. presidents exercised their power including Jimmy Carter. Following the Iranian takeover of the United States Embassy in 1979, President Carter prevented Iranian aliens to the U.S. and made the first banning decision on the ground of terrorism (Piper, 1981).

Both Ramzi Yousef and Ahmad Ajaj, the first World Trade Center attackers, claimed asylum to remain in the U.S. (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Consequently, restricting the rights of asylum seekers following the 1993 bombings was an inevitable measure (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

With outdated technology and limited resources, as well as the increasing number of visa issuance, the State Department's staff was highly unprepared to face the transnational terrorist attack that was about to hit the U.S. World Trade Center in 1993 (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). For instance, INS inspectors were using a paper watchlist to check passengers' names instead of a researchable database system. The newly appointed INS Commissioner then, Doris Meissner showed considerable attention to developing the agency's equipment and human resources. Consequently, consular officers and border inspectors were provided with an automated terrorist watch list. In addition, they received training courses by the Intelligence Community and the FBI on how to deal with terrorists when they appeared at ports of entry (Koslowski, 2004).

Furthermore, the fact that the State Department had issued visas to the six World Trade Center bombers; including their leader Sheikh Omar Abdel Rahman who was on a watchlist, prompted the State to issue further regulations aimed at improving its ability to counter terrorism (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). A number of visa-processing procedures were revised. The State Department established the Visa Viper program in August 1993 (The Office of Inspector General (OIG), 2008). The program intended to increase information sharing among the U.S. different agencies to improve the terrorist watchlist. However, different U.S. federal agencies refused to cooperate causing the program to fail (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004, p. 81). By the mid-1990s, the State Department made further technological improvements by introducing a machine-readable visa, which enabled immigration inspectors to quickly enter visa data into the immigration database (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Furthermore, to prevent the infiltration of foreign terrorists into the U.S., CIA introduced the Personal Identification Secure Comparison and Evolution System (PISCES) issued in 1997. The system assisted many countries in improving their watch-listing capabilities in order to be shared with the agency (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Among the first contributors was Canada which signed a bilateral agreement with the U.S. in 1997 to share the tipoff watchlist (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). In addition, tipoff became available to INS inspectors at ports of entry, and INS excluded three travellers under this provision in 1998 (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Responding to the high number of visa overstays, in 1996, Congress requested the issuance of an automated entry-exit program to track passengers from arrival until departure from the United States (*Implementation of AN ENTRY-EXIT System: Still waiting after all these*

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

years 2013). Due to complaints from the Canadian and Mexican border communities, who crossed the border on a daily basis for business affairs, INS decided to maintain the automated entry system only (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). However, the program was not well funded due to the United States' priority in preventing illegal immigration over countering terrorism. Congress allocated only \$ 40 million to develop the entry-exit system, compared to \$ 1 billion dedicated to increasing the presence of the border patrol along the southern border (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

In December 1999, the U.S. was on the verge of receiving another terrorist attack on Los Angeles International Airport. However, the terrorist plot was aborted by arrest of conspirator Ahmed Ressam, who was arrested following the use of a fraudulent passport to enter the U.S. The incident increased U.S. attention to the strong correlation between protecting its territory from foreign terrorism and preventing the entry of terrorists (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). However, entire U.S. counter-terrorism measures during that period were limited to restricting immigration patterns. Except for few initiatives including the CIA's *Red Book*, which ceased publication in 1992, the Annual Strategic Intelligence Review for Counterterrorism released in 1995, no U.S. federal agency showed any interest in conducting a comprehensive analysis of terrorist travel methods and immigration violations (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Furthermore, various U.S. agencies coordinated and succeeded in bringing down the perpetrators. Few days following the bombing, the FBI arrested most of the plotters. Moreover, in June 1993, the FBI succeeded in thwarting the landmarks plot; another terrorist attack targeting major New York landmarks (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). The way U.S. agencies encountered those attacks raised little concern about potential future terrorist attacks. Except for the initiated measures, the U.S. spent no more efforts to combat terrorism.

The beginning of the 21st century brought new changes to the U.S.-Mexican relations. A set of bilateral discussions between presidents of both countries ended up with the passage of the Legal Immigration Family Equity Act. The legislation ensured the amnesty and adjustment for illegal aliens (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Numerous bilateral initiatives followed. The U.S. President George W. Bush met his counterpart Mexican, Vicente Fox, several times. Few months prior to the 9/11 incident, both presidents held a meeting during which they discussed resolutions to immigration issues (Gutierrez, 2007).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Discussions, however, were interrupted by the devastating attacks the U.S. witnessed on the morning of September 11, 2001.

2. The Effects of the September 11 Terrorist Attacks on the U.S. Immigration System

One of the most challenging tasks the U.S. had to face in response to the 9/11 terrorist attack was to avoid the occurrence of other terrorist attacks. To guarantee this, the U.S. passed several counterterrorism measures to ensure the nation's safety. Since most of the perpetrators were foreign-born residents, revising the U.S. immigration policy alongside tightening its borders was essential in the U.S. counterterrorism measures.

The U.S. immigration policy passed through several fluctuations. It ranged between opening its borders and welcoming thousands of immigrants, and tightening its immigration policy by imposing restrictive laws that limited the number of admitted aliens. Prior to the 9/11 attacks, the most salient reasons behind the U.S. restrictive immigration policy were the economic and social outcomes of immigration. The intense competition between U.S. citizens and immigrants over job opportunities and fears that immigrants would alter American values and identity led to increased hostility toward various immigrant groups. Those concerns culminated in the passage of several anti-immigrant regulations.

2.1. The 9/11 Foreign Terrorists' Violations on U.S. Immigration Law

Due to their unfamiliarity with terrorist travel tactics, both border authorities and immigration inspectors neglected a set of fundamental measures and procedures which could possibly prevent the 9/11 attacks. While security inspectors were concerned with detecting drug couriers and known criminals, immigrant inspectors were interested in preventing intending immigrants. Vulnerabilities surrounding the U.S. security and immigrant institutions led to the neglect of a number of terrorist indications, which could have prevented the occurrence of the 9/11 attacks.

According to a report issued on the hijackers' travel facts, the 9/11 conspirators had visa interviews with consular officers for 25 times, immigration and customs authorities for 43 times, and border authorities for 12 times (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Among the 19 hijackers, 15 were Saudis. Due to their economic prosperity, the U.S. consular and customs officials considered Saudi aliens a good visa risk. Thus, the majority of conspirators did not face difficulties obtaining their U.S. visas. Furthermore, prior to September 11, hijackers could leave, re-enter, and remain in the U.S. which helped them prepare for their

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

attack. Based on the Annual Strategic Intelligence Review for Counterterrorism, limiting terrorists' travel was a key factor in preventing terrorist attacks (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Among the 23 visa applications made by the 19 hijackers 22 were obtained. The remaining rejected applications were due to reasons unrelated to terrorism (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Possibly to hide their relation to al Qaeda, most hijackers used new passports while applying for a U.S. visa (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Initially codified in 1952, INA provided the basic on which aliens would enter into the U.S. Foreign nationals entered the U.S. under two different categories; as permanent residents or non-immigrants. While permanent immigrants were admitted under family and employer-sponsored categories, immigrant visa lottery, or as refugees. Temporary immigrants obtained their non-immigrant visa for a limited period of time suitable to accomplish a specific purpose. Among the several categories of non-immigrant visa provided by INA, a B-1/B-2 visa assured a six-month to one-year stay. Visitors under this provision came for business and pleasure purpose (Wilson, 2021). In an attempt to guarantee their compliance with the U.S. immigration laws, most hijackers pursued a B-1/B-2 visa (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Granted by the INA 1952, under the supervision of INS, the U.S. immigration officers at the ports of entry hold the legal responsibility to allow entry into the United States and set the length of stay (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Each visa category had an initial duration of stay ranging from 29 days up to two years (Wilson, 2021). Prior to 2001, the U.S. made negotiations on the duration of the B visa stay with several countries. For instance, Saudis holding a B visa were granted a two-year period of stay instead of 6 months. UAEs were granted 10 years. Egyptians and Lebanese had a valid five-year period of stay with multiple entry (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). This helped most of 9/11 assailants remain in the U.S. and spend enough time preparing for their attack.

Based on foreign policy interests, the U.S. granted Saudis further privileges. Saudi Arabia's status as the world's largest oil producer, in addition to being the biggest market for U.S. goods and services in the Middle East, and the shared interest in a stable Middle East increased Saudis' likelihood to obtain the U.S. visa (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). The U.S. treated Saudi Arabia as a virtual Visa Waiver country. Saudi applicants were neither required to completely fill their visa application forms nor to appear for personal interview. Unlike third-country applicants, most Saudi applicants were not required to provide

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

supporting documents; Such as proof of financial or academic status, or proof of home address (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

The majority of hijackers were able to obtain their non-immigrant visas, except for few rejections. Being the responsible on granting non-immigrant visas, the consular officer could refuse visa applications on the basis of three main provisions included in INA. First, according to section 214 (b) applicants had to convince the interviewing officer that their intending activities matched those listed in the U.S. immigration law, and were not willing to stay permanently in the U.S. (U.S. Department of State: Bureau of Consular Affairs, n.d.). Furthermore, visa application had to include all the reliable documents and information to prove the applicant's eligibility to the officer, otherwise it would be denied under section 221 (g) (U.S. Department of State: Bureau of Consular Affairs, n.d.). The last, and the least frequent, denial was listed in section 212 which included further reasons not mentioned in the previous two sections.

The hijackers' rejected visas were mainly unqualified under sections 214 (b) and 221 (g). Following his application for a B-1/B-2 visa, submitted on July 1, 2000, Ramzi Binalshibh was denied entry to the U.S. under section 214 (b). Due to his poor academic record and insufficient income, the consular officer considered him an intending immigrant (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Another Saudi conspirator known as Saeed al Ghamdi was denied a B-1/B-2 visa under section 214 (b) after being interviewed. Like the previous case, the consular officer believed he was an intending immigrant (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). On August 27, 2001, the conspirator Ali Abdul Aziz Ali was not granted the visa as he was considered an intending immigrant (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Though granted entry to the U.S., most admitted hijackers committed immigration violations. The U.S. intelligence officials' lack of experience on indicators of extremism and fraudulence facilitated the hijackers' mission. Among the first arrivals were the two Saudis Nawaf al Hazmi and Khalid al Mihdhar. Both applied for a B-1/B-2 visa using passports that contained an indicator of extremism¹⁴ (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Other conspirators used fraudulent stamps; including Hamza al Ghamdi, Ahmed al Nami,

¹⁴ Indicators of extremism include secret codes inserted on a passport to alert authorities and agencies about the possibility of terrorist affiliations.

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Ahmed al Haznawi, Satam al Suqami, and Abdul Azziz al Omari (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Furthermore, most hijackers submitted incomplete applications while applying for a visa. In October 2000, Hamza al Ghamdi, Mohand al Shehri, and Ahmed al Nami used incomplete applications and obtained B-1/B-2 visas. The three Saudi hijackers listed their occupations as students, but did not mention the appropriate address of school (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Satam al Suqami and Khalid al Mihdhar obtained their visas using incomplete applications in which they mentioned that they were businessmen, but left blank the employers' address (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). On September 25, 2000, Hani Hanjour obtained a false visa type. Though mentioning in his visa application an INS school enrolment form (I-20) to attain the ESL language centre, the U.S. officer granted Hanjour a B-1/B-2 visa instead of an F (student) visa (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

After being admitted into the U.S., both Ziad Jarrah and Satam al Suqami violated their immigration status. The former entered the U.S. with a tourist visa, however, once in the U.S. he immediately started attending a full-time flight school at Florida Flight Training Centre without changing his immigrant status (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). The latter did not submit an application to extend his stay though his visa had expired (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

2.2. The U.S. Major Counter-terrorism Legal Measures

In the wake of the 9/11 attacks, the U.S. death rates caused by foreign-born terrorist attacks raised from 0.026 per 100,000 per year to 1.047 in 2001 (Nowrasteh, 2016). Most U.S. public opinion agreed on reducing, for some banning, immigrant admissions. According to a Gallup survey, the rate of Americans calling for immigration restrictions rose from 45 percent in January 2001 to 58 percent in January 2002 (Martin & Midgley, 2003). Many politicians anticipated that the cornerstone of the U.S. counterterrorism measures would focus on regulating the immigration policy by targeting aliens from Muslim-majority countries, reducing the number of visa admissions, and restricting the country's borders. Eventually, a number of unprecedented counter-terrorism measures targeting foreign-born aliens, immigrants as well as non-immigrants, was issued. The measures focused on preventing terrorist travel.

In 2004, the National Commission on Terrorist Attacks revealed that loopholes in the U.S. immigration policy facilitated the 9/11 hijackers' mission (Rudolph, 2007). Their

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

uncaptured use of fraudulent documents to get their visas interlinked national security to tightening immigration policy. The 19 hijackers' common immigrant status raised intense anti-immigrant sentiments calling for the ban of immigration, elimination of student visas and Diversity Lottery Visa Program, and closing the U.S. borders with Canada and Mexico (Stock & Johnson, 2003).

The great number of violations on the U.S. immigration laws committed by the 9/11 foreign-born conspirators, drove many to question the efficiency of the country's immigration policy. Much of the U.S. counter-terrorism measures were concerned with foreign-born individuals. The government issued regulations that ensured the expansion of federal agencies' authority to deny entry, detain, and interrogate non-citizens, who were considered a real threat to national security. The measures cover two major areas. First, the making of new policies that aimed at preventing the entry of further foreign-born terrorists, as well as detecting those already within the U.S. Second, the U.S. established new institutions responsible for reformulating immigration affairs. Immigrants, as well as travellers seeking entry to the U.S. were affected by the newly established regulations. While large numbers of immigrants were exposed to detention and deportation, thousands of aliens; including visitors, refugees, and asylum seekers were denied entry.

To prevent follow-up attacks, the U.S. first move was to capture any person who participated in the terrorist attack or was suspected of being part of terrorist acts. The degree of severity by which the U.S. intended to combat terrorism was expressed in the words of former Attorney General John Ashcroft, who warned terrorists:

If you overstay your visa -even by one day-we will arrest you. If you violate a local law, you will be put in jail and kept in custody as long as possible. We will use every available statute. We will seek every prosecutorial advantage. We will use all our weapons within the law and under the Constitution to protect life and enhance security for America (Ashcroft, 2001).

Following the Attorney General's instructions, law enforcement authorities started detaining non-citizens suspected of being engaged in terrorist acts. In accordance with the special circumstances, new detention procedures were applied. Previously, immigration authorities were not allowed to hold detainees for more than 24 hours under any circumstance. On September 20, 2001, INS passed a new regulation doubling detention period to 48 hours with the possibility of extension in case of emergency (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Further restrictive immigration policies were made by different federal law enforcement agencies targeting particular immigrant groups. Within weeks of the attacks, the Bush Administration took a number of severe measures. Initially, congress passed the USA PATRIOT Act (USAPA) which aimed at extending the federal agencies' authorities to ensure national security. On October 26, 2001, the act won the majority of votes of both houses. Among the regulations provided by the act were to expand the detention measure to reach aliens free of charges, supplement further funds for border security, and grant the Attorney General extra authority to detain foreigners who posed a threat to national security (Counihan, 2007).

Additionally, on October 29, 2001, President Bush approved the Homeland Security Presidential Directive 2, *Combating Terrorism Through Immigration Policies*, which ensured combined efforts between different U.S. federal agencies to promote national security. On this basis, the Attorney General had to cooperate with the Secretary of State, the Director of Central Intelligence, and other appropriate bodies to deny entry, locate, detain, or deport aliens engaged in terrorist acts (Bush, 2001). The president's directive emphasized the interconnection between homeland security and immigrant regulations.

Accordingly, more than 1,200 aliens were held under detention (General, U.S. Department of Justice: Office of Inspector, 2003). Among those, 762 predominantly Muslim men were anticipated of having links to the 9/11 attacks (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011). As stated by the Deputy Attorney General, the threat the U.S. was facing was different and more dangerous than any other situation (General, U.S. Department of Justice: Office of Inspector, 2003). Thus, the procedures and implementations should be more aggressive. Detainees in relation to the September attacks were separated from general detainees and listed into a particular category known as Special Interest Detainees. In addition to prolonged detention, post 9/11 immigrant detainees encountered a number of acute procedures. Instead of being released according to ordinary INS procedures, detainees of interest were held until being cleared by the FBI (General, U.S. Department of Justice: Office of Inspector, 2003).

Furthermore, federal agencies insisted on maintaining custody to prevent ongoing threat. Before September 11th, foreigners detained for immigration violations were released with low or no bond at all if the judge decided they did not pose any real threat to the United States. In October 2001, INS issued an 'automatic stay' rule expanding the Department of Justice's authority to override judicial decisions regarding special detainees. Consequently,

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

DOJ denied the detainees on September 11th access to bond hearings and kept them in detention (General, U.S. Department of Justice: Office of Inspector, 2003).

The common immigration violations committed by the 9/11 operatives and their shared Islamic religion and Arab origins, prompted the DOJ to present a strategic plan targeting foreign-born individuals from Muslim and Arab-majority countries (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). The plan was based on five initial programs. The DOJ initiated the Interview Project, based on voluntary interviews directed at foreigners from countries with terrorist al-Qaeda presence in relation to their knowledge of any terrorist activity within the U.S. (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). The main aim of the interview was to collect relevant information on any possible terrorist activity against the U.S. (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). The project was launched in two phases. The first, released on November 9, 2001, interviewed 2,261 aliens aged 16 to 45 years. The second phase started in March 2002, during which 3,189 foreigners from 26 particular countries with a broader age range were interviewed (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Despite volunteering, several of those interviewed were arrested for violating immigration laws (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

Another impacted part was the non-immigrant category, composed mainly of temporary Muslim visitors. The State Department passed a regulation targeting men aged 18 to 45 years from 26 Muslim-plurality countries, most were from the Middle East and North Africa, Bangladesh, Malaysia, and Indonesia. While submitting for a non-immigrant visa, this category was obliged to wait for at least 20 days to receive response (Cainkar, 2004). However, the program proved ineffective as it resulted to 0 denials, and was interrupted on October 18, 2002 (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Aimed at deporting fugitive aliens with final removal order, on January 25, 2002, DOJ in collaboration with INS issued the Absconder Apprehension Initiative (U.S. Department of Justice: Office of the Inspector General, 2003). The program was announced following INS Commissioner James Ziglar's proposition of placing the 314,000 absconders¹⁵ in the Wanted Persons file in the National Crime Information Center database (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). The operation was carried out in two stages. Due to their increased

¹⁵ The term absconder refers to a non-citizen who failed to depart the U.S. though he received the final deportation order from an immigration judge.

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

risk, Absconders from countries with al Qaeda presence or activity were the first to be deported. Then the remaining fugitive aliens followed. Among the 5,932 total cases, none of the 704 removals were based on terrorism (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004, p. 156).

Initiated on January 26, 2002, the Visas Condor program tightened the visa issuance by mandating additional security screening by the FBI. The program targeted applicants from 26 predominantly Muslim countries. About 130,000 visa applicants were screened under this provision in April 2004. However, no applicant was rejected on terrorist grounds (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Revolved around the same category, on June 6, 2002, Attorney General John Ashcroft announced the National Entry-Exist Registration System (NSEERS) (Bazian, 2014).

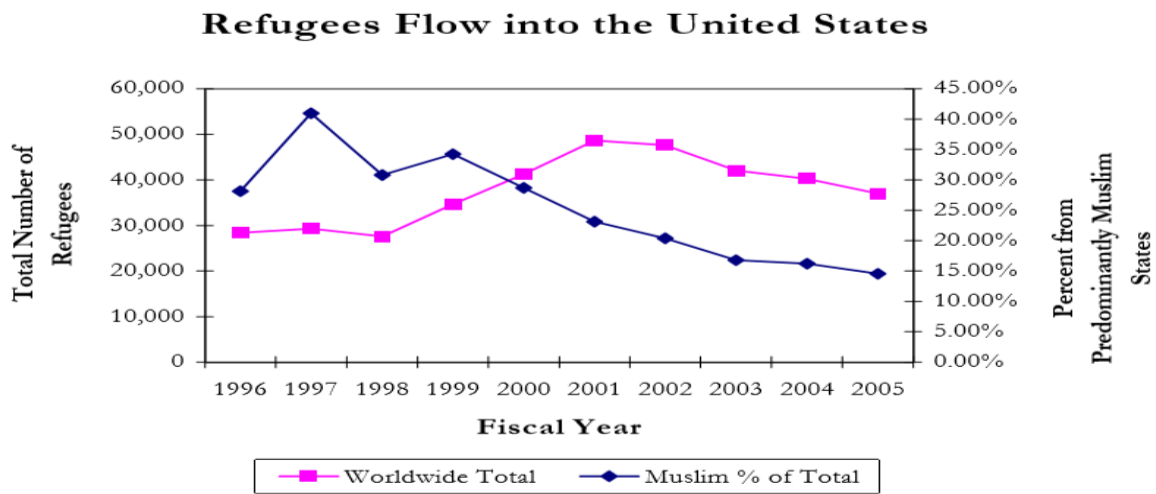
NSEERS required photographing, fingerprinting, and interviewing individuals from particular predominantly Arab and Muslim countries upon arrival in the U.S. Subsequently, they had to be reinterviewed following 30 days of their arrival, as well as passing an annual interview in case they would remain in the U.S. for more than a year. Moreover, they were asked to inform INS in case their address changed (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). The program was implemented gradually, beginning with foreigners from countries considered sponsors of terrorism including Iran, Iraq, Libya, and Syria. On October 1, 2002, the measure was extended to citizens of Pakistan, Saudi Arabia, and Yemen (Bazian, 2014). However, consular officials of the State Department and INS inspectors were granted the authority to register foreigners from countries rather than those listed in case they determined it to be in the interest of the U.S. national security.

As an essential preventive measure, the U.S. showed considerable attention to the issuance of visa; most notably for refugees, asylum seekers, and non-immigrant Muslims. Unlike its pre 9/11 policy, the U.S. tightened visa applications for different categories. As all of the 9/11 hijackers were Muslim foreigners coming mainly from the Middle East, the most affected category was the Muslim refugees and asylum seekers. Based on a list prepared by the Bush administration, males from 26 predominantly Muslim countries were exposed to more careful application reviews listed in the Bush's Presidential Directive (Hockstader, 2003).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Certainly, there was a slight decrease in the total number of the U.S. refugee admissions following the 9/11 attacks; from over 35 percent in 2001 to below 30 percent. However, the rate of Muslim refugee admissions declined considerably. Prior to 2001, the rate of refugees from Muslim countries exceeded 40 percent of the total U.S. refugee admissions. In the immediate wake of 9/11, the rate continued to decline to approximately 15 percent in 2005. (See Figure 4).

Figure 4: Refugees Flow into the United States



Source: Counihan, C. R. (2007). *American Immigration Policy since 9/11: The Impact on Muslim Migrants*. Institute for Social Policy and Understanding, p. 3.

The president’s directive urged officials to use high screening while admitting refugees. The main aim of the directive was to prevent individuals from the use of fraudulent documents to gain entrance into the U.S. as refugees. By doing so, the Bush administration claimed that the U.S. would guarantee more security (Elizabeth, Meyers, & Newland, 2003). Furthermore, since the majority of the 9/11 hijackers obtained a B1- B2 visa issued for temporary visitors, the Bush administration cut the share of business and personal visitors from predominantly Muslim countries almost to the half; from 710,000 in FY 2001 to 465,000 in FY 2002 (Counihan, 2007).

In contrast, the Legal Permanent Residence category was slightly affected by the restrictions. According to the Congressional Budget Office (CBO), the U.S. kept its ordinary number of LPR admissions. Except for the FY 2003, during which the number of permanent admissions dropped heavily from 1,064,000 in 2000 to 706,000 in FY 2003 (Counihan, 2007).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

The U.S. progressively expanded its security measures abroad through the deployment of liaison officers in different countries. Aimed at detecting passengers using fraudulent documents to gain entry at an earlier stage, the U.S. established Immigration Advisory Program (IAP) in 2004. In addition to its security benefit, two years following its establishment IAP helped the U.S. in saving about USD 1.6 million that would be used in detaining aliens already rejected by the program (Department of Homeland Security, 2006).

Similarly, deportation procedures were revised. Beforehand, in case of any violation of immigration law, aliens were arrested by the INS and trailed by immigrant courts. If the alien benefited from any privilege, they would remain in the U.S. in a lawful status. Otherwise, they would be removed within 90 days under a Notice to Appear issued by the INS. Following the 9/11 regulations, the removal process became tightly related to the FBI's clearance process. The detainee had to be cleared by the FBI before the INS could proceed with the deportation process, even if the period of detention exceeded 90 days (General, U.S. Department of Justice: Office of Inspector, 2003). The Bush Administration went further through the passage of the US REAL ID Act which provided an extended definition to terrorist indication. The act resulted in extending the number of deported aliens (International Organization for Migration, 2010).

On August 23, 2001, the CIA provided both border and law enforcement authorities with biographical identification information about two of the 9/11 hijackers. However, due to the lack of an effective border exit system, both agencies could not assume whether the terrorists were still in or had left the U.S. (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Furthermore, U.S. President George W. Bush insisted that:

Terrorism is a global threat and we must improve our border security to help keep out those who mean to do us harm. We closely monitor who is coming into and out of our country to help prevent foreign terrorists from entering our country and bringing instruments of terror. At the same time, we must expedite the legal flow of people and goods on which our economy depends (A Legislative Proposal to Create a New Cabinet Department OF Homeland Security, 2002).

Enhancing border patrol and investing in border enforcement technology emerged as one of the primary measures to combat terrorism (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). Thus, the U.S. adopted a number of border measures, which aimed at distinguishing visa risk from bona fide travellers. Passenger pre-inspection was one of the most used means to collect information about travellers before

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

crossing the U.S. borders. By doing so, the country would minimize the entry of terrorists. The U.S. relied on several techniques such as using systems for electronically transmitting prearrival information on passengers to border and immigration authorities, installing of U.S. immigration officers at airports and embassies abroad, and revising visa issuance.

In addition to restricting entry for 26 Muslim-majority and Arab countries, the U.S. put extreme emphasize on its south and north borders. To guarantee efficient border security, several countries, including the U.S., relied on the API scheme. API ensured gathering relevant information on all passengers prior to their arrival, once departing from, or while transiting through the country of their destination. The pre-9/11 voluntary API became a mandatory scheme under the US Aviation and Transportation Security Act of 2001 and the Enhanced Border Security and Visa Reform Act of 2002 (International Organization for Migration, 2010). Moreover, the legislation obliged carriers to keep Passenger Name Records (PNR) for passengers crossing the U.S. borders (International Organization for Migration, 2010).

Moreover, the fact that three of the terrorist pilots on September 11 managed to remain in the United States even though their visas had expired prompted the government to issue the US-VISIT program that aimed to register the entry and exit process for foreign travellers. The program collected biometric data on passengers including fingerprints and photographs upon entry and exit. Individuals from member countries in the visa waiver program were concerned with the new regulation (Preston, 2011). The schemes facilitated the U.S. immigration authorities' task in detecting security risks, as well as reducing delays at border for bona fide passengers.

While emphasizing its security, the U.S. ensured the continuous flow of bona fide passengers, who had all along provided the country with economic and educational benefits. To create a balance between its security and the long existing Visa Waiver Programme, the U.S. required passengers coming from participating countries to present machine-readable passports. Furthermore, to remain part of the programme the U.S. stipulated member countries to issue e-passports containing biometric information (International Organization for Migration, 2010).

As the number of cases of terrorist suspicion continued to increase, the U.S. sought to establish a new department devoted to implementing the new immigrant enforcement regulations. The 107th Congress passed the Homeland Security Act of 2002 announcing the creation of the Department of Homeland Security (DHS) (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011). DHS replaced INS and became

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

responsible on its previous tasks, including immigration inspection, border patrol, immigrant investigation, detention, and deportation (Seghetti & Wasem, 2003). Previous INS services were replaced by the U.S. Citizenship and Immigration Services, the U.S. Customs and Border Protection (CBP), and the Immigration and Customs Enforcement (ICE) (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). Moreover, DHS became responsible on setting the U.S. policy visa in cooperation with the State Department (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Unlike those calling for immigration restrictions, Margaret Stock, Benjamin Johnson, along with other political experts, stressed the importance of strengthening the U.S. intelligence sector and expanding information exchange between different federal agencies as a critical preventive measure against terrorist attacks by foreigners (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). A set of recommendations was proposed that suggested prioritizing the use of technology, exchanging information, and training immigration and customs officers on terrorist travel tactics to tighten immigration.

Similar to other terrorist organizations, al Qaeda considered freedom of movement an essential feature in carrying out its terrorist plots. To ensure the travel of its operatives, the terrorist organization depended on a number of travel tactics and methods. Al Qaeda allocated considerable human and material resources for providing its members with appropriate travel documents that were crucial to ensure their travel facilitation. It recruited skilled travel facilitators and document forgers, who provided the organization operatives with fraudulent passports and travel cachets, or visas (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Thus, along with its immigration enforcement, the U.S. gave high priority to enhancing intelligence and information sharing. Except for the CIA's *The Threat Is Real* video and the *Redbook* guide; aimed at providing the U.S. federal agencies with details related to terrorist different travel tactics, before 9/11 the U.S. government had given little attention to analysing terrorist travel patterns (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Although three of the 9/11 hijackers; Nawaf Al-Hazmi, Khaled Mihdhar, and Salem Al-Hazmi had passports with indicators of possible terrorist affiliation, they were not included in the U.S. watchlist. Thus, they managed to enter the United States without suspicion (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Limited information sharing across different U.S. government agencies; precisely the CIA, FBI, and INS contributed in the 9/11 terrorists' violation of the U.S. immigration system.

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

A year before the 9/11 incident, U.S. intelligence authorities were already in possession of biographical information of three of the perpetrators. As those information were not provided to the State Department or the Immigration and Nationality Service, the three hijackers managed to enter the United States (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Likewise, the terrorist Hani Hanjour, after several attempts, entered the U.S. due to the lack of information sharing between the State Department and INS. On September 25, 2000, Hanjour applied for and obtained an F (student) visa using an INS school enrolment form. Although printed as a student visa on Hanjour's passport, the State Department mistakenly recorded the visa as a B-1/ B-2 visa (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). In fact, Hanjour had already obtained an INS approval in 1996 to attend the same English language school he enrolled for in his latest visa application. However, the State Department did not have any record of it. While interviewed, the consular officer, who issued Hanjour's visa, claimed that if he had known about that approval, he would not grant him entry (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). Moreover, though using two different names while passing through customs and INS inspectors, Fayez Banihammad, another 9/11 hijacker, was not referred to a secondary inspection and managed to enter the U.S., as both agencies did not review each other's forms (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004).

Due to the extensive use of fraudulent documents that allowed terrorists to enter the U.S. and conduct their terrorist operations, as well as the lack of experience of the U.S. immigration officials, the DHS conducted a number of training programs to immigration officials to understand the tactics, techniques, and procedures that terrorists used. Along the reorganizations, different service agents underwent various training and investigation programs (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011). The newly established ICE service developed the Visa Security Program (VSP) that placed several ICE agents abroad. VSP intended to ensure direct collaboration with ICE agents and the Department of State Consular Affairs officers in visa screening in order to prevent potential threats from being admitted to the U.S. In addition, ICE insisted on fully integrating its clients into the FBI's Joint Terrorism Task Forces (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011). To enhance the U.S. border patrol, DHS established the National Targeting Center responsible for screening and vetting passengers prior to their arrival in order to prevent any potential threat (McAleenan, 2019).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

3. Assessing the U.S. Counter-terrorism Measures Targeting Non-citizens

In spite of the common perception that the 9/11 attacks brought about major changes to the U.S. immigration policy, the post 9/11 counterterrorism was a continuing pattern of U.S. restrictive immigration policy in the twentieth century. In fact, the September 2001 incident interrupted the pace of immigration policy reform the U.S. was about to witness. Prior to September 11, the U.S. adopted a restrictive immigration policy targeting illegal immigrants from Mexico, who were considered as strong competitors to the U.S. native-born workers. In addition, refugees from different parts of the world were prevented from entering the U.S. as they were regarded as a real threat to the U.S. national identity (Counihan, 2007).

In the wake of the 21st century, the then U.S. President George W. Bush attempted to alter the U.S. immigration policy based on economic and cultural concerns to a more comprehensive one through the issuance of a guest worker program. Ongoing meetings between George W. Bush and the Mexican President Vincent Fox were held aimed at regulating the legal status of illegal Mexican immigrants in the U.S. through the introduction of the guest worker program (Martin & Midgley, 2003). However, the 9/11 terrorist attacks interrupted the process. Rather than the previous economic and cultural factors, the 9/11 attack brought a new pattern for immigration restriction based mainly on transnational terrorism.

While drafting its counterterrorism measures, the U.S. faced a major challenge between ensuring its national security and protecting the lives of its citizens, and its commitment to Human Rights conventions, refugees' laws, and respect for civil liberties of non-citizens (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). Targeting the immigrant community, particularly foreigners from Muslim-majority and Arab countries, raised considerable debate over the U.S. violation of basic human rights. In addition, many questioned the negative educational, economic, social, and political outcomes the U.S. would endure in case of banning immigration.

3.1. The Violation of Immigrants' Rights Under the U.S. Immigration Regulations

Although the United States had full power in setting its own immigration policy, it was bound by its obligations to respect the fundamental human rights of all people. Thus, while enforcing its immigration laws, the U.S. had to ensure the total protection of aliens from any human rights violations, including discrimination, arbitrary detention, inhuman conditions of detention, and unfair deportation. According to FBI officials from 1980 to 2005, Islamic terrorist groups conducted 6 percent of the total rate of the terrorist attacks on the U.S. soil. The

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

remaining 94 percent was divided between other groups, with 42 % for Latinos, 24% extreme left-wing groups, 7% extremist Jews, 5% communists, and 16% from all other groups (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). In its war against terrorism, however, the U.S. federal agencies issued about 37 security measures, among these, 25 targeted, either directly or indirectly, Arab or Muslim aliens (Cainkar, 2004).

A major violation of human rights was the discriminatory character of most of the post 9/11 counterterrorism measures. According to Article 1 and 2 of the Universal Declaration of Human Rights (UDHR), all human beings had equal rights regardless of their race, colour, sex, language, religion, political opinion, or national origin (Office of the High Commissioner for Human Rights, 2003). Thus, any deprivation of liberty based on those grounds was considered arbitrary (Weissbrodt & Mitchell, 2016). Both regional and international instruments insisted on the right to equality and non-discrimination in the administration of justice.

In response to the 9/11 attacks, the U.S. put major focus on international terrorism and the foreign-born community. The largest share of counter-terrorism measures was based on immigration regulations and law enforcement (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). This led to a widespread public perception that non-citizens did not share the same rights as U.S. citizens. While many anti-immigrant supporters assumed that foreigners were not entitled to the same rights as U.S. citizens, human rights advocates argued that the human rights mentioned in the universal declarations and conventions were related to all individuals regardless of their citizenship status. More importantly, according to Article 1 from the U.S. Constitution, the only distinguished rights between citizens and non-citizens were the right to vote and to hold a federal elective office. Rather than this, the constitution addressed the population as persons and not citizens (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). For instance, in the sixth Amendment (1791) of the Constitution, the U.S. legislator used the term 'accused' without specifying the citizenship status (Legal Information Institute, n.d.).

Considered as a threat to the U.S. national security, those aliens were placed into an exceptional category and distinguished from ordinary procedures. Categorizing those aliens prompted many to question the United States' commitment to and respect for human rights. Several programs were released in response to the 9/11 attacks, including the immigration provision of USA PATRIOT Act, the Special Interest Detention, the Absconder Apprehension Initiative, and NSEERS. The programs were based on exceptional procedures to detain, interrogate, and deport particular immigrant groups mainly from Muslim-majority and Arab

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

countries in a manner that deprived them from most of their human rights (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

Emphasizing the foreign component of the 9/11 attacks, on October 25, 2001, Congress passed the USAPA. The law provided different federal agencies with expansive powers to detain foreigners suspected without charges (Bertho, Crawford, & Fogarty, 2008, p. 240), leading to the secret detentions of 1,200 individuals. Most were aliens from Arab and Muslim countries (Counihan, 2007). The new provision raised much concern among human rights advocates who criticised the measure for being discriminatory and against universal human rights conventions. In the book *Impact of Globalization on the United States*, Michelle Bertho et al. argued that in its war against terrorism the U.S. favored its national security over civil liberty, which led to several human rights violations (2008).

Moreover, Section 218 of the USAPA brought a major modification to the previous Foreign Intelligence Surveillance Act requirement, by cancelling the mandatory 'probable cause' to conduct surveillance. The USAPA granted different intelligence agencies, including the FBI and CIA, the authority to surveil individuals without the need for a probable cause (Bertho, Crawford, & Fogarty, 2008). The Muslim community, particularly immigrant Muslims, was the most affected category by the Act (Wong, 2006). In addition to undermining the Fourth Amendment of the U.S. Constitution, the law violated the right to privacy that every individual, regardless of his religion and national status, was entitled to in accordance with Article 12 of the UDHR (United Nations, n.d.). Both provisions assured respect for individual privacy and considered it a fundamental right.

To ensure an effective and rapid investigation into the 9/11 incident, the FBI launched several investigative programs, including the PENTTBOM. The investigations were aimed at identifying the 9/11 elements and anyone with regard to terrorism (General, U.S. Department of Justice: Office of Inspector, 2003). In turn, the U.S. Attorney General ordered federal agencies to employ every possible law enforcement tool to apprehend individuals suspected of terrorist activities (Ashcroft, 2001). 738 out of 1,200 detainees held in the PENTTBOM investigation were foreigners arrested from September 11, 2001, to August 6, 2002. In addition, 24 foreigners detained prior to the September 11 attacks were added to the PENTTBOM detainees. All 762 foreign detainees were placed on an INS Custody List, which contained all detainees in relation to the 9/11 or any other terrorist activity (General, U.S. Department of Justice: Office of Inspector, 2003).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

The U.S. Special Interest Detention measure led to a great debate concerning the U.S. compliance with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. With regard to detention without a legal basis, in 1991 the United Nations Human Rights established the Working Group on Arbitrary Detention (Weissbrodt & Mitchell, 2016). The group dealt with arbitrary detention cases worldwide, including prolonged detention period after serving a sentence, detention for exercising basic rights such as freedom of expression, and violating the right to a fair trial. During the examination, the group relied on several regional and international human rights mechanisms, including national laws, the UDHR, International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, International Convention Against Torture, and further relevant international instruments (Weissbrodt & Mitchell, 2016).

Detention as a legal measure did not violate human rights. However, in case the individuals were deprived from their liberty without a legal basis, the detention procedure was considered arbitrary and in violation of basic universal human rights (Weissbrodt & Mitchell, 2016). The Working Group on Arbitrary Detention investigated counterterrorism-related detentions committed by state governments (Weissbrodt & Mitchell, 2016). In spite of its membership in the Civil and Political Covenant and commitment to the Universal Declaration, from 2001 to 2016, the group issued more than 20 opinions revealing that the U.S. employed arbitrary detention (Weissbrodt & Mitchell, 2016).

The Working Group drew up several categories of arbitrary detention cases, including deprivation of liberty without legal justification, deprivation of liberty resulting from the exercise of universal Human Rights, grave violations of the right to fair trial, prolonged administrative custody, and deprivation of liberty as a violation of international anti-discrimination standards (Weissbrodt & Mitchell, 2016). Kept at different detention facilities, most of the post 9/11 foreign detainees were subjected to arbitrary detention in all its aspects.

The Working Group's first concern was whether detention was based on legal justification. Detention without a legal justification was considered arbitrary. Many cases fell into this category, including detention without warrant or formal charges (Weissbrodt & Mitchell, 2016). Based on Article 9, Paragraph 2 of the Civil and Political Covenant, individuals under arrest had the right to be informed about the legal charges against them. Accordingly, the Group assumed that no person should be deprived of his liberty unless there was a particular act that led to detention. Thus, the fear of an individual committing a future threat was not a legal reason for detention (Weissbrodt & Mitchell, 2016).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Following their detention, the majority of Special Interest Detainees increased considerable debate over the random way foreigners were placed into a distinguished detention category (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). For instance, the Inspector General of the DOJ described the detention process targeting non-citizens as haphazard and indiscriminate (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). Furthermore, both detainees and their attorneys complained that the DOJ did not inform the detainees about their charges (General, U.S. Department of Justice: Office of Inspector, 2003). Many detainees were kept under custody for months without being charged (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). Though kept as terrorism-related detainees, most Interest Detainees were apprehended for common immigration violations. No detainee was found in connection with terrorism. But the DOJ kept them in custody for a probable cause that they might be in relation to terrorism (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

Other cases of detention without legal justification included continued detention after court-ordered release or dismissal charges. Detention on an administrative order in spite of a court order to release a detainee was an arbitrary deprivation of liberty. Likewise, detention for failure to implement the release of a court order was considered arbitrary, due to the lack of legal justification (Weissbrodt & Mitchell, 2016). Among the regulations issued for the detention procedure related to the 9/11 attacks was the introduction of the Hold Until Cleared policy. Few days following the September attacks, DOJ presented a policy that prevented INS officers from releasing Special Interest Detainees without FBI approval. Many foreigners who received final deportation or voluntary departure orders were kept for extended periods due to the FBI's ongoing investigations (General, U.S. Department of Justice: Office of Inspector, 2003).

Moreover, both DOJ and INS established new policies preventing Special Interest Detainees from having the right of bond hearing. Before 9/11, aliens arrested because of minor immigration violations and did not have past criminal record could be released with either a low bond or no bond at all. As a new counterterrorism measure, DOJ issued a 'no bond' policy related to Special Interest Detainees. Accordingly, INS instituted an 'automatic stay' rule that granted DOJ the authority to overturn judicial decisions regarding the release of detainees on bond (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

The second category of arbitrary detention was related to the deprivation of liberty resulting from violations of the right to fair trial. Even if there was a legal basis for an individual's detention and that basis did not violate international standards, the Working Group might still consider the detention arbitrary in case of a violation of the individual's right to a fair trial (Weissbrodt & Mitchell, 2016). Issued in Article 9, Paragraph 3 of the Civil and Political Covenant stated that a detainee had the right to be brought immediately before a judge or other authorized officer for a trial within a limited period of time. Besides, Paragraph 4 of the same article provided the detainee with the right "that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful" (Weissbrodt & Mitchell, 2016, p. 684). The same right was guaranteed under article 7(5) of the American Convention on Human Rights.

However, in an attempt to ensure effective investigation into the large number of detainees in relation to the September 11 attacks, INS doubled the detention period to 48 hours, with the possibility for further extensions in case of an emergency or an extra-ordinary circumstance. The prolonged detention period was not determined. Thus, hundreds of foreign detainees were kept in custody for up to 4 months without even being charged with any criminal offence (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011).

Furthermore, to guarantee a fair trial, article 14 (3) (d) of the International Covenant affirmed the detainees' right to legal assistance (The United Nations Counter-Terrorism Centre (UNCCT), 2014). Denying detainees the right to a lawyer immediately after their detention was a grave violation of their right to a fair trial (Weissbrodt & Mitchell, 2016). More importantly, the right to counselling was guaranteed to any detainee, regardless of being a citizen or an immigrant (Weissbrodt & Mitchell, 2016). Similarly, the U.S. constitutional law guaranteed the right to have an attorney during custodial interrogation (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011). However, shortly after the September 11 detention, several media outlets reported complaints over the mistreatment of foreign detainees, most notably the detainees' inability to communicate with their lawyers (General, U.S. Department of Justice: Office of Inspector, 2003). The FBI derogated from the right to legal assistance by interrogating Special Interest Detainees without granting them the

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Miranda Rights¹⁶ (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

Following the same pattern, the Bush Administration created the Communication and Management Units (CMU), which put inmates in relation to the 9/11 attacks in a maximum-security prison facility. In June, 2011, 66 to 72 percent of the 82 housed inmates were Muslims from the Middle East (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). Those inmates were subjected to severe treatments, including 24-hour surveillance and limited communication. CMU inmates were allowed to only fifteen minutes of phone calls, compared to 300 hours per month permitted to other inmates (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

The use of torture was prohibited under several universal conventions and treaties, most notably the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and the International Covenant on Civil and Political Rights. As a party member of both conventions, the U.S. was prohibited from using torture against any individual regardless of his/her status (Garcia, 2004). Issued in 2003, a report by the Office of the Inspector General of the DOJ assumed that there was clear evidence of the use of verbal and physical abuse against the September 11 detainees (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

Besides, detainees suspected of terrorism were transferred to other countries, regardless of the potential risk of torture. A living example was the case of the Syrian-born Canadian citizen Maher Arar, who was detained under the September 11 investigation. Arar spent 8 consecutive hours of interrogation by the FBI, INS, and the New York Police Department to be subsequently deported to Syria for further interrogation where he faced different forms of torture (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

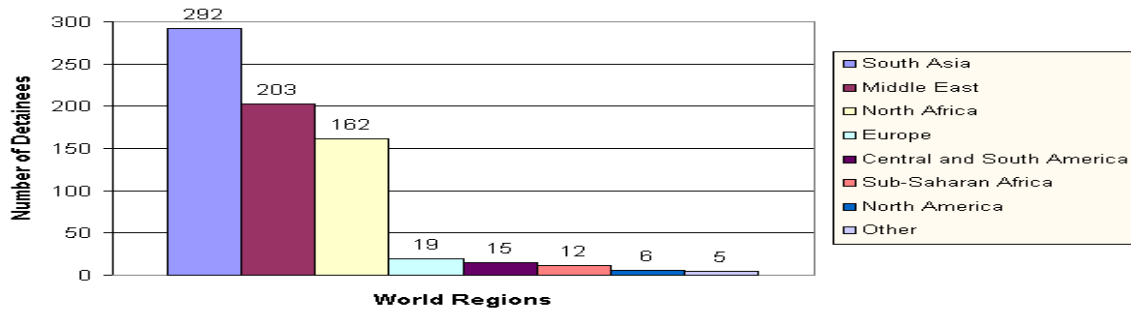
The last category of arbitrary detention was concerned with the deprivation of liberty as a violation of international standards against discrimination. Based on the international prohibition of discrimination on the ground of religion, detention for anti-terrorism should not be based on religious persecution (Weissbrodt & Mitchell, 2016). Most of the September 11

¹⁶ The Miranda Rights are a set of fundamental rights provided to individuals once they are placed under custodial interrogation of criminal suspects. The laws guarantee the arrested individual the right to remain silent and the right to have an attorney.

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Special Interest Detainees were from Muslim-majority or Arab countries in South Asia, the Middle East, and North Africa; with 292, 203, and 162 detainees respectively. Almost half of them were from Egypt and Pakistan (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011, p. 9). (See Figure 5)

Figure 5: Nationality of Special Interest Cases



Source: INS detainees defined as "special interest" cases on a list released by the Department of Justice on January 11, 2002. Retrieved from *Presumption of Guilt: Human Rights Abuses of Post-September 11 Detainees*. (2002). New York: Human Rights Watch, p. 11.

Moreover, increased criminal prosecution based on immigration violations sparked great controversy among civil rights advocates. For the purpose of ensuring an effective information gathering process, DOJ introduced the Nationwide Suspicious Activity Reporting Initiative. The initiative granted local police further authority to share information with the U.S. federal agencies concerning any criminal act. Influenced by the discriminatory nature of the 9/11 counterterrorism measures, police officers targeted Muslim and Arab aliens from the Middle East and South Asia and reported them for minor crimes, including traffic violations (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011). As a result, the number of detentions increased heavily. The U.S. immigration courts were overloaded with pending immigration cases, which required increasing the number of workloads for immigration judges, from less than 400 per judge in 2000-2003 to more than 600 per judge in 2008-2009 (Redburn, Reuter, & Majmundar, 2011). Despite this, hundreds of detainees suffered delays that in some cases lasted for more than two years (Meissner, Kerwin, Chishti, & Bergeron, 2013).

In January 2002, Deputy Attorney General Larry Thompson issued another discriminatory measure known as the Absconder Apprehension Initiative. The program aimed at deporting the 314,000 non-citizens who were ordered to deport, but did not comply with deportation orders (Eggen, 2002). However, DOJ put more emphasize on 6,000 Muslim absconders under the scope that they were originally from countries with relation to the terrorist

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

organization Al Qaeda (Miller, 2005). Placed into a priority absconder category, Muslim absconders were subjected to investigative interviews by different U.S. federal agencies concerning their knowledge of terrorism. Once interviewed, they were either prosecuted for immigration violations, or deported according to the existing removal order (Miller, 2005).

Many human rights advocates criticized the deportation process for being abusive, with almost all foreigners deported without hearings and pursuant to official deportation orders from immigration judges. In fiscal 2011, the Department of Homeland Security deported approximately 391,953 non-citizens without judicial review (Meissner, Kerwin, Chishti, & Bergeron, 2013). The discriminatory character of the Absconder Initiative Memorandum extended to other ethnic groups, notably Asian and Latin foreigners (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011).

National origin was another motive pattern in the introduction of further discriminatory programs, particularly the NSEERS. Initiated in September, 2002, the program targeted nationals of 24 Muslim-majority countries, as well as North Korea, who were required to be registered, finger-printed, and photographed at the U.S. ports of entry. Additionally, they had to comply for further interviews following 30 days, and then again after one year of their arrival. The same measure was applied under the Call-in registration program, which targeted citizens of the 24 listed countries, who had arrived in the U.S. before September 2002 (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011).

Although INS claimed that the Special Registration process specifically targeted those nationals because of a potential terrorism presence, common public members argued that the program was based on religion (Counihan, 2007). While many Muslim-majority countries were involved in the program with no prove of terrorist presence, other countries with a known terrorist presence were excluded from the program; such as Germany and England (Cainkar, 2004). Of the 83,000 registered foreigners, more than 13,000 were deported and 3,000 detained. The vast majority were selected on the basis of national origin and religious affiliation (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011). The program received much criticism due to its discriminatory nature and ethnic profiling. Many of the targeted aliens felt scrutinized and unfairly treated, merely because of their religion and ethnicity (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affair, 2011). Besides, the program proved ineffective, as James W. Ziglar, the former INS Commissioner, claimed that no terrorist was identified upon the program, given that terrorists

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

would not report themselves to the government (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

Exclusively targeting the Muslim community, the U.S. government issued other immigration enforcement measures that focused on tightening visa admission for foreigners from Muslim-majority countries. 22 of the 23 visa applications submitted by the 9/11 conspirators were admitted (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). In response, the Bush Administration issued the Presidential Directive 2 in October, 2001, ordering careful visa application reviews, particularly for male applicants from 26 predominantly Muslim countries (Hockstader, 2003). The Directive led to increased scrutiny resulting in growing denials for several visa categories for both immigrant and non-immigrant applicants.

As a result of the discriminatory nature and increased security screening procedures imposed on Muslim and Arab aliens, including the Justice Department's National Security Entry-Exit Registration System, the US-VISIT program, and the Intelligence Reform and Terrorism Prevention Act, the rate of visa approvals declined for most of immigrant and non-immigrant Muslim and Arab applicants. The most affected category was non-immigrant visa for temporary visitors from Muslim countries. There was a significant decrease in the number of B-1/B-2 visas for visitors from the Gulf countries, including Kuwait, Saudi Arabia, Bahrain, Qatar, UAE, and Yemen from 710,000 in 2001 to 465,000 in 2002 (Counihan, 2007).

Travelers from VWP member states were not affected as much as the other travellers who required a visa to enter the U.S. since they were not concerned with many of the post 9/11 visa requirements (Neiman & Swagel, 2007). Aliens from VWP countries were subjected to the same screening procedures applied on the other visa categories. However, the U.S. made some exceptions by applying additional processing measures for some VWP member states (Cornwell & Roberts, 2010). As of 2016, the program contained 38 member countries whose nationals did not pose any threat to the U.S. national security (Kolker, 2016). Following the 9/11, the U.S. placed more emphasis on preventing entry of further terrorists by targeting foreigners from countries with potential terrorism presence. Although some of the 9/11 planners were from Germany and managed to enter the United States through the program, Germany was not withdrawn from the VWP. By contrast, the U.S. cancelled the Saudi Arabian Express Program, claiming that 3 of the September 11 attackers entered the U.S. due to the program (Counihan, 2007).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

3.2. The Impact of the Post 9/11 Immigration Regulations on the U.S. Mainstream

Immigration was considered as the most critical pattern in the creation of the United States of America. From the day of its discovery, the U.S. received millions of immigrants from different parts of the world. Regardless of their status, each of those immigrant groups contributed deeply to many of the educational, economic, social and political institutions that were essential to the development of the United States.

With the passage of more restrictive immigration regulations of a discriminatory nature, the U.S. lost thousands of immigrants and non-immigrants who would travel to the U.S. for genuine purposes. Consular officers were criticized for being discriminatory and making arbitrary decisions in violation of the U.S. Constitution, the Universal Declaration of Human Rights, and several customary laws. A number of political analysts argued that such decisions did not actually benefit the United States, costing the country the loss of legitimate individuals who would make valuable contributions to its development (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011).

Taking into consideration the great contribution of Muslim and Arab immigrants from the Middle East and Africa, the U.S. excepted its Lawful Permanent Residence visa category from the new post 9/11 immigration enforcements. According to the Office of Immigration Statistics, except for a decline in FY 2003 to 706,000, compared to 1,064,000 in FY 2001, LPRs were the least affected by the immigration restrictive measures (Counihan, 2007). For instance, the rate of LPRs from 39 Muslim-majority countries raised from 7 percent in FY 2002 to over 8.5 percent in FY 2005. Their naturalization process increased as well from 7.5 percent in FY 2000 to 15.25 percent in FY 2004 (Counihan, 2007). According to social scientists, the U.S. attempted to distance Muslim and Arab immigrants from their prior fealty in order to assert their full compliance and association with their new adopted homeland. As such, the U.S. would guarantee to keep the flow of Middle Eastern immigrants, who proved to be wealthier and more educated than any other immigrant group (Counihan, 2007).

Despite being more cautious with its LPR policy, the United States introduced some immigration enforcement procedures that negatively affected other visa applicants. The United States ignored the fact that not only LPRs, but other foreigners also made a significant contribution to the welfare of the United States. As a result, the country incurred heavy losses in various sectors, including education, the economy, and social and political patterns.

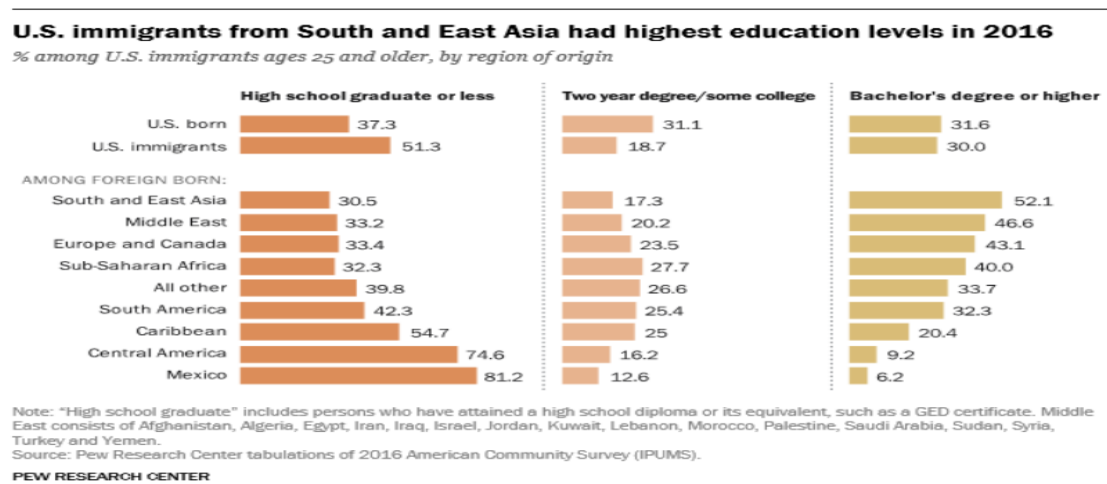
3.1.1. U.S. Immigrants Educational Performance

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Known for its largest universal education system around the world, the U.S. tended to be the perfect destination for thousands of students from different parts of the world. For hundreds of years, the U.S. received huge amounts of immigrant students. The growth of immigrant students in U.S. schools increased markedly from 7.6 million students in 1870 to 12.7 million students in the late 19th century (Snyder, 1993). The number continued to increase in the wake of the 21st century. It was assumed that the number of immigrant students that the U.S. received at that period preceded any other country (Snyder, 1993).

The U.S. received much of its foreign student category from Asian countries (Krogstad & Radford, 2018). Those foreign students made considerable contributions to the U.S. schools and universities, particularly students from South and East Asia. In addition to support teaching and scientific research, South and East Asian foreign students surpassed native-born students in both enrolment and attainment rates (March, Zeman, & Adrian, 2005). In 2016, 52.1 percent of South and East Asian immigrants held a Bachelor’s degree or higher, compared to 31.6 percent for U.S. native-born students (See Figure 6).

Figure 6: The Educational Level of U.S. Immigrants from South and East Asia (2016)



Source: Pew Research Center Tabulations of 2016 American Community Survey (IPUMS). Retrieved from Krogstad, J. M., & Radford, J. (2018, September 14). *Education Levels of U.S. Immigrants Are on the Rise*. Retrieved from Pew Research Center: <https://www.pewresearch.org/fact-tank/2018/09/14/education-levels-of-u-s-immigrants-are-on-the-rise/>

Considering the Islamic threat, the most affected group was the Middle Eastern foreign students, who were affected by several immigration enforcements, particularly the Student and Exchange Visitor Information System, in addition to new visa application requirements.

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Foreign students were widely affected by the Student and Exchange Visitor Information System, which required additional information on foreign students. Therefore, foreign students and their universities were mandated to report relevant information and details on the students' enrolment and performance. Following its implementation, however, the program met several obstacles leading to increased delays in students' admission. More importantly, based on a 'detain first and ask questions later' approach, several students were detained for inoffensive causes (March, Zeman, & Adrian, 2005).

Careful examination of visa applications led to the extension of the visa processing time which resulted in a number of delays in reviewing visa applications for foreign students. An issue that caused many foreign students to miss the start date of their program. Furthermore, foreign students were required every time they left the United States to obtain a new visa to re-enter. Consequently, foreign students began to feel restricted and became more discouraged to study in the U.S. (March, Zeman, & Adrian, 2005).

Though hate crimes against Muslim, Arab, and South Asian foreigners existed long before the 9/11 incident, the rate of anti-immigrant sentiments towards foreign Muslim students among U.S. citizens increased dramatically following the terrorist attacks of September 2001 (March, Zeman, & Adrian, 2005). According to a report issued by the FBI in 2003, the rate of hate crimes based on Islamophobia increased to 10.9 percent of the total rate of hate crimes based on religious motives. Furthermore, 11.8 percent of religious hate crimes happened in schools and universities (March, Zeman, & Adrian, 2005). Eventually, the U.S. became considered as a less inviting country, which prompted many foreign students to choose other more hospitable destinations. This led to considerable decline in the number of foreign researchers and scientists who went to other countries including Russia, Japan, and China (Stock & Johnson, 2003). The United States began to lose several contributors to its development and pushed them to its competing countries.

For instance, Indian students who used to travel to the U.S. with large numbers changed their destination to other countries. The majority decided to remain in their mother country. Given their high educational performance, Indian students by choosing to remain in India helped their country become one of the most technologically advanced countries (Stock & Johnson, 2003). An opportunity the U.S. would benefit from if those students pursued their studies in the U.S.

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Considerable numbers of immigrant students in the U.S. were enrolled in important study fields, such as science, technology, engineering, and math. Those students provided the U.S. with several innovations; they could even surpass American students in the patent share (Orrenius & Zavodny, 2013). From 1995 to 2005, immigrants' innovations helped in the creation of 25 percent of U.S. high-tech start-ups (Wadhwa, Rissing, Saxenian, & Gereffi, 2007).

3.1.2. The U.S. Immigrants Economic Contribution

With its restrictive immigration policy, the U.S. endured considerable economic downturns, given that visa restrictions denied entry to thousands of aliens who contributed to the U.S. economic prosperity. In addition to their significant contribution in the overall income of the United States, foreign-born travellers were considered key components to the U.S. economic workforce. Not to mention that the U.S. spent billions of dollars on immigration regulations in relation to countering terrorism, causing significant economic loss.

Besides their positive educational performance, a number of U.S. universities relied on international students for their financial well-being, as the majority of international students paid full tuition (Hegarty, 2014). More importantly, for several years, the U.S. received above a million of international students, all were food, clothing, travel, and textbooks consumers. International students were a vital source of revenue to the U.S. national economy, as they contributed approximately \$ 22 billion yearly (Hegarty, 2014). According to the Institute of International Education, international students contributed more than \$ 21 billion in fiscal year 2012 alone (Hegarty, 2014).

Unable to identify the bona fide from the mala fide visa applicants, the U.S. rejected many of foreign legitimate travellers, who sought employment-related visa to invest in the U.S. Hundreds of those applicants reported being subjected to arbitrary rejections from the U.S. Citizenship and Immigration Services officials (Penn State Law Immigrants' Rights Clinic and Penn State School of International Affairs, 2011). Overall, immigrants tended to invest more than U.S. citizens, with almost 30 percent more likely to start a business than natives (Orrenius & Zavodny, 2013).

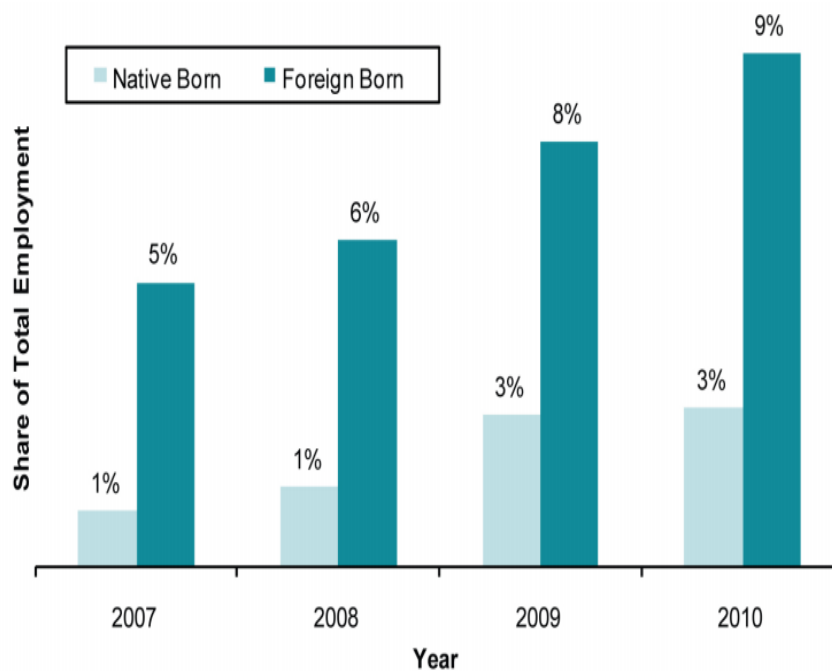
Furthermore, immigrants played a pivotal role in providing the U.S. with the necessary workforce, making up a large and growing share of the U.S. labor market (Terrazas, 2011). Unlike native-born participants, the share of immigrant workers in the U.S. workforce increased steadily. Although the proportion of native-born workers was higher to that of immigrants

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

during the 1970s, with 58 percent and 48 percent respectively, immigrant workers succeeded to bypassing their native-born peers, whose rate remained stable. In 2009, the immigrants labor force was 69 percent compared to 64 percent for natives (Terrazas, 2011).

Many assumed that the reason behind this disparity was age structure. While the great majority of the immigrant population was of working age, with one-fifth of workers between 31 and 45 years old, the U.S. baby boom generation was moving fast toward retirement (Terrazas, 2011). The U.S. relied heavily on immigrants and their children to fill job vacancies most native-born workers refused to take. Immigrants were more likely to accept part-time work and lower-paying jobs than the native-born. For instance, involuntary part-time jobs were more occupied by immigrants than native-born. From 2007 to 2010, the share of immigrant workers in part-time jobs increased from 5 percent to 9 percent. In contrast, the native-born share had a slight increase with only 2 percent. (See Figure 7)

Figure 7: Involuntary Part-Time Workers, Share of Total Employment, 2006-2010



Source: Terrazas, A. (2011). *The Economic Integration of Immigrants in the United States: Long-and Short-Term Perspectives*. Migration Policy Institute, p. 11.

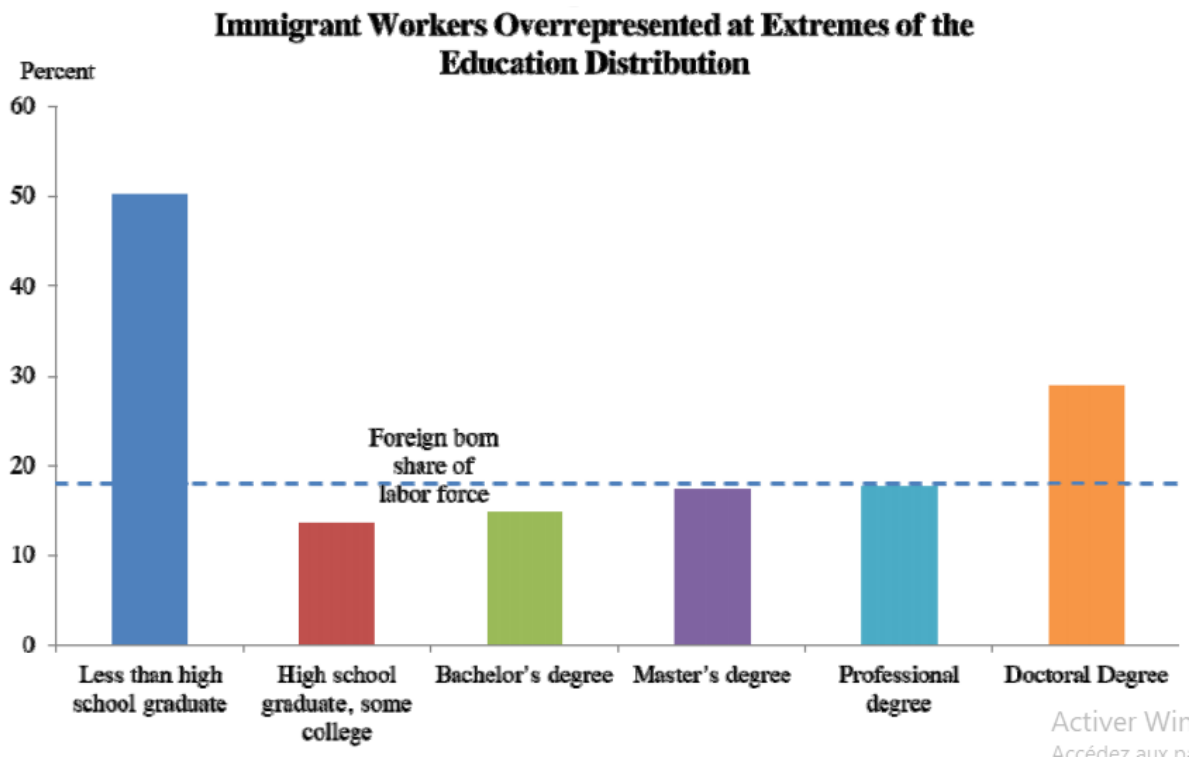
Furthermore, immigrant workers were more concentrated in vacancies that were rejected by most native-born workers, such as jobs in seasonal agriculture and construction sites (Terrazas, 2011). In 2018, immigrant workers occupied a significant share in many important fields, with 36 percent in the farming, fishing and forestry fields, 36 percent in the building and

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

grounds cleaning, and 21 percent in home healthcare industry (Sherman, Trisi, Stone, Gonazales, & Parrott, 2019). Economist George Borjas argued that by filling this labor shortage, immigrants helped improve the U.S. labor market efficiency. Simultaneously, productivity and the wage-rate would improve (Sherman, Trisi, Stone, Gonazales, & Parrott, 2019).

Although immigrants were overrepresented in low-skilled jobs, their high-skilled job ratio was considerable, with 29 percent of workers with doctoral degree being a foreign-born in 2011 (Orrenius & Zavodny, 2013). Immigrants were highly concentrated in a number of high-skilled jobs, especially as computer software developers and computer system analysts, managers and administrators, and physicians (Orrenius & Zavodny, 2013). (See Figure 8)

Figure 8: Percentage of Foreign Workers Aged 25 and Over in the U.S. Labor Force by Education



Source: 2011 American Community Survey. Retrieved from Undecided Nation: Political Gridlock and the Immigration Crisis by Tony Payan, Erika de la Garza (2014), p. 196.

According to a report issued by the National Academy of Sciences in 2015, immigrants' contribution to the U.S. economy was crucial and would be hard to replace (Waters & Pineau, 2015, p).

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

3.1.3. The Impact of the 9/11 Counterterrorism Measures on U.S. Economy

For security precautions, the U.S. immediate response to the September attacks was by closing its border and restricting entry. As the great majority of those kept out of the U.S. borders intended to enter for tourism or business, the U.S. endured heavy economic losses (Eldridge, Ginsburg, Hempel, Kephart, & Moore, 2004). The U.S. spent billions of dollars on follow-up counter-terrorism measures, and thus incurred significantly greater economic losses. Funding was among the most important challenges the U.S. faced while implementing immigration enforcement following 9/11.

To determine whether the U.S. immigration enforcement policy brought a negative or positive contribution to the U.S. economy, there should be a comparison between the damage caused by those terrorist attacks and the expenditures the U.S. spent in response. The U.S. counter-terrorism measures were considered successful if their cost in lives and capitals was less or equal to the terrorist damage. However, if it was higher, then they were considered of negative impact.

The CATO Institute conducted a policy analysis, aimed at comparing the cost of immigration restrictions with the cost of terrorism victims for all visa categories. The studied period covered 41 years, starting from January 1, 1975, the year in which the U.S. first experienced a foreign terrorist attack until December 31, 2015, with the last foreign terrorist attack on the U.S. The study estimated the cost of terrorism victims for all visa categories by multiplying the total number of deaths by the expense of saving a single life from a terrorist act (Nowrasteh, 2016).

From 1975 to 2015, 154 terrorists managed to enter the U.S. in several ways. 54 were lawful permanent residents, 34 entered as tourists, 24 as refugees and asylum seekers, 19 using a student visa, 10 illegally, 3 through the VWP, and 1 on a k-1 Fiancé (e) visa (Nowrasteh, 2016). The analysis relied on the American Public estimation, which estimated the cost of each life saved from a terrorist act at \$ 15 million (Hahn, Lutter, & Viscusi, 2000). The terrorist cost varied from one visa category to another, as the number of their deaths differed. Due to the increased level of brutality of the 9/11 attacks, the tourist visa was responsible for the death of 2,834 individuals. Then, student visa, K-1 visa, and Green Card followed, with 158.5, 14, and 8 deaths, respectively. Terrorist who managed to enter the U.S. under Refugee and asylum

status resulted in 7 deaths. The lowest percentage was for illegal entry with 1 death. Finally, the VWP with 0 victims. (See Table N° 3)

Table 3: Summary of Terrorism Incidents and Costs, by Visa Category

Visa Category	Total Terrorists per Category	Murders per Category	Total Entrants per Category	Entrants per Terrorist	Entrants per Victim	Costs per Death (dollars)	Total Human Costs (dollars)	Costs per Entrant in this Category (dollars)
Illegal immigrant	10	1	26,519,625	2,651,963	26,519,625	15,000,000	15,000,000	0.57
Lawful Permanent Resident (LPR)	54	8	34,829,485	644,990	4,353,686	15,000,000	120,000,000	3.45
Student, including 9/11	19	158.5	24,176,617	1,272,454	152,534	15,000,000	2,377,500,000	98.34
Student, excluding 9/11	18	1.5	24,176,617	1,343,145	16,117,745	15,000,000	22,500,000	0.93
Fiancé(e) visa (K-1)	1	14	604,132	604,132	43,152	15,000,000	210,000,000	347.61
Refugee	20	3	3,252,493	162,625	1,084,164	15,000,000	45,000,000	13.84
Asylum seeker	4	4	700,522	175,131	175,131	15,000,000	60,000,000	85.65
Tourist, including 9/11	34	2,834	657,934,182	19,351,005	232,157	15,000,000	42,510,000,000	64.61
Tourist, excluding 9/11	16	8	657,934,182	41,120,886	82,241,773	15,000,000	120,000,000	0.18
Visa Waiver Program (VWP)	3	0	388,024,058	129,341,353	0	15,000,000	0	0.00

Source: John Mueller, ed., *Terrorism Since 9/11: The American Cases*; RAND Database of Worldwide Terrorism Incidents; National Consortium for the Study of Terrorism and Responses to Terrorism Global Terrorism Database; Center on National Security; Charles Kurzman, "Spreadsheet of Muslim-American Terrorism Cases from 9/11 through the End of 2015," University of North Carolina-Chapel Hill, <http://kuzman.unc.edu/islamic-terrorism/>; Department of Homeland Security; Pew Hispanic Research Center; Worldwide Refugee Admissions Processing System; and author's estimates.

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

Overall, the number of deaths caused by the terrorists' exploitation of different visa categories was 3,024. By multiplying the \$15 million by 3,024 deaths, the estimated cost of terrorist damage associated with the loss of life was \$45.36 billion from 1975 to 2015; thus, \$ 1.1 billion per year (Nowrasteh, 2016).

Among the most critical proposals to confront the threat posed by those foreign-born terrorists was to restrict entry on those visa categories. However, the cost to these restrictions was greater than the damage caused. The cost projection of immigration restriction differed broadly from one economist to another. While Professor Benjamin Powell estimated the overall costs of an immigration ban at \$229 billion per year (Powell, 2012), the calculated value of the economist George Borjas was just \$ 35 billion annually (Borjas, 2013). Compared to saving the \$ 1.1 billion terrorist losses caused annually, even with the lowest projection, the costs of a restricted immigration policy were greater than the benefits.

The death toll caused by the tourist visa status was the highest. Consequently, the restriction of tourism was among the most important proposals put forward by conservatives, including Larry Kudlow, David Bushy and Ann Coulter (Nowrasteh, 2016). Yet, the economic benefits of tourism were much greater. According to the World Travel and Tourism Council, tourism contributed with \$194.1 billion to the total income of the United States (Nowrasteh, 2016). Preventing tourism to the U.S. would cost the U.S. billions of dollars annually. Even by adding the \$ 1.1 billion life-costs to other expenditures, including property damage, business loss, and reduced economic growth, which was estimated at \$5.28 billion annually, and with the lowest projection, the costs of restrictive immigration policy remained greater than the benefits.

Furthermore, according to a report by the Migration Policy Institute, immigration law enforcement funding was higher than all other principal federal criminal law agencies combined. In 2012, the U.S. spent more than \$17.9 billion on US CBP, ICE, and the US VISIT program. The same year, the U.S. spent other \$ 14.4 billion on the FBI, Drug Enforcement Administration, Secret Service, US Marshals Service, and Bureau of Alcohol, Tobacco, Firearms, and Explosives (Meissner, Kerwin, Chishti, & Bergeron, 2013).

Death rates of foreign-born terrorist attacks were low compared to the importance the U.S. allocated to foreign-born terrorism. According to John Mueller, deaths caused by lightning, accidents, and many other incidents were greater than deaths caused by foreign-born terrorists (Spencer, 2006). Compared to other crimes, the share of fatalities caused by foreign-born

Chapter Two: National Security Reshaping the U.S. 21st Century Immigration Policy

terrorism was low, with only 0.39 percent of the total death rate. From 1975 to 2015, 768,000 were killed. Among these, 3,024 died in foreign-born terrorist attacks (Nowrasteh, 2016).

Conclusion

Instead of spending its intelligence and economic resources on more effective measures, the U.S. government exacerbated its situation by adopting a number of immigration enforcement laws that proved to be more harmful than beneficial to the U.S. national and international interests. Increased detentions and expedited removals to thousands of aliens on the ground of their religion and national origins deteriorated the image of the United States worldwide. Human rights advocates portrayed the U.S. immigration enforcement laws in relation to terrorism as discriminatory and brutal. Furthermore, several political analysts criticized the measures for being ineffective, as the U.S. federal agencies could not distinguish between terrorists and legitimate foreign travellers, who played a pivotal role to the U.S. educational, societal, and economic prosperity. Certainly, immigration regulations were essential to enhance the U.S. national security. However, that did not allow for the great number of human rights violations committed by the U.S. federal agencies. Furthermore, the imbalance between terrorism damage and expensive expenditures the U.S. spent on immigration regulations cost the U.S. billions of dollars. Treating travellers as potential terrorists led to the alienation of several immigrant groups, whose cooperation was of great importance to the U.S. The U.S. could have implemented a more comprehensive adequately funded immigration policy, along with enhancing intelligence means to fulfil its duty to protect the basic human rights and civil liberties. Furthermore, it could have saved billions of dollars for its economic prosperity, and more crucially it could have concentrated on more dangerous issues. With all its controversy, the post 9/11 immigration law enforcement led to serious concern among subsequent U.S. presidents. Subsequent administrations faced a great challenge to maintain U.S. national security and fix immigration vulnerabilities.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Introduction

The United States was founded and has remained for more than 200 years, a land of immigration. Its immigration policy passed through several stages, with miscellaneous events and enduring issues surrounding the immigration system and immigrants in the United States. The U.S. immigration system received diverging opinions ranging between proponents and opponents. While immigration advocates praised the idea that America was a nation of immigrants, opponents questioned immigrants' eligibility for American citizenship. Given the large amount of public debate on immigration, political parties placed immigration as their central subject of debate, having a crucial role in making and amending immigration policies. Political opinions and rhetoric differed among several parties. While the majority of Democrats supported more liberal immigration laws, Republicans yearned for stricter immigration laws. One among many contentious debates between both parties was the immigration policy, arguing over whom and how many immigrants the U.S. should admit. Few months following his inauguration, U.S. President George W. Bush faced one of the most challenging tasks related to maintaining U.S. national security. Under the pretext of protecting the U.S. from transnational threat, the Bush Administration issued several regulations based merely on immigration enforcement. However, the new immigration restrictive measures posed intensive debate over their discriminatory and harsh nature. Several Human Rights advocates criticized the Bush policy for violating basic human and civil rights. Moreover, increased numbers of unauthorized entries combined with the widespread claim of a strong correlation between immigration and security threat placed immigration as a top priority for regulations. Economists and politicians emphasized the negative impact the post 9/11 immigration enforcements had on the U.S. economic and social patterns. As a nation of immigrants, the U.S. technological advancement and economic prosperity relied entirely on immigrants. That led to diverging opinions regarding the most suitable immigration policy to the U.S. development. During his campaign, Democratic candidate Barack Hussein Obama promised the immigrant population to pass comprehensive immigration reforms. He stressed the importance of enforcing the law as a primary step to granting amnesty. In contrast, the Republican successor, Donald Trump, expressed his intentions to impose hard-line immigration policies. Trump promised to reduce the number of immigrants and halt illegal entries by deterring aliens from particular regions,

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

conducting several deportations, and building a wall along the U.S.-Mexico border. The Trump new enforcement immigration measures ended a set of comprehensive immigration initiatives introduced by the Obama administration. It is relevant, though, to shed lights on the fact that both administrations encountered crucial discussions over their immigration policies. During the 2008 electoral campaign, Barack Obama repeatedly expressed his commitment to the rule of law, arguing that every alien should obey American law. The 2008 Democratic candidate showed strong support to the immigrant community, stressing their positive contribution to U.S. development. As of the 2016 presidential elections, the Republican candidate Donald Trump tackled immigration as a top priority for his campaign, claiming that it needed radical and strict regulations. He blamed the previous administration for allowing undocumented immigrants to take jobs most deserved by the American people. He went even further, accusing the Mexican government of sending the most corrupted people to the United States. Eager to impose their policies, both presidents used their executive authorities to overcome the many hurdles preventing them from implementing their immigration plans.

1. Immigration from a Democratic and Republican Perspective

Similar to any political party, Republicans and Democrats were eager to win presidential elections to ensure full implementation of their policies (Bard & Bard, 2019). However, they differed in their strategies. About 55 percent of Americans believed that the two parties were quite different in terms of the policies they stood for (Pew Research Center, 2019). Concerning the Democratic Party, the social group coalition was the basic tradition of the party. The basic purpose of the party was to issue programs aimed at developing different forms of social equality. That helped the party gain strong electoral support from members belonging to different minority groups (Grossmann & Hopkins, 2016). The Democratic political agenda contained a set of benefits targeting specific segments of the minority population (Grossmann & Hopkins, 2016).

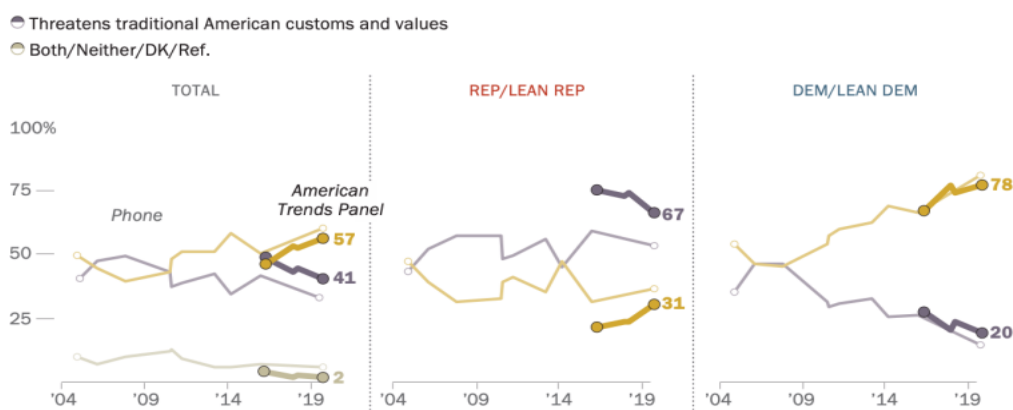
On the contrary, the Republican Party followed an ideological movement aimed at preserving American cultural traditionalism. While Democrats had a diverse electorate, the Republican mass electorate consisted of a particular set of voters, who pictured themselves as mainstream Americans. The primary goal of Republicans was to maintain the long-standing American values of individuality, liberty, and traditional morals (Grossmann & Hopkins, 2016).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

The different patterns of both parties led to major political controversies between their members over the U.S. political landscape. Democrats and Republicans went through several conflicts regarding many subjects, including immigration. Considered as one of the most debatable subjects, the two parties frequently disagreed with each other on immigration matters, such as enforcement and priorities, unauthorized entries, and refugee admission. While the majority of Democrats adopted an inclusive policy and considered immigrants an integral part of the U.S., most Republicans supported a more restrictive policy aimed at reducing the number of immigrants and preventing others from entering the U.S.

According to an American Trends Panel survey, partisan views on immigration varied sharply. The survey addressed two main questions. First, it asked whether newcomers helped in strengthening American society and values or not. It also asked whether immigrants contributed positively or negatively to the U.S. economic status. In terms of the first question, while 67 percent of Republicans considered newcomers a threat to traditional American customs and values, only 20 percent of Democrats shared the same opinion. Besides, 78 percent of Democrats said that newcomers strengthened American society, compared to just 31 percent of Republicans (See Figure 9). As of the second inquiry, 79 percent of Democrats said newcomers contributed positively to American economic development. In contrast, the Republicans' share was lower, with only 39 percent (See Figure 10).

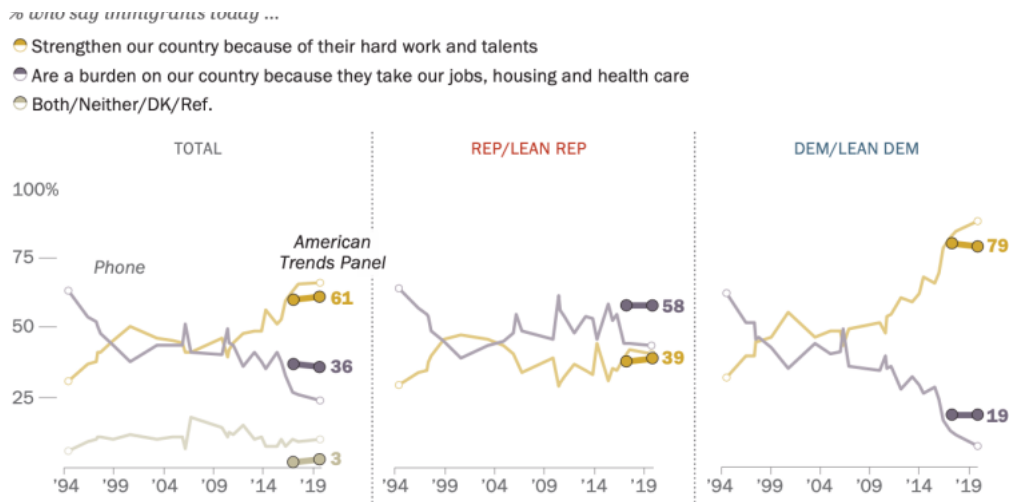
Figure 9: Declining Share of Americans Says Growing Number of Newcomers from other Countries Threatens American Customs and Values



Source: Pew Research Center. (December 2019). *In a Politically Polarized Era, Sharp Divides in Both Partisan Coalitions*, p. 60.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Figure 10: Republicans and Democrats' Diverging Opinions on Immigrants (Since 1994)



Source: Pew Research Center. (December 2019). *In a Politically Polarized Era, Sharp Divides in Both Partisan Coalitions*, p. 62.

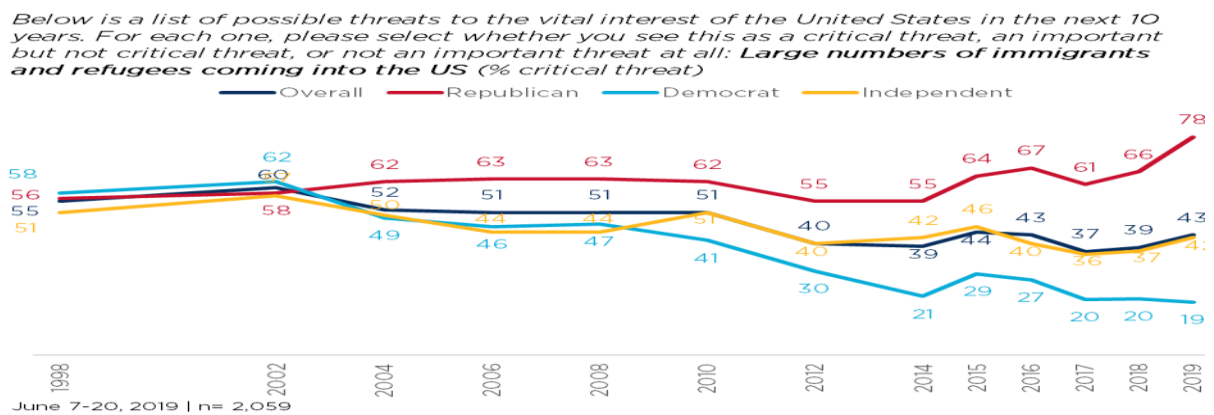
Most Democrats shared the same notion as the former U.S. President Lyndon Johnson, who stated while signing the Immigration and Nationality Act of 1965 that, "It [the national origins quota system] has been un-American in the highest sense... Our beautiful country was built by a nation of strangers" (Johnson, 1965). Despite its support for many immigration enforcement measures, the Democratic Party pursued a more liberal immigration policy. It reinforced the long-standing notion of the U.S. as a nation of immigrants, who contributed positively to the U.S. social and economic prosperity. The party's positive stance seemingly aligned with its discrete composition.

By contrast, the Republican Party's opinion on immigration went through several variables. It was affected by miscellaneous events, particularly those related to economy and national security. Before 2001, Republicans were more sympathetic towards immigration restrictions than Democrats (Dionne, 2008). According to a Gallup survey, the share of Republicans who considered immigration as a good thing surpassed the Democrats' share during the first year of the Bush administration. However, after the 11 September 2001 terrorist attacks, Republicans' stance toward the immigration policy became harsher (Dionne, 2008).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

In 2002, both Republicans and Democrats shared the same opinion, considering the growing number of immigrants a critical threat to U.S. safety; with 58 percent and 62 percent respectively (Kafura & Hammer, 2019). Then, immigration became a big concern for Republicans. In 2010, 62 percent of Republicans said that immigrants posed a critical threat to the U.S., compared to 41 percent of Democrats. In 2019, the gap between the Republican and Democratic parties widened, with 59 percentage points (78 percent vs. 19 percent respectively) (See Figure 11).

Figure 11: Immigration as a Threat



Source: Smeltz, D., Daalder, I., Friedhoff, K., Kafura, C., & Helm, B. (2019). *Rejecting Retreat: Americans Support US Engagement in Global Affairs*. The Chicago Council on Global Affairs, p. 6.

Accordingly, partisan views differed on numerous immigration policies. Based on a Pew Research Center survey, most Democrats supported establishing a legal pathway to the illegal population present in the U.S., with 82 percent. In contrast, Republicans were less likely to support the move, with only 48 percent. Along the same lines, Republicans had a more favorable response to deportation than Democrats. About 31% of Democrats encouraged the deportation process, compared to 83% of Republicans (Daniller, 2019).

In terms of border security, while 68 percent of the American public considered increasing border security along the U.S.-Mexico frontiers as an essential move, only 49 percent of Democrats shared the same notion. On the other hand, the majority of Republicans, with 91 percent, highlighted the importance of tightening the U.S. border patrol (Daniller, 2019).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

In the last two decades of the 20th century, immigration became a central subject of debate due to the drastic increase in the number of refugees. The political instability in different parts of the world drove millions of persecuted individuals to the U.S. Hence, refugee admission became one of the most contentious issues between both parties. Similar to the U.S. overall public opinion, Democrats were favorable to refugee admission, with 73 percent and 85 percent respectively. Meanwhile, Republicans had the lowest share with 58 percent approving the process (Daniller, 2019).

The asymmetric political ideologies of both parties resulted in stark differences between the two poles. In the book *Asymmetric Politics: Ideological Republicans and Group Interest Democrats*, Matt Grossmann and David A. Hopkins argued that the ethnic composition of the party played a crucial role in determining each party's stance on immigration policy. While the Democratic Party was largely composed of different racial and ethnic minority groups, the Republican Party was predominantly made up of whites. Given the amount of racial resentment and anti-immigration attitudes espoused by the white population, Republicans expressed their unsupportive stance toward many comprehensive immigration reforms and demonstrated their strong support for immigration enforcement measures (2016).

The U.S. immigration system was more likely to change depending on which political party held the government majority. Each new administration presented new drafts bringing many changes to the immigration system. While some of those plans were comprehensible and aimed at integrating the immigrant population into American society, others were very harsh and sought to impose restrictive immigration measures.

2. Immigration Policy Under the Democratic President Barack Obama

The 2008 presidential candidate and winner Barack Obama sparked a big debate about his political stance among Republicans, particularly concerning immigration policy. Considering the U.S. immigration sector a broken system, Obama promised to bring drastic changes that would fix the immigration system. He combined two paradoxical measures, seeking both to impose immigration enforcement actions and to implement amnesty programs. President Obama stressed the need for border security and enforcement laws as the Republican Party. Meanwhile, he shared the same Democratic standing concerning the legalization of unauthorized immigrants.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

As a result of frequent foreign terrorist attacks on the U.S., severe economic crisis, and increased numbers of illegal immigrants, immigration became a focus of political debate. Both chambers of the U.S. Congress passed numerous immigration reform bills, which received both supportive and unfavorable opinions. Anti-immigration groups, especially conservative Republicans, considered new immigrants as outsiders who threatened the U.S. national security and damaged its economy. Hence, they insisted on restricting immigration enforcement measures (Dionne, 2008). In contrast, immigration advocates defined the U.S. as a nation of immigrants, who played a crucial role in the development of the country in different fields. Thus, they were more likely to propose reforms to create a legal pathway for illegal aliens, including the former Senator Barack Obama.

2.1. Comprehensive Immigration Reform Proposals During the 109th and 110th Congresses

The increasing number of immigrants, namely the undocumented ones, raised considerable controversy over the U.S. immigration system. In an attempt to find a compromise between those two tendencies, Congressional members passed several comprehensive immigration bills. While a set of those bills presented provisions aimed at reinforcing immigration enforcement laws, others sought to provide the undocumented population, especially the working category, with an opportunity for legalization.

Passed during the Clinton Administration, IRCA presented the first initiative to reduce the number of undocumented aliens. The act combined enforcement actions and legalization provisions. Due to the growing number of unauthorized immigrants seeking job opportunities, the act imposed harsh penalties on employers hiring undocumented aliens. The penalty provision aimed to halt further illegal entries. Besides, IRCA created a pathway for more than 3 million undocumented immigrants present in the U.S. (1986).

Attracted by the legalization process, large numbers of individuals continued to cross the U.S. border illegally. The increasing share of unauthorized entries was correlated with an economic downturn and national security threat, persisting anti-immigrant resentment. The Senate and the House of Representatives proposed several Comprehensive Immigration Reforms (CIR) to end the debate. Both chambers focused on three main subjects, including border patrol, immigration law enforcement, and legalization.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

On September 23, 2003, Senator Larry Craig introduced the first draft containing comprehensive immigration reforms. Entitled the Agricultural Job Opportunity, Benefits, and Security Act (S. 1645), the bill stipulated an earned-legalization program for agricultural workers (Craig, 2003). Despite the support it received in the Senate, the bill did not succeed in passing into law (Aguila, et al., 2010).

Successive comprehensive immigration bills followed, especially as the then U.S. President George W. Bush expressed his advocacy of immigration reform. Bush stated that comprehensive immigration reform was of a big concern for his second term. His principles of immigration reform revolved around border security, enforcement of immigration laws, amending temporary visa workers, and expanding permanent legal immigration (Wasem, 2013). Hence, all the proposed bills revolved around those points.

In 2004, the number of illegal immigrants to the U.S. increased sharply by about 10.3 million (Hanson, 2006), causing controversy over the adequate solution to adopt. While some lawmakers were eager to legalise the situation of undocumented aliens, others called for massive deportation and strengthening border security and immigration enforcement. More than half of illegal entrants, 5.9 million, to the U.S. were from Mexico, leading to prompting attention to new border regulation policies along the U.S. southern border (Hanson, 2006).

In addition to border security, President Bush opted for a more comprehensive immigration policy through the introduction of a fair and secure immigration reform proposal based on a guest worker. Praising the notion of America as a nation of immigrants, Bush sought to provide the hardworking undocumented population with temporary worker status, yet he insisted that it was not an amnesty program (U.S. Department of State, 2004). Similar to the previous initiatives, the proposal was rejected (Aguila, et al., 2010).

As of January 2005, Barack Obama became a senator in the U.S. Congress (Burns, 2014). Throughout his tenure, which lasted from 2005 to 2007, Obama showed strong support for comprehensive immigration reform. In terms of immigration policy, George W. Bush and Barack Obama shared similar perspectives. Both were in favor of naturalization. They presented a set of criteria that allowed illegal immigrants to gain U.S. citizenship. To benefit from the provision, aliens had to be hard workers, pay a fine for violating the U.S. immigration laws, learn English, and pass a background check to verify their criminal record (Dorsey & Díaz-Barriga, 2007).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Accordingly, Obama retained the Bush Administration's strategy based on enforcement measures. During a Democratic Presidential debate, the presidential candidate Obama declared that the U.S. was a nation of laws and immigrants (*The Democratic Debate*, 2007). President Bush made the same announcement in 2006, stating that "America is a nation of immigrants, and we're also a nation of law" (MarketWatch, 2006). Similar to Bush, Obama required maintaining compliance with the law as a critical component of immigration policy. Both insisted on the importance of law enforcement as a primary move towards comprehensive immigration reform.

The immigration political debate went through many stages. During the 109th (2005-2007) and 110th (2007-2009) Congresses, both the Senate and House of Representatives proposed several extensive immigration acts. Due to their diverged positions on immigration, each chamber presented its bills. Hence, they could not reach an agreement and failed to pass any legislation.

Concerning the 109th Congress, the Senate was the first to pass an immigration proposal. On May 12, 2005, Senators John McCain and Edward Kennedy introduced the Secure America and Orderly Immigration Act (S. 1033). The proposal included provisions related to border security and legalization. It also presented a new worker visa program (H-5A). The program aimed at creating adjustment status for low-skilled workers. The proposal did not receive much support from the Senate with only nine cosponsors, including Senator Barack Obama (McCain, 2005).

The same year, Senator John Cornyn presented the Comprehensive Enforcement and Immigration Reform Act (S. 1438). The act introduced provisions related to border security. It also added alien street gang members as a new inadmissible category. Besides, the proposal increased penalties for immigration violations and sought local assistance to ensure full compliance with the law. Only four Senators cosponsored the S.1438 proposal. Senator Obama was among the majority that did not support the bill (Cornyn, 2005).

Deemed unsuccessful, Senator Arlen Spectre introduced another act in May 2006. Entitled the Comprehensive Immigration Reform Act (S. 2611), the draft contained almost the same aspects of proposal S. 1438 introduced by Senators McCain and Kennedy. In addition to border security provisions and interior enforcement measures, Sec. 301 of the Act made it unlawful for an employer to hire unauthorized aliens. Also, the act presented proposals related

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

to temporary workers and unauthorized aliens. Title IV Sec. 402 established a new category for non-immigrant temporary workers (H2C). And Title VI created a pathway to legalization for undocumented aliens under particular requirements, including paying a fine, being present in the U.S. before April 5, 2006, and having basic citizenship skills (Specter, 2006).

The bill received 227 amendments, including S.4099 sponsored by Sen. Obama. Introduced on May 22, 2006, the amendment targeted alien workers. First, Sec. 301 of the amendment made it unlawful to hire undocumented aliens. Besides, Sec. 303 sought to ensure additional worksite enforcement by adding 2,200 agents to the number of ICE personnel. Concerned with aliens' rights, Senator Obama included Sec. 305, aimed at protecting alien workers from discriminatory acts (Obama, 2006). Though the bill passed in the Senate, it failed to win the House vote (Aguila, et al., 2010).

The House of Representatives also introduced proposals related to CIR. On December 16, 2005, Representative James Sensenbrenner presented the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437). The proposal introduced new harsh immigration enforcement measures. In terms of border patrol, the Act sought to employ technological assets and extend the number of agents along the U.S. border. Importantly, Sec. 203 of Title II criminalized illegal presence in the U.S. Besides, Sec. 205 subjected individuals who provided help to undocumented aliens to criminal penalties (Sensenbrenner, 2006).

Regarding the 110th Congress, the House of Representative acted first through the passage of H.R. 98 on January 4, 2007. Sponsored by Rep. David Dreier, the Illegal Immigration Enforcement and Social Security Act of 2007 provided for the use of improved Social Security cards and Employment Eligibility Database to limit the chance of unauthorized aliens for employment (Dreier, 2007). On July 10, 2007, Representative Peter T. King passed another bill entitled Secure Borders FIRST (For Integrity, Reform, Safety, and anti-Terrorism) Act of 2007 (H.R. 2954). The bill introduced provisions related to border security, stressing the need for state and local law enforcement agencies to assist federal agencies with immigration enforcement. Besides, Sections 201 and 212 provided for mandatory detention of aliens, especially dangerous ones, apprehended at the U.S. borders. Sec. 223 stated expedited removals of alien gang members and any alien deemed to pose a security threat (King, 2007).

About the Senate, senate majority leader Harry Reid introduced the Comprehensive Immigration Reform Act of 2007 (S. 1348). Passed on May 9, 2007, the bill included provisions

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

concerning border security and interior enforcement and made it unlawful to hire unauthorized aliens. Besides, it introduced a new temporary guest worker program (H-2C) (Reid, 2007). The proposal received a negative vote from the majority of Republicans, leading to further efforts by Senators Kennedy and Specter. In an attempt to come up with a bipartisan deal, the Senators introduced S. Amdt. 1150. Based on the same provisions of S. 1348, the bipartisan compromise proposed measures for promoting work eligibility verification and immigration enforcement and enhancing border security. The Senate did not pass the bill by Yea-Nay vote 45-50 (Kennedy, 2007).

Other amendments were introduced, including S. Amdt 1202 by Sen. Obama. Proposed on May 24, 2007, the purpose of the amendment was "To provide a date on which the authority of the section relating to the increasing of American competitiveness through a merit-based evaluation system for immigrants shall be terminated" (Obama, *S. Amdt.1202 to S.AMDT.1150 TO s.1348 - 110th Congress (2007-2008) - amendment text* 2007). The proposal had only two cosponsors, Senators Robert Menendez and Russel D. Feingold, and failed to gain agreement in Senate by Yea-Nay vote 42-55 (Obama, *S. Amdt.1202 to S.AMDT.1150 TO s.1348 - 110th Congress (2007-2008) - amendment text* 2007).

The bills introduced during the 109th and 110th Congress sessions depicted the political membership of both chambers. Concerning the 109th Congress, with 233 Republican versus 201 Democrat members (*Congress Profiles: US House of Representatives: History, Art & Archives*), the House Republican-majority proposed harsh provisions aimed mainly at enhancing border patrol and reinforcing immigration laws. On the other hand, the closely divided Senate, 55 Republicans versus 44 Democrats (*Congress Profiles: US House of Representatives: History, Art & Archives*), issued drafts that combined enforcement measures and adjustment of status programs. As of the 110th Congress, after 12 years of a Republican majority, Democrats won for the first time the congressional majority. The Democratic congressional majority passed bills seeking a bipartisan deal between the Democratic and Republican parties.

In addition to the specific grounds of inadmissibility introduced by INA, the bills proposed another inadmissibility category related to gang membership. Moreover, the drafts included provisions aimed at extending the use of the US-VISIT to other categories including LPRs, as well as strengthening penalties related to unlawful entry and use of fraudulent documents (Wasem, 2013). For instance, S. 2611 and H.R. 4830 presented by the Senate and

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

the House proposed doubling criminal penalties for individuals using tunnels to enter the U.S. illegally (Bruno, et al., 2006).

In terms of interior immigration control and enforcement, most provisions of the 109th and 110th Congresses extended the INA provisions related to smuggling, transporting, and harboring of foreigners inside the U.S. that led to criminal liability. The proposals introduced harsh penalties. Acts at the Senate and the House of Representatives aimed at expanding the definition of an aggravated felony. For instance, H.R. 4437 included an additional provision that would have considered illegal entry a criminal offense (Bruno, et al., 2006).

Immigration law enforcement was centred on two main aspects related to civil violations and criminal punishments. As for civil violations, aliens illegally present in the U.S. were subject to removal by an administrative system. On the other hand, criminal penalties were prosecuted in the courts following a criminal act, such as alien smuggling. The authority of state and local law enforcement was limited to criminal penalties, as civil violations was considered merely a federal responsibility (Bruno, et al., 2006).

According to a study by the Pew Hispanic Center in 2005, the number of unauthorized aliens in the U.S. reached 11.1 million. Of those, 7.2 million worked illegally (Passel, 2006). The debate escalated as the growing number of undocumented workers coincided with an economic downturn in the U.S. Both the Senate and the House introduced provisions related to employment eligibility verification and worksite enforcement penalties as a solution to decrease the number of undocumented workers. The two chambers shared the same opinion concerning the establishment of an employment eligibility verification system.

According to H.R. 4437, S. 2454, and S. 2611, employers would be mandated to use an employment eligibility verification system modelled on the Basic Pilot program¹⁷ to verify the identity and work eligibility of their new and already hired workers. Besides, the three bills would have increased monetary penalties for employer violations. The Senate-passed S. 2454 and S. 2611 bills added another provision related to imposing a penalty for employees claiming legal work eligibility (Bruno, et al., 2006).

To ensure full compliance to the law, some bills sought to ensure the involvement of state and local enforcement agencies in immigration law enforcement. In this regard, there were

¹⁷ The Basic Pilot program, known as the E-verify, is an electronic program issued in 1996. It allows employers to verify the work eligibility of their employees.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

two main aspects related to civil violations and criminal punishments. As for civil violations, aliens illegally present in the U.S. were subject to removal by an administrative system. On the other hand, the court prosecuted criminal penalties in case of a criminal act, such as alien smuggling. The authority of state and local law enforcement agencies was limited to criminal penalties, as the civil violation was merely a federal responsibility (Bruno, et al., 2006).

The role of state and local law enforcement agencies in the enforcement of federal immigration laws witnessed a long and fierce debate during the 109th Congress. Several proposals stated the necessity to expand the authority of state and local law enforcement agencies to all immigration laws; criminal penalties as well as civil violations. While the Senate maintained the traditional role of the state and local law enforcement, the House sought to provide those agencies with additional power. To illustrate, S. 2454 and S. 2611 passed by the Senate reaffirmed the state and local agencies' authority to investigate, identify, apprehend, arrest, and detain aliens in the U.S. In contrast, the House-passed H.R. 4437 and H.R. 6095 reaffirmed and sought to extend the authority of state and local agencies to both criminal and civil provisions (Bruno, et al., 2006).

The 109th and 110th Congress sessions included other provisions related to legalization and adjustment status. The chambers introduced resolutions aimed at reducing the number of unlawful residents, but with different approaches. Except for the criminalization of unauthorized presence, the House did not present any provision concerning legalization. In contrast, the Senate introduced several bills aimed at regulating the legal status of unlawful residents (Wasem, 2013).

For instance, S. 2611 contained several titles related to unauthorized aliens. Each title proposed a particular path based on a set of criteria that would have permitted those aliens to earn legalization. Title VI, Subtitle A of S. 2611 introduced legalization mechanisms that would have allowed an alien, his spouse, and minor children who met specified requirements to adjust to LPR status. The alien would have to establish his physical presence in the U.S. on or before April 5, 2001, and to prove that he was not legally present as a non-immigrant on April 5, 2006. Besides, he would have to establish employment for more than three years from April 5, 2001 to April 5, 2006 (Bruno, et al., 2006).

Subtitle B of the same provision introduced further provisions related to agricultural workers. Based on a blue card program, undocumented aliens who had performed requisite

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

agricultural employment and met additional requirements would benefit from a blue card that would permit them to adjust to LPR status. The measure would have created 1.5 million blue cards over five years from the date of the enactment (Bruno, et al., 2006). Furthermore, considered as a sensitive unauthorized subpopulation, the Senate introduced legalization mechanisms directed towards unauthorized aliens brought to the U.S. as children. Under Title VI, Subtitle C of S. 2611, which brought further provisions to the DREAM Act, aliens who had first enter the U.S. before the age of 16, had a high school diploma or the equivalent, or were admitted to an institution of higher education would be able to adjust to LPR status (Bruno, et al., 2006).

Legal admission was another major issue discussed during the 109th and 110th Congresses. Both chambers passed measures related to permanent and temporary visa categories. Concerning permanent immigration, the Senate and the House introduced several proposals, including S. 2611, S. 1033, H.R. 2330, S. 1438, S. 2454, and H.R. 3700. If passed, the bills would have broadly altered permanent admissions (Bruno, et al., 2006). The two chambers agreed on eliminating the Diversity Visa Lottery (Wasem, 2013). Among the bills that proposed the elimination of the diversity visa were H.R. 4437, S.1438, and S. 2377 (Bruno, et al., 2006).

As for the other visa categories, opinions ranged between expanding and reducing the number of annual admissions. In the 109th Congress, the Senate passed provisions that would have increased LPR admissions based on family reunification and needed skills. For instance, S. 2425 and S. 2611 proposed increasing the number of employment-based immigrants admitted annually from 140,000 to 290,000 (Bruno, et al., 2006). In contrast, during the 110th Congress, the Senate-passed bill proposed eliminating some family-based admissions (Wasem, 2013, p. 9). Similarly, the House introduced H.R. 3700 that would have reduced the annual number of employment-based immigrants from 140,000 to just 5,200 (Bruno, et al., 2006).

Interested in maintaining the share of bona fide immigrants, the Senate passed regulations aimed at increasing the number of brain drain. During the 109th and 110th Congresses, the Senate proposed bills that would have permitted foreign students with graduate degrees in science, technology, engineering, and mathematics to adjust their legal status to LPR without the need to wait in the queue of numerically limited LPR visas (Wasem, 2013).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Among the different visa categories provided for temporary visitors, the H visa specified for temporary workers gained considerable attention during the 109th and 110th Congresses. The H visa contained several classifications, including H-1B assigned to professional specialty workers, H-2A for agricultural workers, and H-2B for non-agricultural workers (Bruno, et al., 2006). Among the proposed measures was Title I of H.R. 3333, which would have limited the different H visa subcategories into a single H visa allocated to both skilled and unskilled foreign workers. Due to security concerns, the provision mandated the full use of an automated entry-exit system (Bruno, et al., 2006).

In contrast, the Senate introduced provisions aimed at creating additional temporary worker visas. Under Title IV of S. 2611, the Senate would have added a new H-2C guest worker visa for temporary workers seeking to enter the U.S. to perform labor or services other than those included in the H-2A visa or another visa category. As a result of the floor amendment (S. Amdt. 3981), the Senate set the annual cap for the H-2C visa to 200,000 visas. Temporary workers admitted under the H-2C visa would benefit from a 3-year authorized period, with the possibility to extend the period to other three years (Bruno, et al., 2006).

2.2.Senator Obama's Stance Regarding the CIR

According to the Washington Post columnist Eugene Robinson, Senator Obama based his immigration policy on two different approaches. Though he supported tightening border security, Senator Obama insisted on respecting the safety and rights of immigrants crossing the U.S. borders. Besides, Obama was one of the earned citizenship advocates, yet under particular criteria. In 2006, Obama issued his book *The Audacity of Hope*, in which he expressed his view on immigration. Furthermore, Obama discussed several immigration issues on several occasions, including his floor statement in the U.S. Senate, a delivered speech at the University of Hampshire, and an interview with Political correspondent George Stephanopoulos. Obama centred his debate on three main immigration matters, border security, employer accountability, and earned citizenship (Dorsey & Díaz-Barriga, 2007).

While portraying the U.S. as a nation of immigrants, Senator Obama opposed illegal aliens who attempted to enter the U.S. by violating the country's immigration laws. During his Senate Floor Speech on Comprehensive Immigration Reform, Obama expressed his deep support for passing rigorous and practical immigration reforms to guarantee full respect to the law and an orderly entry (Obama, *Senate Floor Speech on Comprehensive Immigration Reform*,

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

2007, p. 2). In this regard, Obama voted in favor of the comprehensive immigration provisions related to border security introduced during the 109th and 110th Congresses. He proposed increasing the number of border agents, providing border patrol with new technology, and constructing further detention facilities to ensure effective detention and deportation of illegal immigrants (Dorsey & Díaz-Barriga, 2007).

Moreover, Obama stressed the need for harsh enforcement in the workplace through the use of a mandatory employment verification system. The system allowed employers to collaborate with the Department of Homeland Security to verify the eligibility of their workers (Obama, *Senate Floor Speech on Comprehensive Immigration Reform*, 2007). To ensure effective deterrence, Obama supported employer sanctions by imposing strict fines and penalties on employers who knowingly hired undocumented workers (Dorsey & Díaz-Barriga, 2007).

Along with those harsh provisions, Senator Obama supported immigrants, whom he considered "part of the American family" (Obama, *Senate Floor Speech on Comprehensive Immigration Reform*, 2007, p. 2). Obama insisted on respecting and protecting the rights and the lives of border crossers. Besides, he sought to legalise the situation of undocumented foreign workers. Obama expressed his uncertainty on the guest worker provision, which he considered "a sop to big business, a means for them to employ immigrants without granting them citizenship rights" (Obama, *The Audacity of Hope: Thoughts on Reclaiming the American Dream*, 2006, p. 265). As an alternative, Senator Obama proposed the legalization of temporary workers under particular criteria.

With regard to the growing number of the undocumented population, Obama followed the same provision introduced by the Senate, calling for the creation of a path through which illegal aliens could adjust their legal status (Obama, *Senate Floor Speech on Comprehensive Immigration Reform*, 2007). In his interview with the CNN reporter, Larry King, Obama expressed his tolerance for immigrants and introduced his plan to earned citizenship stating that:

We have to recognize that we've got 12 million undocumented workers who are already here. Many of them living their lives alongside other Americans. Their kids are going to school. Many of the kids, in fact, were born in this country and are citizens. And so, it's absolutely vital that we bring those families out of the shadows and that we give them the opportunity

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

to travel a pathway to citizenship. It's not automatic citizenship. It's not amnesty. They would have to pay a fine. They would have to not have engaged in any criminal activity. They would have to learn English. They would have to go to the back of the line so that they did not get citizenship before those persons who had come here legally (King, 2007).

Despite his support for earned citizenship, Obama opposed amnesty. He stood firm for the creation of a set of criteria that would allow illegal immigrants to obtain U.S. citizenship, and insisted that violators of U.S. immigration law had to be punished. Instead, illegal immigrants had to comply with severe conditions, which would ultimately lead them to citizenship (Obama, *Senate Floor Speech on Comprehensive Immigration Reform*, 2007). By following the same CIR patterns, Obama relied on a realistic approach based on a set of criteria, according to which illegal immigrants could adjust their status to LPR and then to citizenship (Dorsey & Díaz-Barriga, 2007).

Undocumented immigrants would have to pay a fine for violating the U.S. immigration laws. As they benefit from different social services, they would have to pay back taxes. Also, they had to be free from any criminal record by passing a background check. As the official language of the U.S., immigrants had to learn English to facilitate their integration. More importantly, illegal immigrants had to participate in the labor force by working hard for at least 6 years (Dorsey & Díaz-Barriga, 2007). Given the positive contribution to the U.S. development, Obama supported the passage of the DREAM Act, which provided illegal immigrants brought to the U.S. as children with the opportunity to adjust their status. Similar to the earned citizenship provision, this subgroup had to meet certain criteria, including entering the military or enrolling in a college (Richterova, 2015).

Despite his positive stance towards comprehensive immigration reforms introduced by moderate Democrats, the way Obama addressed immigrants, particularly the illegal ones, was similar to that used by conservatives. In his book *The Audacity of Hope*, Obama employed the same concepts used by Conservatives to depict undocumented immigration, in which he said: "the wave of illegal immigration flooding our Southern border" and "porous border" (Obama, *The Audacity of Hope: Thoughts on Reclaiming the American Dream*, 2006, p. 263-264). Hence, Obama followed the same conservative patterns that combined illegal immigration with Mexican immigrants.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Moreover, Obama shared the same fears as the Conservatives. Primarily, he was concerned about the increasing number of illegal workers, claiming that it was an unprecedented phenomenon. While appreciating their positive contribution to the labor force, Obama worried that those undocumented workers would depress the wages of the unskilled native workers. He was also concerned with the threat they might pose to national security. The most critical issue, though, laid on their inability to assimilate into the U.S. society (Obama, *The Audacity of Hope: Thoughts on Reclaiming the American Dream*, 2006).

Obama alienated the Mexican group from the other immigrant groups by distinguishing between the native-born Americans who first entered the U.S. as immigrants and Latinos. Like Conservatives, Obama feared that the current Latino immigrants from Mexico would not be able to assimilate. Unlike the previous immigrant groups, Latino immigrants had strong "linguistic and cultural ties" with their homeland, mainly due to technological advances that allowed them to stay in touch with their counterparts (Dorsey & Díaz-Barriga, 2007, p. 97).

In terms of citizenship, Obama incorporated both the CIR advocacy for earned citizenship and the Conservative patriotism. He shared the same conservative concerns about the ability of Mexican immigrants to assimilate, given their strong ties to their homeland. Obama pointed to native-born Americans' fear of the cultural and temperamental differences of Mexican immigrants (*The Audacity of Hope: Thoughts on Reclaiming the American Dream*, 2006). In addition to the set of criteria presented by the CIR, Obama considered assimilation an essential component of the naturalization process. He emphasized the need for immigrants to integrate with the common culture, purpose, and aspirations of the U.S. (Dorsey & Díaz-Barriga, 2007).

2.3. President Obama's Comprehensive Immigration Reforms 2008/2012

During the 2008 presidential election, the largest proportion of the Latino population voted for Obama, with 67 percent (*How groups voted in 2008*). Among the central issues that Obama promised to solve during his presidential campaign was to pass a comprehensive immigration reform that had previously failed. Many assumed that Obama's promise to pass a comprehensive immigration reform helped him win the majority of Latin support (Skrentny and López, 2013).

In addition to his initial focus on the economic sector, presidential candidate Obama emphasized his constant attention and commitment to passing comprehensive immigration

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

reform, placing it among his top priorities in his first year in office. During the Democratic Presidential debate in Las Vegas, candidate Obama went further and declared his intention to fight for comprehensive immigration reform, claiming that even the American people supported the passage of the CIR (The Democratic Debate, 2007).

Expectations among immigrants and immigrant advocates were high. However, as president, Obama changed his tone, as he sought to emphasize economic regulations. The enthusiasm of Obama for the immigration issue collapsed. On January 20, 2009, in his inauguration speech, President Obama addressed the U.S. population as "my fellow citizens" (Phillips, 2009), pointing to the importance of citizenship from both sides, rights and duties. Civic responsibility, the economy, the bipartisan status, military power, and the U.S. international standing were among the deliberated issues. Obama ignored the problem of immigration, leading to growing concerns among immigrant advocates over the immigrant status in the middle of the president's full schedule (Hernández, 2010).

From being a top priority, Obama tabled immigration reforms and focused more on other issues. During a summit of Mexican and Canadian leadership held in August 2009, he stated that "When we come back next year ... we should be in a position to start acting" (Nicholas & Wilkinson, 2009). Although Obama mentioned the immigration issue, he was imprecise about the exact time to handle it. Furthermore, during his interview with Jorge Ramos, Obama declared: "I'd really like to solve our immigration problem, but I can't solve every problem at once" (Hernández, 2010, p. 25), emphasizing that immigration was no longer one of his administration top priorities.

Once in office, President Obama faced many hurdles in passing a comprehensive immigration reform bill in both chambers (Skrentny and López, 2013), mainly due to the failure of previous acts to attend their aim. In an attempt to reduce the number of unauthorized aliens seeking job opportunities, the U.S. Congress passed IRCA (1986). The Act intended to reduce the number of undocumented workers by imposing employer sanctions. However, it failed as the number of unauthorized aliens increased from about 3 million in 1986 to approximately 8.5 million in 2000 (Wasem, Unauthorized Aliens Residing in the United States: Estimates Since 1986, 2012). The number of unauthorized entries continued to grow and reached approximately 10 million in 2007 (Hofer, Rytina, & Baker, 2010). Consequently, Republicans' attitude towards IRCA and Bush's CIR became more negative. Many began to question the

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

effectiveness of CIR in protecting the U.S. borders, making it more cumbersome for Obama to pass his CIR bill.

Immigration advocates started questioning Obama's commitment to immigration reforms, particularly following his first State of the Union speech. One year after his inauguration, Obama addressed the entire American community about the different challenges and hardships facing the country. Among the most contentious topics were economic recession, unemployment, education, and other issues. However, immigration received little attention, with only a few lines devoted to the subject. As a result, increased discontent among different immigrant groups occurred.

According to Kevin Johnson, Dean of the Law School at the University of California, Davis, and immigration scholar, Obama's brief discussion about immigration proved that the issue was not among his administration's priorities. Besides, both editor Sandip Roy of New American Media and Angelo Falcón of the National Institute for Latino Policy agreed that Obama's address left no hope for the 12 undocumented immigrants, especially Latinos (Hernández, 2010).

Immigrants, whether legal or unauthorized, were a crucial part of American society. They contributed positively in different fields, which helped the U.S. become one among the most powerful countries. Ignoring such a significant component of the U.S. society affected the image of the newly elected president, particularly given his previous promise to pass comprehensive immigration reform. Obama's brief comment on immigration during his 2010 address would have cost him the loss of millions of votes that helped him win the 2008 presidential elections.

2.4.Obama's Reliance on Executive Authority to Overcome the Failure of CIR

To implement his comprehensive immigration reform, President Obama pursued two contradictory strategies based on enforcement and nonenforcement decisions. Concerning enforcement decisions, the Obama administration issued several provisions related to border patrol, local enforcement, and worksite enforcement. In contrast, Obama derogated from some immigration measures, providing relief to particular immigrant groups. In either case, President Obama received increased disagreements from both immigrants advocates and anti-immigrant groups.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Given the presidential power on immigration issues granted by Congress, the president holds the formal authority to decide on various immigration aspects, both in legislative and administrative terms. About legislation, the president has the power to veto or pass immigration legislation into law. Administratively, the president decides on immigrant integration, border enforcement, detention and deportation, and supervision of the immigration court (Hernández, 2010). According to Adam Cox and Cristina Rodriguez, "the President's power to decide which and how many noncitizens should live in the United States operates principally at the back end of the system, through the exercise of prosecutorial discretion with respect to whom to deport, rather than at the front end of the system, through decisions about whom to admit" (Cox & Rodriguez, 2009, p. 464).

With several deportations, along with the massive increase in the number of illegal entries, Congress grants the executive branch additional authority on immigration matters. The president can rely on several statutory means to decide on immigration issues. First, the president can exercise prosecutorial discretion regarding particular concerns, notably human concerns. Also, he has the authority to offer parole to some categories of illegal immigrants. Moreover, according to § 103 of INA, the chief executive can use deferred action to halt the deportation process for immigrants planned for deportation (Skrentny & López, 2013).

Regarding his discretionary powers, Obama set a framework based on several executive actions directed towards immigration. Initially, President Obama placed border enforcement among his first prerequisites, focusing his attention on building trust with Restrictionists, who questioned the border security components of CIR. According to the DHS Secretary Janet Napolitano, during the 2007 discussions, the majority of Congress members did not agree to pass CIR because they were concerned about the government's commitment to law enforcement (Napolitano, 2009). In response, during its first year in office, the Obama administration based most of its immigration reform plans on enhancing the immigration enforcement pillars.

Obama argued that maintaining border and interior enforcement was a priority and a mandatory step to ensuring full support from the American public. Thus, he announced prioritizing securing the borders over passing a CIR, which he postponed to 2010 (Gorman & Nicholas, 2009). During his first year in office, Obama took several law enforcement measures related to different immigration sectors, such as border patrol, interior and worksite enforcement, and local enforcement.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

The Obama administration exceeded the previous administrations in terms of the devoted resources to border enforcement. Obama stated that the bills matched the focus of his framework regarding securing the southwest border. He expressed his willingness to devote "unprecedented resources and personnel" to protect the U.S. border from transnational criminal organizations, especially across the U.S.-Mexico border (Lee, 2010). Indeed, President Obama devoted more resources toward border security than any of the previous administrations.

During his first two years in office, Obama doubled the number of agents on border patrol from 10,000 in 2004 to 20,700 in 2010. Concerned more with the southern borders, ICE placed nearly a quarter of its federal agents on the southwest border to ensure effective investigation (The Obama White House, 2011). Furthermore, DHS covered the southwest border with new technology devices, such as thermal camera systems, mobile surveillance systems, and remote video surveillance systems, to provide aerial surveillance assistance to personnel on the ground. Besides, the Obama administration made efforts along the northern border, with more than 2,200 agents placed along the north border (The Obama White House, 2011).

Concerning border fencing, Obama adopted different positions and was unstable in his opinion. As a senator, Obama voted in favor of the 2005 Secure Fence Act. His view changed during the 2008 Presidential Camp, as he began to question the necessity of the fences along the U.S.-Mexico border. Obama expressed great concern about the impact of fencing on the environment and local communities. Once in office, Obama reaffirmed his support for fences, with continuous fence construction (Reese, 2009). In effect, the Obama administration expanded the Bush-era initiatives regarding interior and border enforcement policies (Hernández, 2010). Once in office, President Obama passed different laws providing appropriations for border fencing (The Obama White House, 2011). Similar to the previous administration, the primary move was to enhance border enforcement by increasing the number of officers on the border and building more fencing (Skrentny and López, 2013). DHS almost completed the planned 652 miles by constructing 649 miles of fencing, with additional plans to accomplish the remaining 3 miles (The Obama White House, 2011).

The Obama administration made also efforts along the northern border, with more than 2,200 agents placed on the northern borders. To ensure full management, the administration provided funding to the DHS with its various agencies to deploy new technology, such as thermal camera systems, mobile surveillance systems, and remote video surveillance systems

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

(The Obama White House, 2011). However, the Obama administration was much concerned with the southern borders. Despite dedicated efforts, it received criticism regarding the incomplete goals.

Obama continued his efforts regarding border security. From 2009 to 2016, the Obama administration devoted a large share of expenditures and personnel for border patrol, exceeding the previous efforts. During his last year in office, President Bush appropriated \$ 9,285,001,000 and \$ 2,245,261,000 for U.S. Customs and Border Protection and U.S. Border Patrol (USBP). In his first year in office, President Obama spent more expenditures with \$11, 250,652,000 for USCBP and \$ 2,656,055,000 for USBP. The administration continued to supply border patrol, appropriating \$13,565,294,000 and \$ 3,642,820,000 in FY 2016 for USCBP and USBP (See Table N° 4).

Table 4: CBP Budget and U.S. Border Patrol Budget and Agents by Fiscal Year

	<i>CBP Budget</i>	<i>USBP Budget</i>	<i>USBP Agents</i>
2001		1,146,463,000	9,821
2002		1,416,251,000	10,045
2003	5,887,000,000	1,515,080,000	10,717
2004	5,942,000,000	1,409,480,000	10,819
2005	6,344,398,000	1,524,960,000	11,264
2006	7,113,495,000	2,115,268,000	12,349
2007	7,746,259,000	2,277,510,000	14,923
2008	9,285,001,000	2,245,261,000	17,499
2009	11,250,652,000	2,656,055,000	20,119
2010	11,449,283,000	2,958,108,000	20,558
2011	11,245,410,000	3,549,295,000	21,444
2012	11,781,438,000	3,530,994,000	21,394
2013	11,736,990,000	3,466,880,000	21,391
2014	12,463,893,000	3,634,855,000	20,863
2015	12,804,651,000	3,797,821,000	20,273
2016	13,565,294,000	3,642,820,000	19,828

Source: U.S. Customs and Border Protection. (2016). *Performance and Accountability Report: Fiscal Year 2016*.

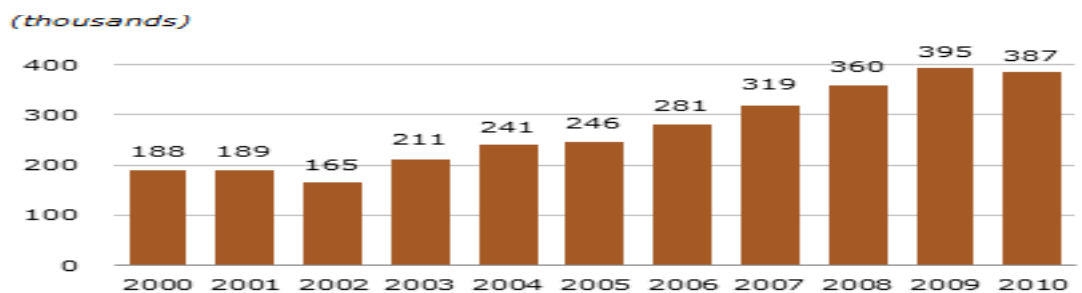
Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

The House of Representatives shared the same stance as President Obama, prioritizing border security over other immigration provisions. Immediately after his inauguration, President Obama began to receive proposals related to border patrol from both Democrat and Republican Representatives. Among the five legislations on border security, four were passed in the first tenure of President Obama, emphasizing the administration's focus on border security as a preliminary step to comprehensive immigration reform. However, in the second tenure, attention to border security diminished with only one legislation passed.

In a similar vein, the Obama administration devoted much effort to ensure effective implementation of interior enforcement. It passed several laws aimed at providing supplemental appropriations for ICE, the DHS immigration agency responsible for apprehending, detaining, and deporting aliens subject to removal in the interior of the U.S. Among those laws were the American Recovery and Reinvestment Act of 2009, the Supplemental Appropriations Act of 2009, and the Department of Homeland Security Appropriations Act of 2010.

Deportation during the Obama administration had two differing features. While it expanded the previous administrations' removal process, it established a new deportation system based on prioritized categories. The administration continued in deporting large numbers of illegal aliens, exceeding the previous rates. In 2000-2007, the number of immigrant removals ranged between 188,000 and 319,000. During his first year in office, Obama deported nearly 400,000 (See Figure 12).

Figure 12: Removals, Fiscal Years 2000-2010



Notes: Removals are the compulsory and confirmed movement of an inadmissible or deportable alien out of the United States based on an order of removal. An alien who is removed has administrative or criminal consequences placed on subsequent reentry.

Source: Pew Research Center. (2011, December 28). *As Deportations Rise to Record Levels, Most Latinos Oppose Obama's Policy*. Retrieved from Pew Research Center: <https://www.pewresearch.org/hispanic/2011/12/28/as-deportations-rise-to-record-levels-most-latinos-oppose-obamas-policy/>

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Unlike the previous internal enforcement, ICE set specific priorities for the deportation process. The agency set three priority enforcement categories, including immigrants with serious criminal records, recent illegal entrants, and those who ignored their removal orders. During a delivered speech in Texas, Obama made it clear that the deportation process was not haphazard. Given the scarce enforcement resources, Obama distinguished between the undeserving undocumented aliens and those deserving of legalization by targeting previously convicted aliens (The White House: Office of the Press Secretary, 2011). As of August 2010, ICE developed a guide containing civil enforcement priorities based on removing individuals who posed a threat to national security or public safety. Deportation witnessed an increase of 70 percent of aliens with criminal records in 2010 compared to 2008 (The Obama White House, 2011).

Given the huge number of illegal immigrants, ICE cooperated with state and local law enforcement agencies to identify and apprehend aliens subject to removal. The Obama administration sought assistance from local agencies to ensure full implementation of its new immigration reforms. To achieve that, Napolitano modified several local enforcement programs, including Section 287 (g), the Criminal Alien Program, and the Secure Communities program.

Introduced by the Illegal Immigration Reform and Immigrant Responsibility Act (1996), the local enforcement program known as 287 (g) was adopted by several administrations, including the Bush administration. Provision 287 (g) received increasing controversy regarding its ethnic profiling nature, ineffectiveness, and increased levels of abuse of power by many local agencies (Archibold, 2009). Obama readopted the program, however, with a new focus. The new revised version prioritized immigrants with criminal records (Hernández, 2010).

Being one of the most criticized areas, Maricopa County in Arizona witnessed one of Obama's noteworthy changes regarding its 287 (g) memorandum. Given his bad reputation, Maricopa County's sheriff, Joe Arpaio, was repeatedly accused of racist abuses of authority, leading to increased levels of racial profiling (Shahani & Greene, 2009). In response, Obama introduced a new agreement based on restricting Maricopa County to immigration checks in its jails by prohibiting arrests of immigrants in the field.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

The Obama administration revised other local enforcement programs, including the Criminal Alien Program (CAP) and Secure Communities (SCOMM). The former aimed at placing ICE officials in local jails to ensure the deportation of undocumented immigrants with dangerous criminal records first. With only 13.8 percent of prison facilities covered in 2009, the Obama administration planned to extend CAP to reach a 100 percent coverage (Shahani & Greene, 2009). Following the same pattern, Obama intended to widen the use of SCOMM. Initiated first by the Bush administration, SCOMM allowed ICE agents to electronically check detainees' immigration status to determine whether to pursue an immigration investigation (Manuel, 2015). Given its intention to expand the program to a 100 percent coverage, SCOMM expanded rapidly during the Obama administration (Hsu, 2009).

Being a direct consequence of deportation, captured immigrants had to go through detention, which was among the several reforms of the Obama administration. As of August 2009, DHS expressed its intention to create a "truly civil detention system" instead of "patchwork of jail and prison cells" (Bernstein, 2009). The revamped system aimed at ensuring a more favorable environment and treatment to immigration detainees, taking into account the health and safety of detainees.

The Obama administration initiated new detention facilities, programs, and standards to ensure more effective protection. The first step involved reviewing the federal government's contracts with more than 350 local jails and private prisons. The Director of ICE, John Morton, stated, "We're trying to move away from 'one size fits all'" (Bernstein, 2009). The Obama administration replaced Hutto, a 512-bed detention center run by the previous administration, with three new family detention centers. Besides, Morton announced the creation of a new Office of Detention Policy and Planning headed by Dora Schriro. The agency was responsible for reviewing detention policies and practices and overseeing health care for detainees (Bernstein, 2009). In terms of administrative reforms, the Obama administration issued the Office of Detention Oversight, an agency responsible for investigating detainee grievances. Also, it created the Online Detainee Locator System, an online system that allowed families and lawyers to locate individuals under DHS custody (The Obama White House, 2011).

Unlike the previous administrations, the Obama administration sought a more systematic approach concerning worksite enforcement. In this regard, the former head of the Immigration and Naturalization Service, Doris Meissner, criticized the Bush worksite enforcement for its random nature. Meissner argued that the program resulted in the

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

indiscriminate arrests of noncriminal immigrants (Gorman, *Obama Sets the Priorities on Immigration*, 2009). On the other hand, Obama followed a different strategy. He focused on employers of immigrants rather than immigrant employees, explained Janet Napolitano (Bacon & Hing, 2010). Obama relied on employer sanctions passed by IRCA in 1986 as a deterrent (Bacon & Hing, 2010, p. 84). IRCA was the first statutory law to make hiring undocumented workers illegal (Krikorian, 2010).

The President argued that his use of employer sanctions aimed at capturing employers who took advantage of those undocumented aliens to cut wages and frequently mistreated them (Brandon, 2009). More crucially, according to Mark Krikorian, the executive director of the Center for Immigration Studies, the suspension of worksite raids helped illegal aliens to keep their jobs without the fear of being arrested (Krikorian, 2010). The number of undocumented aliens deported under Obama's approach of employer sanctions, known as silent raids, was considerably lower than that of the Bush's ICE raid, with only 765 undocumented workers deported in 2010 compared to 5,100 in 2008 (Bacon & Hing, 2010).

2.5. The Outcomes of Obama's Immigration Enforcement

The immigration enforcement strategies followed by the Obama administration resulted in undue harm to different immigrant groups. Concerning detention, the American Civil Liberties Union lawyer, Vanita Gupta, praised the suspension of the Hutto family detention center. However, she claimed that: "without independently enforceable standards, a reduction in beds, or basic due process before people are locked up, it is hard to see how the government's proposed overhaul of the immigration detention system is anything other than a reorganization or renaming of what was in place before" (Bernstein, 2009). Vanita expressed concerns over Obama's commitment to review the detention system. Instead of establishing new detention facilities, reforms should have included new detention measures, such as reducing the number of detained families and reviewing detention procedures.

Most crucially, with proposed plans to expand the infrastructure of immigrant detention, the number of detainees was more likely to increase. Napolitano confirmed that, stating: "We accept that we are going to continue and increase, potentially, the number of detainees" (Hernández, 2010, p. 34). According to Karen Tumlin of the National Immigration Law Center, the growing number of detainees would exacerbate conditions of incarceration, leading to severe problems with federal oversight, detention standards, and poor health conditions (Gorman, *Immigration Detention Centers Fails to Meet Standards, Report Says*, 2009).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Another controversial measure included Obama's local enforcement regularities, including Section 287 (g). While Obama intended to reduce racial profiling, the new procedure proved to be ineffective, as the racial profiling rate did not decrease. For example, in Irving, Texas, although the rate of Latin crimes did not increase, the share of Hispanic detentions raised to 150 percent (Bacon & Hing, 2010). Similar to 287 (g), both CAP and SCOMM failed to meet their goal based on deporting the most dangerous criminal aliens.

According to the Boalt Law School's Warren Institute, only two percent of deported aliens were convicted of a felony. The remaining 98 percent were charged with misdemeanors (Gardner, 2009). Consequently, both programs met increased opposition among immigrant advocates, who claimed that the measures adversely affected immigrants. "Many, many legal immigrants are going to be pulled into this net even for minor violations that they're booked for -traffic violations, drunk driving, whatever- and after they've lived here 10 or 20 years, they're going to be deported," argued analyst Tom Barry (Hsu, 2009). Rather than targeting immigrants with serious criminal records, those local enforcement programs resulted in massive deportations of thousands of immigrants, notably Latinos.

In terms of employer sanctions, although the plan targeted employers who hired undocumented workers, aliens were the most affected by the measure. While the previous administrations' immigration raid strategy led to the deportation of thousands of undocumented workers, Obama's employer-focused approach ended up with the firing of thousands of undocumented workers. The notion behind Obama's strategy was to push those aliens into self-deportation with strict opportunities to find a job (Bacon & Hing, 2010). However, the majority of those illegal aliens refused to leave the U.S. and became more desperate to find a job regardless of the amount of wage (Preston, 2010).

Employers benefitted most from the Obama audits strategy, with an overall reduction in the average wage (Bacon & Hing, 2010). According to undocumented workers, the audits were harsher than the previous measure of the Bush administration, leading to the firing of thousands of immigrant workers. For instance, in Los Angeles, about 1,800 immigrant employees lost their jobs following the warning of Mayor Antonio Villaraigosa. Ana Contreras, an undocumented immigrant from Mexico who used to work at American Apparel, one of the largest clothing makers, expressed her anger towards Obama, accusing him of the devastating situation that most undocumented workers faced. "This is worse than an immigration raid. They want to keep us from working at all," she argued (Bacon & Hing, 2010, p. 79). While previous

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

strategies led to the deportation of thousands of undocumented workers, the silent raid strategy of Obama expelled thousands of immigrant workers.

2.6.Obama's Non-executive Actions on Immigration

The prioritization of immigration enforcement resulted in growing concerns among immigrant advocates. According to immigrant proponent Representative Luis Gutiérrez, President Obama should have put immigration reform at the forefront of his agenda, as he promised (National Public Radio, 2009). Despite growing scepticism on Obama's pro-immigrant position, his administration conducted considerable efforts to pass legislation in favor of immigrants, especially Latinos, as they played a significant role in the election of Obama. Besides his enforcement measures, Obama stressed his commitment to passing a comprehensive immigration reform aimed at finding an effective way to legalize the status of undocumented immigrants, particularly the working and young categories.

Among the most debatable relief programs was the DREAM Act. Both the House of Representatives and the Senate introduced several proposals aimed at providing some immigrant groups with an opportunity to adjust their legal status. To benefit from the program, aliens had to meet some criteria. Except for a few differences, the provisions agreed on the same requirements. During the 111th Congress, many proposals were introduced. However, no provision succeeded in passing into law.

Representative Howard L. Berman was the first to propose a provision. On March 26, 2009, Berman introduced the American Dream Act (H.R. 1751). The act provided aliens with conditional permanent resident status under some requirements, including being present in the U.S. before the age of 16 and having a good moral character. Besides, the alien should not be inadmissible or deportable and should be admitted to an institution of higher education or have an equivalent diploma (Berman, 2009).

The House of Representatives introduced other bills, including H.R. 6327 and H.R. 6497. On September 29, 2010, Rep. Charles K. Djou proposed the Dream Act of 2010 (H.R. 6327). The act set the same criteria as the American Dream Act as a mandatory condition for some undocumented aliens to adjust their legal status (Djou, 2010). As of H.R. 6497, the act was introduced on December 7, 2010, by Rep. Howard L. Berman. Known also as the Development, Relief, and Education for Alien Minors Act, the proposal authorized the Secretary of Homeland Security to cancel the removal and adjust the status of particular

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

immigrant categories under specific criteria. Other than the previous requirements, H.R. 6497 set three new conditions, including to have not participated in the persecution of a person based on race, religion, nationality, or membership in a specific social group or political opinion, and not to be convicted of an offense under a federal or state law. Besides, the alien should be under the age of 30 the day of the enactment of the act (Berman, 2010).

Concerning the Senate, Sen. Richard J. Durbin made several attempts to pass the Dream Act. The Senator proposed three bills, including S. 729 and S. 3962; introduced on March 26, 2009 and November 17, 2010, respectively. Both proposals set the same conditions presented by the House of Representatives as a mandatory step to adjust the legal status of some immigrant categories (Durbin, 2009; Durbin, 2010).

President Obama was among the Dream Act sponsors, arguing that potential beneficiaries would contribute positively to U.S. development. According to Luis Miranda, the communications advisor to President Barack, the Dream Act would help the U.S. gain productive individuals who would help the U.S. ensure economic prosperity and security certainty. In addition to providing the U.S. military force with supplemental recruitments, the legislation would help DHS focus its enforcement efforts on aliens most deserved of detention and deportation. Besides, beneficiary students would participate in the U.S. taxable income with about \$ 1.4 to \$ 3.6 trillion (Miranda, 2010).

The bill would have authorized thousands of illegal immigrant workers and youths. However, it received strong criticism from Republicans that caused the bill to fail. Opponents assumed that it was an amnesty to violators and would eventually lead to another generation of illegal immigrants (Preston, 2010). The bill, with its different versions, failed to win the Senate majority vote (Skrentny & López, 2013).

Given the increased difficulties in obtaining legislative support to CIR, especially following the seating of a Republican-dominated House in January 2011 (Hulse, 2011), the Obama administration relied on administrative means to achieve its immigration purposes. Matthew Crenson and Benjamin Ginsburg argued that as of the second half of the twentieth century, presidents had additional power over the political system, including the immigration sector (Crenson & Ginsberg, 2007). The power revolved around exercising discretion to provide benefits and protections to certain individuals and groups from removal through deferred action (Venison, Bacon, Rogers, & Neufeld, 2010).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Unable to win congressional approval, the Obama administration issued a set of memoranda and actions allowing federal agencies to derogate from some enforcement immigration laws. The provisions allowed for the use of prosecutorial discretion providing relief to some immigrant individuals with particular criteria. The Obama administration sought reconciliation with immigrant groups and advocates, who blamed the White House for not spending enough effort to adjust the legal status of the unauthorized population.

In this regard, Obama relied on his executive authority to derogate from some enforcement measures, granting particular immigrant categories temporary relief. In the form of a memorandum, John Morton, the Director of ICE, issued the first initiative on March 2, 2011. Morton stressed the limited enforcement resources of ICE, claiming that the agency could remove only 400,000 aliens per year; less than 4 percent of the whole unauthorized population present in the U.S. Hence, setting enforcement priorities raised as the most effective solution. The memorandum placed aliens who posed a danger to the U.S. national security or a risk to public safety as the highest enforcement priority, including aliens suspected of terrorism or convicted of a crime. Besides, it considered recent illegal entrants and fugitive aliens as lower enforcement priorities (Morton, *Civil Enforcement Action: Priorities for the Apprehension, Detention, and Removal of Aliens*, 2011).

On June 17, 2011, DHS issued another memorandum aimed at extending prosecutorial discretion to other immigrant categories. The provision allowed ICE officers, agents, and attorneys not to enforce federal immigration laws related to apprehending, detaining, and removing unauthorized aliens according to specific factors. Given ICE's limited resources and personnel, the agency had to set priorities targeting the most dangerous aliens. Aliens with specific criteria were exempted from removal procedures, notably those who served in the U.S. armed forces, who had long been in the U.S. as LPRs, and who were brought to the U.S. as children. Pregnant or nursing women, victims of violence and crimes, and individuals with severe mental or physical disability or illness were also considered low priority cases eligible for prosecutorial discretion (Morton, *Exercising Prosecutorial Discretion Consistent with Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens*, 2011).

Interested in their voting-age feature, Obama used his executive authority to legislate another provision that would help those illegal relatives adjust their status in a shorter period. Before 1996, it was relatively easy for unauthorized aliens, including spouses and children of

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

an American citizen, to adjust their legal status. Following the passage of IIRAIRA, the adjustment process became much more difficult. Under the new provision, those undocumented aliens had to comply with two main changes (Venison, Bacon, Rogers, & Neufeld, 2010). First, to benefit from a waiver, the unauthorized alien had to prove that his/her U.S. citizen relative would face extreme hardship as a result of the deportation process (Preston, Tweak in Rule to Ease a Path to Green Card, 2012).

The waiver allowed the alien to override the second measure, which was an automatic bar to re-entry to the U.S. The bar period varied according to the duration of the alien's illegal stay in the United States; with a three-year bar for those who remained in the U.S. from 6 months to a year, and a ten-year bar for an illegal stay of more than one year (Skrentny & López, 2013). In case the unauthorized relative failed to obtain the waiver, he/she was required to leave the U.S. for three or ten years before being able to legalize his/her immigration status and re-enter the U.S. (Preston, Tweak in Rule to Ease a Path to Green Card, 2012).

Since IIRAIRA did not present any particular definition for extreme hardship to the citizen relative, legal institutions based their decisions on a set of relevant factors. The factors included "citizen family ties to the U.S.; citizen ties (or lack thereof) to family outside of the U.S.; the conditions of the country to which the American citizen would relocate; the financial impact of departure; and significant health conditions of the citizen that could not be addressed properly in the country of relocation" (Skrentny & López, 2013, p. 71). Overall, the waiver was based on family relationships, political status, and economic and health conditions that would cause harm to the U.S. citizen.

If the illegal relative succeeded in obtaining the provisional waiver, he could adjust his immigration status and apply for permanent legal residence. But first, he had to attend a visa interview in his country of origin. However, many unauthorized aliens were worried about the re-entry bar. If the alien failed to obtain the visa, he had to wait the whole bar period until he could submit a new application for a U.S. visa. Consequently, many illegal aliens preferred to stay illegally in the United States over the risk of removal (Skrentny & López, 2013).

On March 30, 2012, the USCIS introduced a rule change aimed at reducing separation time for illegal relatives of U.S. citizens. Aliens were obliged to pass an immigrant visa interview abroad before being able to obtain the lawful permanent resident of the United States. However, the new rule allowed unlawful relatives to apply for a provisional waiver before

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

leaving the United States for their visa interviews, which would decrease separation time by months or years (U.S. Citizenship and Immigration Services (USCIS), 2012).

Regarding the previously failed Dream Act, many immigrant advocates continued to press the necessity of finding a way to allow those Dreamers to stay and work legally in the United States (Jordan, *Anatomy of a Deferred-Action Dream: How Undocumented Youth Brought Their Cause to the Country*, 2012). In response to the escalated debate over the Dreamers issue, the Obama administration issued one of the most critical executive actions, the Deferred Action for Childhood Arrivals (DACA). Passed on June 15, 2012, the new policy targeted a specific category of illegal aliens, including those aged 31 years old or less and who had not left the U.S. during the last five years. Also, they had to be at most 16 years old the first time they entered the U.S. More importantly, to benefit from the provision, illegal aliens had to obtain a high school diploma or attain a military institution and were not convicted of a crime. DACA-eligible aliens would benefit from a two-year reprieve from removal and authorization to study and work in the U.S. legally (U.S. Department of Homeland Security, 2012). DACA set the same Dream Act criteria that previously failed as an initial step to cancel the removal and adjust the beneficiaries' status.

Of the 11 million unauthorized immigrants in the U.S., 1.1 million were eligible for DACA. Almost 790,000 applied for the provision and received work permits and protection from removal (Krogstad, 2017). Despite the limited number of beneficiaries, DACA caused much criticism, mainly from right-wing groups and the Republican Party, claiming that "We probably shouldn't reward the children for the sins of the parents" (Wang, 2013). Republican opponents accused the Obama administration of using DACA as an amnesty program to win Latin support (Dade, 2012).

DACA was subject to several attempts aimed at dismantling the provision. In 2013, Representative Steve King, a DACA opponent, introduced an amendment to the DHS Appropriations Bill that aimed at cutting funding for the program. Hostility toward DACA escalated in several states. For instance, following the DACA issuance, a lawsuit brought forward in Texas accused the Obama administration of violating the law (Taurel, 2013). Other states, including Michigan, Nebraska, Arizona, and Iowa, denied driver's licenses to young illegal immigrants eligible for DACA (Dade, 2012).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Despite the great challenge that DACA faced, it helped the Obama administration calm down immigrant activists (Skrentny and López, 2013). It afforded thousands of undocumented young immigrants the possibility to adjust their status, allowing them to pursue their education and legally earn their living. USCIS reported that from August 2012 to June 30, 2013, 537,662 aliens applied for DACA. Of these, about 75 percent (400,562) were approved (USCIS Office of Performance and Quality (OPQ), 2013). Another 21 percent (423,000) were more likely to become eligible for DACA once they attended an educational institution, a training, or a career program (Batalova & McHugh, 2010). In contrast, only 1% of the applications were rejected (USCIS Office of Performance and Quality (OPQ), 2013).

Positive attitudes toward DACA existed from the first year of its issuance, with approximately 274,015 submitted and 30,000 approved applications. Latinos, including Mexicans who accounted for 59 percent of the 1.09 million eligible youth (Batalova & McHugh, 2010), considered the DACA initiative as strong evidence of President Obama's willingness to implement immigration reform (Skrentny & López, 2013). According to Gary Segura, a co-founder of the polling firm Latino Decisions, Obama's new policy helped him win more electoral votes in key election states where Latinos were more concentrated, including Nevada, Colorado, and Florida (Samuelsohn & Dovere, 2012).

To attain a compromise between Democratic immigrant advocates and Republican immigrant opponents, President Obama combined immigration enforcement measures with relief programs. Obama devoted his first year in office to passing immigration enforcement measures towards particular categories, specifically convicted and dangerous aliens and recent entrants. The move caused much controversy among the unauthorized immigrant population, who had considered Barack Obama as their only hope to adjust their legal status. Given their significant electoral share, the Democratic President issued several executive actions derogating from some immigration enforcement laws. Obama's decisions granted temporary relief to thousands of unauthorized young aliens.

Obama relied on his executive authority to overcome successive failures at the U.S. Congress to pass comprehensive immigration reform. Nevertheless, the debate over the immigration issue continued. President Obama found himself trapped between immigrant opponents who asked for stricter enforcement measures and immigrant advocates who considered the relief programs inadequate. More crucially, the 44th President of the United States raised several questions over the constitutionality of his nonenforcement decisions.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

The U.S. government relies on the notion of separate powers to ensure the full protection of its citizens against any tyranny. The U.S. Constitution provides for the foundation of three departments for each, with Congress holding the legislative power, the President with the executive power, and the U.S. courts under the supervision of the Supreme Court are responsible for the judicial power (Fairlie, 1923). Each branch covers a specific area of authority. While "the judicial branch has the strongest inherent advantage of discerning and describing constitutional rights of individuals" (Campbell, 2004, p. 2), by interpreting the laws passed by the legislative branch, the executive branch is responsible for implementing the established law. Both the judicial and the executive branches are required to maintain full law enforcement.

According to the U.S. primary law, the president's main responsibility is to enforce the law. As declared in Article II, Section Three of the U.S. Constitution, the President "shall take Care that the Laws be faithfully executed" (*Article II section 3: Constitution Annotated: CONGRESS.GOV: Library of Congress*). Besides, the Presidential Oath Clause confirms the president's duty to ensure full compliance with the law. Every president is required to keep the following oath: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States" (*Oath of OFFICE: Constitution Annotated: CONGRESS.GOV: Library of Congress*). Thus, the president's inherent duty is to ensure full enforcement of the law and make sure that everyone respects the established law.

However, the executive branch raised several debates, ranging between promoting its authority for the common good and limiting its strength to avoid any abuse of power. The Supreme Court received many cases concerning the respective powers of Congress and the President (Entin, 1990). Some lawmakers argued that "the legislative branch is the master of words. It can write the laws. It can amend them to deal with subsequent developments not originally foreseen" (Campbell, 2004, p. 23). Conversely, others, including Machiavelli and John Locke, emphasized that the executive power had the authority to violate statutory law under certain circumstances, such as compelling public necessity (Delahunty & Yoo, 2013).

Early American courts and commentators on the Constitution agreed that the president's constitutional duty stood as an impediment to the broad power of prosecutorial discretion since it explicitly ordered the president to put the laws into effect regardless of any circumstance or

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

political position. The U.S. Constitution prevented the president from any derogation from the full enforcement of laws.

According to Locke, society needed "a power always in being which should see to the execution of the laws that are made and remain in force" (Locke, 1727, p. 199). Hence, he insisted on the creation of an executive body responsible for implementing the rules since the legislative body could not always remain in session. Locke prescribed additional authority to the executive branch, including the power to call or dissolve parliament, the right of veto. Besides, it had the federal authority in times of war and peace, leagues and alliances, and all the transactions with all individuals and communities without the commonwealth (Locke, 1727). The authority was derived from the ability of the Executive power to respond quickly and adapt to emergencies. Nevertheless, the prerogative had to be limited to specific circumstances.

While administrative means helped Obama regain the support of immigrant advocates, they caused him intense criticism among restrictionists. Obama's use of discretionary power to non-enforce some immigration laws raised considerable debate among legislators and anti-immigrants, claiming that the undertaken measures were illegal. With approximately 1.8 million eligible aliens, among the most questionable one was DACA. More relevant, the Court repeatedly recognized congressional power over immigration, with only a few presidential inherent authorities over immigration, that had to be based on particular grounds (Delahunty & Yoo, 2013). While violating the law raised no question in terms of its illegality, the act could be justified under certain legal defences. In other words, a breach of duty might be warranted by its role in discharging a more important duty (Delahunty & Yoo, 2013).

Locke introduced two forms of presidential prerogative. The first was known as *law-supplementing*, in which the president could use the prerogative to take discretionary actions to ensure public safety in the absence of a legislative resolution. More challenging, under the second form identified as *law-violative*, the president might also exercise discretionary actions that violated established laws in case of an emergency for the sake of public good (Mattie, 2005). While the first form did not create much controversy in U.S. constitutional practice, the second form was generating increasing debate, particularly following Obama's DACA nonenforcement decision.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

In terms of law-supplementing, an analysis conducted by Robert J. Delahunty and John C. Yoo concluded that the June 15 nonenforcement decision was not a valid exercise of a prerogative authority, as it did not match any of the prerogative forms. Concerning the law supplementing facet, Congress repeatedly discussed the removal of illegal aliens, particularly the DREAMers category, which meant that there was no legal vacuum to be filled.

Concerning law-violative, the president could justify his nonexecution on several variations. Among the most commonly recognized and accepted defences was the unconstitutionality of a congressional act. Given his primary duty to obey the Constitution, the president could argue that enforcing a congressional law that contradicted the Constitution would be a conflicting act since he was fundamentally bound to fulfil the highest and most important duty, namely the Constitution (Delahunty & Yoo, 2013). In this regard, legislators sought to determine what type of laws the president is bound to follow. Above all, the president had to obey the Constitution. Consequently, he did not have a duty to enforce statutory law or treaty provisions that were unconstitutional (Delahunty & Yoo, 2013). American legal scholar Akhil Amar argued that the president could firmly reject congressional statutes he reasonably considered to be unconstitutional (Amar, 2006).

Among the most contentious subjects was whether Obama's use of discretionary power as a prerogative in certain immigration matters belonged to those emergencies. Several U.S. presidents, such as Thomas Jefferson and Abraham Lincoln, had previously exercised their prerogative status to breach certain statutory laws. However, Obama's nonenforcement immigration measures raised considerable debate. Though many lawmakers supported the presidential prerogative, they claimed that Obama's immigration decisions did not contain any of the emergency features allowing for law violations.

The situation under which the Obama administration nonenforced the statutory law was unlikely to contain any urgent feature that would require violating the law (Delahunty & Yoo, 2013). Both attorneys Robert J. Delahunty and John C. Yoo supported the dimension of presidential authority over foreign affairs and national security. Nevertheless, they believed that Obama's nonenforcement immigration decisions did not fall under this presidential prerogative (2013).

As for foreign policy, the Supreme Court ruled in *Arizona v. United States* that in case of foreign policy exigency, the president was allowed to make non-executive discretionary

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

decisions regarding immigration matters. The executive branch might rule to non-enforce a removal decision due to the foreign policy of the destination country. In case the removal process would pose a real risk to the alien and his family, or his country was in a civil war or was complicit in political persecution, the process was considered inappropriate. Given the importance of the U.S. dynamic relation with other countries, the executive branch had to take into consideration every circumstance while enforcing the laws to ensure they were consistent with the countries' foreign policy (*Arizona v. United States*, 2012).

Simultaneously, the Court touched upon the significance of protecting American nationals and interests abroad. Among the central constitutional duties of the executive authority is to guarantee the safety of American citizens inside the U.S. and abroad alike. The U.S. foreign policy is associated with various sectors, including trade, investment, tourism, and diplomatic relations. Given the impact of immigration policy on these sectors, anticipated mistreatment of foreigners in the U.S. may ultimately result in reciprocal treatment that is detrimental to American citizens and interests abroad (*Arizona v. United States*, 2012).

The executive branch possessed the authority to discard some immigration laws if they overlapped with the President's discharge of another constitutional responsibility concerning foreign affairs and national security matters. Nonetheless, the Obama administration did not provide any evidence that its non-enforcement immigration decisions were due to foreign policy or national security considerations. Deporting the DREAMers would not undermine the U.S. foreign relations with Mexico, as the process targeted all illegal aliens regardless of their national origins (Delahunty & Yoo, 2013). Besides, the deportation procedure did not raise any concern among any foreign country, and no international agreement embodied the non-enforcement policy. Thus, the situation posed no threat to American citizens or interests abroad that would require presidential intervention (Delahunty & Yoo, 2013).

Another dimension of defence was based on equitable considerations related to an individual case. Concerned more with immigration cases, in *Arizona v. the United States*, the Court recognized the relevance of immediate human concerns in the discretion related to the enforcement of immigration law. By extension, discretionary decisions might involve an unauthorized worker with no criminal records, who had children born in the United States, long ties to the community, or served in the U.S. military. The unauthorized alien might benefit from equitable exceptions of an individual case, as he did not pose a threat as alien smugglers or aliens convicted of an aggravated felony (*Arizona v. United States*, 2012).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Discretionary decisions of individual cases were based on various grounds, including statutory laws and treaties. In terms of statutory law, Section 240 (A) of the INA provided the Attorney General the discretionary authority to grant some individuals enforcement relief. The unauthorized alien could benefit from the cancellation of removal under certain conditions (Brady, 2020). As for treaties, the U.S. signed several treaties that provided for the exercise of “equity,” such as the Refugee Convention. In a separate opinion, according to Article II of the Constitution, the president was mandated to apply the law equitably, except for certain criminal cases as issued in the Pardon Clause (*Article II Section 2: Constitution Annotated: CONGRESS.GOV: Library of Congress*). In this respect, the Court based its decision on statutory laws and treaties rather than the Constitution.

Both of the American legal scholars Robert J. Delahunty and John Yoo considered the Court’s decision as a breach of duty. However, it was venial and tolerable as it affected an individual case. Halting the deportation of one individual would have a minimal adverse effect on the equitable considerations regarding congressional policy (2013). Hiroshi Motomura considered a limited case with a narrow application insignificant as to stir policy debate. By comparison, the DACA provision touched up to 1.76 million people. In such a situation, discretion was more related to making law than to granting equity (Motomura, 2008).

Aimed at preventing bias and arbitrariness, the law applied the same provisions to every case. However, every rule has an exception. Equity was among the exceptions, during which the law could not be applied due to unforeseen circumstances. Excessive use of the discretionary system, though, would lead to increased ambiguity among citizens (Delahunty & Yoo, 2013). In that respect, the DHS Administrative Alternatives to Comprehensive Immigration Reform declared that: "In the absence of Comprehensive Immigration Reform, USCIS can extend benefits and/or protections to many individuals and groups by issuing new guidance and regulations, exercising discretion with regard to parole-in-place, deferred action and the issuance of Notices to Appear, and adopting significant process improvements" (Venison, Bacon, Rogers, & Neufeld, 2010). The memo stressed the importance of determining the number of beneficiaries, arguing that, though theoretically speaking it was possible to grant deferred action to an unlimited number of unauthorized aliens present in the U.S., the process would be highly controversial, as well as costly (Venison, Bacon, Rogers, & Neufeld, 2010).

The 15 June nonenforcement decision was as a statement of the law, rather than an exceptional case that required correcting the legal rule to suit particular features. Obama’s

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

decision was not concerned with one individual evaluated under specific merits. However, it targeted every individual of 1.76 million people. Concerning its generality, some lawmakers argued that the decision was not concerned with correcting a legal rule but rather with making a new one (Delahunty & Yoo, 2013).

Resource constraints were another aspect the President could rely on to defend against a breach of duty. The defence allowed him to place the entire accountability on Congress. To elucidate, Justice Brandeis argued that adequate means were central to secure faithful execution of the law. In case Congress denied appropriate resources, the President could not ensure full law enforcement. Particularly, Congress was required to provide the President with several indispensable means, including offices, appropriations, and qualified officials. If the executive branch did not have access to one of those means, it would fail to fully execute the law (*Myers v. the United States*, 272 U.S. 52 (1926)).

Regarding immigration enforcement measures, ICE suffered from limited resources (Delahunty & Yoo, 2013). To overcome the shortage, ICE relied on the notion of enforcement priorities. The Obama administration prioritized the removal of aliens convicted of an aggravated felony over those with no or minor criminal records (Jones-Correa, 2012). Accordingly, ICE devoted limited resources to other enforcement measures, including worksite enforcement and the prosecution of immigration law violators (Associated Press, 2012). Concerning fiscal constraints, the Obama administration's strategy was unlikely to receive any opposition in terms of its reasonable or constitutional status (Delahunty & Yoo, 2013).

President Obama relied on resource constraints to defend the DACA program, claiming that "in the absence of any action from Congress to fix our broken immigration system, what DHS took steps to do is focus immigration enforcement resources in the right places" (Obama, Exclusive: A Nation of Laws and a Nation of Immigrants, 2012). However, his argument sparked considerable debate, with many questioning its reliability. Both immigration policy advisers and strategists argued that a DREAMers-directed deferred action program would highly be controversial, not to mention expensive (Venison, Bacon, Rogers, & Neufeld, 2010).

The June 15 nonenforcement decision lacked clarity. Though the administration claimed that the nonenforcement decision would be cost-savings, it did not provide any well-detailed statistics on how much it would save. Besides, assuming that the decision would result in cost-benefits, the administration did not state whether it would use those resources to enforce other

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

higher priority enforcement activities. More controversial, the decision proved costly, not cost-saving (Delahunty & Yoo, 2013). Miriam Jordan, an immigration correspondent, revealed in *Immigration-Policy Details Emerge* that the DHS anticipated to hire 1,400 new full-time workers, not to mention contract labor, to process the expected 3,000 applications per day (Jordan, 2012).

Concerning the constitutional duty stated by the Take Care Clause to enforce the laws, the executive branch was required to provide the public and Congress with strong arguments supporting its nonenforcement decisions. Otherwise, the executive nonenforcement action was considered a breach of duty. Despite both constitutional practice and the Supreme Court's case-law suggestion of a presidential prerogative, Obama's nonenforcement decision did not fit any of the stated situations regarding interference in national security and international affairs. More critical, the administration could not meet any of the range of defences presented to justify a breach of duty. In that sense, the majority of lawmakers considered Obama's DACA program to be unconstitutional.

Despite those contradictory opinions, the DACA program contributed to providing the U.S. with productive individuals who would benefit the country in several fields, notably economy and education. The vast majority of the approximately 800,000 DACA recipients were either enrolled in school or held important positions. According to a study conducted by Tom K. Wong, United We Dream, the National Immigration Law Center, and the Center for American Progress, 97 percent of recipients were either enrolled in school or held important positions. Overall, the study revealed that DACA had a positive impact on the U.S., whether in education, employment, earnings, or the economy (Wong, et al., 2017).

3. Trump's Immigration Enforcement Plan

Negative perceptions among Republicans towards the immigration population existed as early as the 1920s, during which the Republican President Calvin Coolidge emphasized that "America must be kept American" (Wong T. K., 2017, p. 3). The growing number of immigrants, particularly illegal ones, during the 1990s re-intensified the deep and longstanding Republican resentment towards immigration (Wroe, 2008, p. 3). Republican anti-immigrant rhetoric appeared on various occasions, during which many immigrant opponents expressed their support for a more restrictive immigration policy. The 2016 Republican candidate Donald J. Trump was one of the harshest anti-immigrant advocates.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Known mostly for his TV show program *The Apprentice*, Republican Donald J. Trump expressed his intention to run for the presidency on several occasions. However, it was not until 2015 that he formally announced his candidacy. On June 16, 2015, Trump gave his first nomination speech, in which he expressed his strong will to "Make America Great Again," a slogan that he would follow throughout his candidacy and presidency. According to several polls, more than half of Republicans were concerned about the nomination of Trump due to his harsh tone (Diamond, 2015).

Immigration was one of the sensitive issues on which Republican leaders disagreed. They were among the most vocal opponents of comprehensive immigration reform. However, some Republicans linked the party's decline to Romney's hard-line approach to immigration, which alienated Hispanic voters (Davis & Shear, 2019). Hence, they suggested a more inclusive approach as a solution to gaining Hispanic support. In response to the Republican party's defeat in two consecutive presidential elections (2008-2012), some Republicans began calling to review the party's stance on immigrants who became a significant voter base. To mention, Republican Senator John McCain and other Republican leaders tried to issue a more favorable deal with Democrats on immigration.

On the contrary, anti-immigrant voices insisted on preserving the party's initial standing. Known as the Trio, Steve Bannon, Jeff Sessions, and Stephen Miller were among the most famous and active anti-immigrant advocates (Davis & Shear, 2019). They claimed that regardless of their legal status, immigrants were exploitative intruders and dangerous criminals who put at risk the U.S. economic and security status. The trio forged a political alliance whose main aim was to find the most appropriate candidate, who would be able to meet the concerns and grievances of the working-class toward the growing numbers of immigrants (Davis & Shear, 2019).

In his speech at the Conservative Political Action Conference, Trump expressed the same Republican beliefs, arguing that permissive immigration policies would yield no advantage to the party. A bipartisan immigration reform providing the 11 million undocumented immigrants with citizenship would harm Republicans, as those aliens would mostly vote for Democrats (Grier, 2013). Fascinated by his speech, the trio envisioned Trump as "the living breathing embodiment" of the ideal candidate who would touch on all the themes they worried about, the immigration issue included (Davis & Shear, 2019, p. 22).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Donald Trump followed the same anti-immigrant stance as his political advisor Sam Nunberg, who turned Trump's attention to immigration as a central core of his campaign. Nunberg convinced Trump that being an immigrant advocate would not win him the Hispanic votes. The 2016 Republican candidate placed anti-immigration rhetoric as the central platform for his campaign, matching his protectionist impulses and his longstanding opposition to multilateral trade agreements (Davis & Shear, 2019).

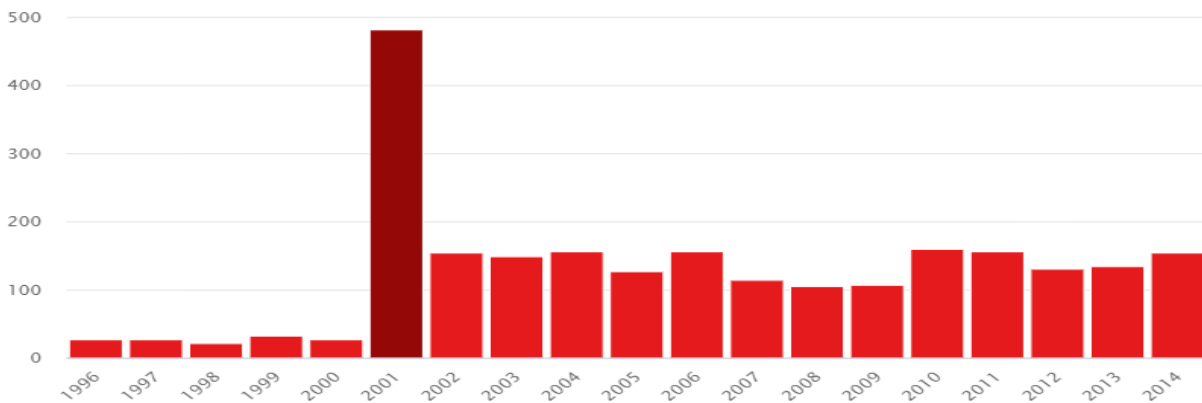
Despite his harsh political rhetoric, the Republican presidential nominee managed to attract a large share of constituencies. Social scientists argued that Trump's debate over several political, social, and economic dynamics concerning some groups helped win him the presidency (Lamont, Park, & Ayala-Hurtado, 2017). Trump expressed his concerns on several topics, including education, foreign policy, social security, trade deals, and mostly immigration (Campbell, 2004). With more than 364 mentions in his nomination speeches (Lamont, Park, & Ayala-Hurtado, 2017), Donald Trump placed immigration as the central issue in his campaign. Despite Trump's claim that he was the first presidential candidate to address the immigration issue, the topic had been discussed by many politicians on several occasions. However, the way Trump handled the subject was different (Lind, 2016).

Although Republicans tackled the immigration issue several times, they were much concerned with enforcing the law, a common thing that most politicians discussed. In contrast, Trump looked at the subject from another perspective, addressing the main reasons conservatives were hostile to immigration (Lind, 2016). That helped him receive an intense and emotional response from certain groups, notably working-class Americans (Lamont, Park, & Ayala-Hurtado, 2017). In his speeches, Trump focused on discussing the same concerns that most Americans worried about.

Due to the large number of undocumented aliens combined with the 2008 economic recession, Mexican immigrants, who were portrayed as illegal aliens, caused acute anxiety among U.S. citizens (Lamont, Park, & Ayala-Hurtado, 2017). Moreover, the widespread belief in radical Islamic terrorism following the 9/11 attacks, along with the Syrian war, resulted in intensified American hostility toward both refugee and Muslim groups (Lamont, Park, & Ayala-Hurtado, 2017). The number of anti-Muslim hate crimes increased from 28 to 481 in 2001. The number decreased in the following years, reaching around 150 incidents in 2002 and 2003. However, it did not return to the pre-9/11 reported numbers (See Figure 13).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Figure 13: Hate crime incidents against Muslims spiked after 9/11



Source: FBI. Retrieved from Kuek Ser, K. (2016, September 12). Data: Hate crimes against Muslims increased after 9/11. Retrieved June 12, 2020, from <https://www.pri.org/stories/2016-09-12/data-hate-crimes-against-muslims-increased-after-911>

A Bloomberg Politics poll revealed that 53 percent of Americans were totally against the admission of Syrian refugees. More importantly, 11 percent said they would accept Christian refugees from Syria, but not Muslims (Talev, 2015). The November 15 Paris Attacks intensified the American public negative stance. According to a Pew Research Center survey, 51 percent of Americans expressed their opposition to the growing number of refugees in FY 2015 (Desilver, 2015).

Trump exploited those features to appeal to certain classes of American citizens concerned with those three groups. During his campaign, Trump accused undocumented immigrants, refugees, and Muslims of the U.S. economic downturn and national insecurity. By addressing these three groups, Trump made himself the voice of millions of Americans. Before setting solutions, Trump presented the issue itself; that was why most Americans felt hostile towards immigrants. In most of his political rhetoric, Trump targeted immigrant groups that Americans distrusted the most, underscoring the potential threat they posed to the U.S. mainstream (Lind, 2016).

Trump used hate speech that portrayed immigrants as intruders causing remarkable damage to the U.S. on several levels, namely employment, economy, and security. He confirmed the negative perception of the American middle class towards immigrants, specifically workers who perceived themselves as the most trustworthy group (Lamont, Park, & Ayala-Hurtado, 2017). Employment shortage, system exploitation, and terrorism were the

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

focal points of Trump's rhetoric that re-activated the long-standing American resentment toward immigrants.

Given its great importance to the American job seeking segment, Trump placed employment as one of the main subjects in his campaign. According to a qualitative content analysis by Michèle Lamont and Bo Yun Park, Trump's political rhetoric met the desire of American workers by asserting what they believed was their most deserved place in the U.S. pecking order (Lamont, Park, & Ayala-Hurtado, 2017). Most of those workers complained of being the invisible and unrecognized category of society, even though they were the engine that kept the U.S. economy moving. American workers were eager to recognize their significant position compared to what they considered to be less-deserving groups (Lamont, Park, & Ayala-Hurtado, 2017).

In her book *the Dignity of Working Men: Morality and the Boundaries of Race, Class, and Immigration*, Lamont argued that American workers distinguished themselves by drawing boundaries between them and some other groups they considered irresponsible. American workers portrayed themselves as hardworking members who contributed to making society more prosperous. In contrast, they described the other groups, including the poorest ones, as "carefree" (Lamont, *The Dignity of Working Men: Morality and the Boundaries of Race, Class, and Immigration*, 2000, p. 24). According to the U.S. workers, those "others" were unproductive and "are milking the system to the fullest" (Lamont, *The Dignity of Working Men: Morality and the Boundaries of Race, Class, and Immigration*, 2000, p. 24), a notion that Trump depended on during his campaign to attack illegal immigrants.

During her discussion with the working class in 2000, Lamont found that hostility towards immigrants was weaker compared to other groups (Lamont, *The Dignity of Working Men: Morality and the Boundaries of Race, Class, and Immigration*, 2000). However, in the following decades, workers' boundaries towards immigrants became more prevalent. Among the factors that led to the resurgence of anti-immigrant feelings was the massive influx of immigrants, namely illegal ones, who were considered as outsiders incapable of assimilating with the U.S. traditional patterns (Williams, 2017).

Donald Trump repeatedly referred to Latin immigrants, both legal and undocumented ones, using negative terms. Starting from his candidacy announcement, the Republican nominee used his well-known harsh tone to attack Mexican immigrants, accusing them of being drug dealers, criminals, and rapists coming illegally over the U.S.-Mexico borders. Predominantly, Trump regarded Latino immigrants, and Mexican immigrants in particular, as

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

dangerous aliens who stole jobs that American citizens deserved the most. To mention, in a speech delivered in West Bend, Wisconsin, on August 16, 2016, Trump criticized his Democratic competitor Hillary Clinton, as she called for instant work permits for illegal immigrants instead of assisting low-income Americans (Lamont, Park, & Ayala-Hurtado, 2017).

In another speech in Phoenix, Arizona, on August 31, 2016, Trump highlighted the case of the 90-year-old Earl Olander, who was murdered by illegal immigrants (Lamont, Park, & Ayala-Hurtado, 2017), stressing the scale of the threat posed by those illegal aliens. More accusations followed as he accused those illegal immigrants of exploiting the system. On September 22, 2016, Trump criticized again Hillary Clinton for providing unauthorized immigrants with undeserved benefits based mostly on taxes paid by American workers without any contributions from those illegal aliens. In a similar vein, Trump reasserted his contradiction to the policy of Hillary Clinton, claiming that she spent money in the wrong way. He argued that: "as the people of Detroit suffer, Hillary wants to spend trillions of dollars on government benefits for illegal immigrants and refugees" (Lamont, Park, & Ayala-Hurtado, 2017, p. 24).

Moreover, among the most debatable outcomes of the 9/11 attacks was the widespread notion of anti-Islam and anti-Muslim prejudices and stereotypes, known as Islamophobia (Khan, et al., 2019). According to Drabu, Islamophobia was centred around the Western perception and its negative portrayal of Islam and Muslims, resulting in a significant scale of prejudices, discrimination, racism, and hatred towards this group (Drabu, 2018). In this regard, Trump's electoral rhetoric reinforced those negative stereotypes by emphasizing the strong relationship between Islam and terrorism (Khan, et al., 2019).

Muslim immigrants received a large share of Trump's hostile rhetoric. In his immigration debate, Trump combined Muslim immigrant arrivals with potential Islamic terrorists. On September 20, 2016, Trump delivered a speech in High Point, North Carolina, during which he blamed the U.S. open immigration system for the Islamic terrorist attacks in Minnesota, New York, and New Jersey. The candidate argued that the immigration system lacked an effective screening for foreigners entering the U.S. Besides, he accused Hillary Clinton, then United States Secretary of State, of allowing thousands of dangerous aliens to enter the U.S., portraying them as criminals, murderers, and rapists (Khan, et al., 2019).

In a part of his broadly anti-immigration statements, Trump widely voiced his opposition to the refugee resettlement system. Surprisingly, in an interview with Fox News in September 2015, Trump urged the acceptance of more Syrian refugees as a humanitarian

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

concern (BBC News, *Donald Trump Says U.S. Should Take Syria Migrants*, 2015). But the Republican candidate quickly changed his position, promising to expel all Syrian refugees brought to the United States (BBC News, *Donald Trump: I Would Send Syrian Refugees Home*, 2015). In response to the Paris attacks on November 13, 2015, Trump proposed creating a database of refugees admitted to the U.S., as well as providing surveillance of certain mosques. Further, he promised that if he won the presidency, he would send all refugees, especially Syrians, home (Haberma, 2015).

Following the San Bernardino attacks conducted by foreign attackers, then-President Obama called for tolerance toward the Muslim community. Unlike his Democratic predecessor, Trump increased his negative stance towards the immigration population, calling for a total shutdown for refugees and Muslims in general (Khan, et al., 2019). The Republican presidential front-runner claimed that refugees, along with other immigrants, posed a real threat to the U.S. national security, warning that they were a "Trojan Horse" for the U.S. (Schultheis, 2016).

According to professor Jamie Winders, Trump's xenophobic claims about immigrants, namely their criminal behavior and sheer numbers, were based on misinformation. Trump built his campaign on false allegations, accusing immigrants of the largest share of crimes (Lilleker, Jackson, Thorsen, & Veneti, 2016). Despite the common perception combining increased crime rates with the growing number of immigrants, Robert J. Sampson revealed in his inquiry that immigrants tended to be less violent than U.S. citizens. In effect, U.S. cities with high immigrant populations were the safest places in the U.S. (Sampson, 2008).

Trump argued that the increased number of crimes was due to the continuous flow of immigrants. However, according to the Institute of Defense Analysis' findings, the number of undocumented entries along the U.S.-Mexico border fell from 1.8 million in FY 2000 to 200,000 in FY 2015 (Alden, 2017). More importantly, in 2013, the number of U.S. citizens moving to Mexico exceeded the number of Mexicans entering the U.S. (Lilleker, Jackson, Thorsen, & Veneti, 2016). Despite those facts, Trump kept immigration as the essential core to the set of regulations he argued were fundamental to protect the U.S.

3.1. The Main Elements of Trump's Immigration Reform plan

Perceived as rapists, drug dealers, unassimilable, and a national security threat, the nativist Republican nominee presented several immigration reforms targeting various immigrant groups, including undocumented immigrants, Muslim immigrants, and refugees. Trump's immigration plan aimed primarily at protecting the U.S. borders from any foreign

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

entry and removing aliens deemed to be a real threat to the U.S. economic, social, and security patterns (Kerwin, *Moving Beyond Comprehensive Immigration Reform and Trump: Principles, Interests, and Policies to Guide Long-Term Reform of the US Immigration System*, 2017).

The U.S.-Mexico border had two kinds of construction conducted for different reasons. The first border construction occurred following the end of the Mexican-American war. Signed in 1848, the Treaty of Guadalupe Hidalgo demarcated the U.S.-Mexico first border division. Simultaneously, the U.S. government placed about 160,000 soldiers to patrol its border region (Alvarez, 2019). Since borderlines' delineation, large groups of people have been crossing the border regularly. The early entries were mostly legal, aimed primarily at commercial exchange, employment, and education (Alvarez, 2019). Given the harsh climate environment at the border, both the U.S. and Mexican governments collaborated to construct railways, roads, and ports of entry to facilitate long-distance transport (Alvarez, 2019).

Further border construction projects occurred due to security concerns. As of the 1930s, the U.S.-Mexico border saw the first construction project composed of fencing and surveillance infrastructures to assure operational control and security over the U.S. border (Alvarez, 2019). Later, border patrol construction expanded. To mention, in September 1969, President Richard Nixon issued the Operation Intercept along the U.S.-Mexico border. Considered as the main source of drugs, the measure intended to halt the flow of psychoactive substances into the U.S. from Mexico by tightening the ports of entry (Craig, 2009).

Construction projects resumed during the 1990s due to growing concerns about the increasing numbers of illegal aliens from Mexico. As of 1994, the U.S. government started following a National Strategy Plan (NSP) based on targeting precise areas with the highest unauthorized entry of people and goods. The Border Patrol adopted an operational strategy known as Prevention Through Deterrence. In contrast to the previous plan based on arresting unauthorized aliens after they had already entered the country, the newly adopted strategy focused on deterring aliens immediately at the border before making it to the U.S. (Haddal, 2010).

Divided into three operations known as the "Hold the Line" program in El Paso, TX, and Operation Gatekeeper in San Diego, CA, NSP made a significant move in border patrol. It provided for placing more agents on the line, stadium lighting, cameras and sensors, and landing mat fencing (Haddal, 2010). The operations proved efficient, with a remarkable decline in the number of illegal entries. For instance, the border from the Pacific Ocean inland witnessed a 65

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

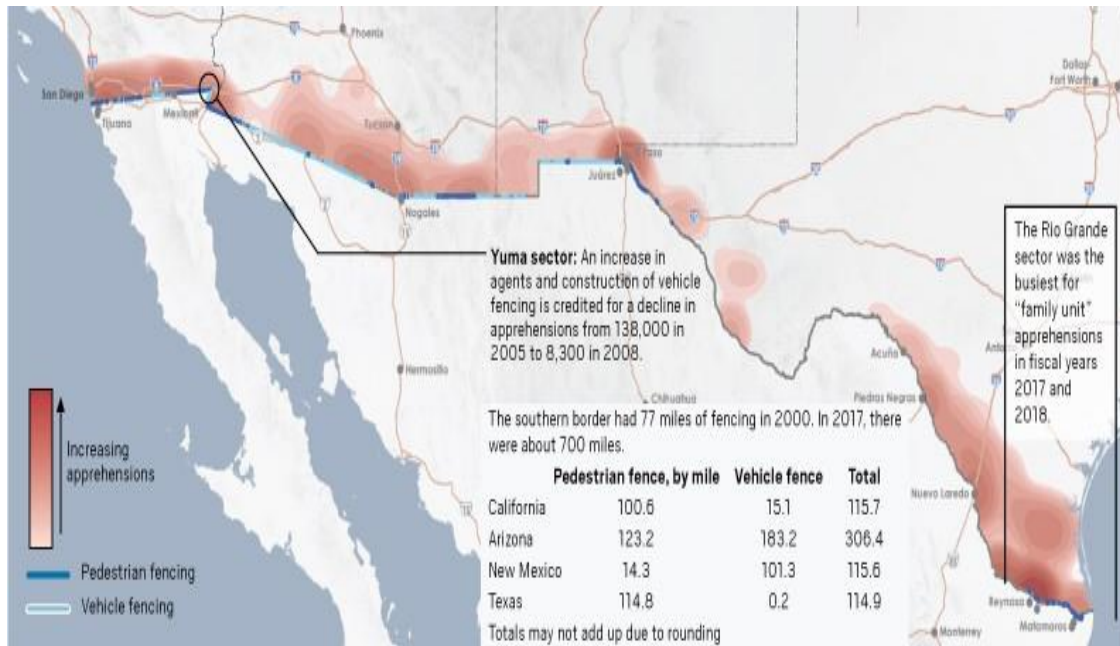
percent decrease in the number of unauthorized crossings as a result of Operation Gatekeeper (Alden, 2017).

Positive feedback on enforcement measures encouraged Border Patrol administrations to conduct other initiatives. Of the same mind, Congress passed the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, providing for the hiring of additional manpower. Moreover, mounting concerns in the mid-2000s led to the passage of the 2006 Secure Fence Act, emphasizing the construction of at least 700 miles of fence along the border (Alden, 2017). The U.S. line of defence against unauthorized entry along its international borders with Mexico and Canada differed sharply. Due to the widely different illegal immigration patterns along the U.S.-Mexico and the U.S.-Canada borders, the USBP strategy varied from one region to another. With more than 97 percent of unauthorized entries occurring on the southern border, USBP deployed about 85 percent of its resources and manpower along the south region (Haddal, 2010).

Concerned more about unauthorized entries, Donald Trump introduced a stricter plan aimed to fence the entire border area between the United States and Mexico. In his first electoral announcement, Trump accused Mexico of sending its worst people to the U.S., assuming that a weak border patrol was the main reason behind the issue (Politico Staff, 2016). Trump argued that the "problem of immigration" could be solved by building a "beautiful wall" along the U.S.-Mexico borders (Lilleker, Jackson, Thorsen, & Veneti, 2016, p. 42). Of the 1,954 miles along the US-Mexico border, about 700 miles contained fencing constructed during the Obama era. The newly introduced plan called for the expansion of the remaining 1,200 miles to ensure full surveillance and protection (Ramos, 2018) (See Map N° 1).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

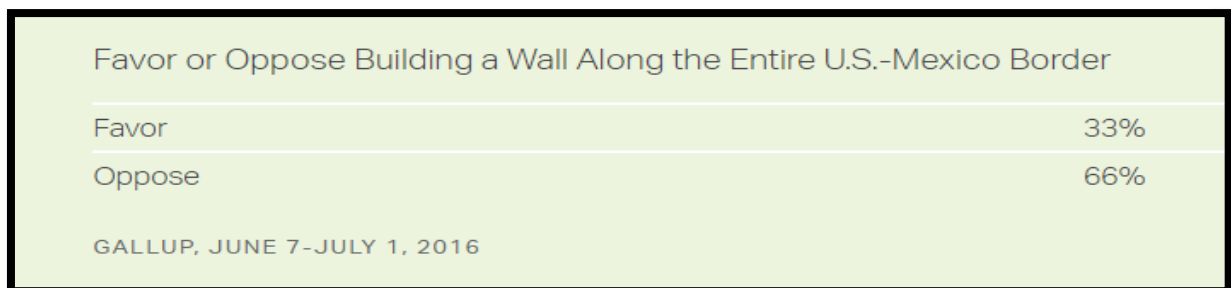
Map N° 1: U.S.-Mexico Border



Source: U.S. Customs and Border Protection. Retrieved from Snibbe, K. (2020, April 28). Here's How Much and How Fast Apprehensions at the Border Change.

Though the plan received wide support among the Republican candidate's advocates, with 85 percent in favor of the border plan (Hudak, Kamarck, & Christine Stenglein, 2017), the overall American public opinion opposed Trump's proposal. According to a Gallup survey, 66 percent of Americans were against building a wall along the U.S.-Mexico border, compared to 33 percent in favor (See Figure 14). Despite widespread public opposition, Trump emphasized his plan to build the wall at nearly every election rally and interview (Newport & Brands, 2016).

Figure 14: Public Opinion on Border Wall



Source: GALLUP. Retrieved from Jones, J. M. (2016, July 20). More Republicans Favor path to citizenship than wall. Retrieved June 12, 2020, from <https://news.gallup.com/poll/193817/republicans-favor-path-citizenship-wall.aspx>

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Though Trump received widespread controversy due to his wall plan, especially that he was the first to ask Mexicans to pay for it, he was not the first to introduce the idea. Biologist Garret Hardin was among the first to introduce the idea of building a wall along the U.S.-Mexico border. In an essay entitled *Population and Immigration: Compassion or Responsibility*, Hardin explicitly stated, "We might build a wall" (Grandin, 2019, p. 256). He expressed his concerns about the world's limited resources combined with declining white birth rates, which required hardening the borders. In a similar vein, novelist and environmentalist Edward Abbey endorsed the same idea, calling for the creation of a "physical barrier" and an expansion of the border patrol as a defensive measure against the rising birth rates of people of color (Grandin, 2019). Though admitted the proposal was harsh, Abbey stressed the necessity of halting immigration as an essential measure to preserve the U.S. wealth. He argued that "American boat is full, if not already overloaded; we cannot afford further mass immigration" (Grandin, 2019, p. 257). The main aim of hardening the U.S. border derived from the idea that the U.S. resources should be preserved for American citizens rather than being exploited by the growing number of foreigners, particularly Latinos.

The idea received different opinions. While some supported building a wall that they claimed would protect the U.S. border from the growing number of unauthorized immigrants, others considered the initiative too expensive in terms of its ineffective results. Based on a 2017 report by the U.S. Government Accountability Office (GAO), bollard pedestrian fencing along urban areas helped border agents apprehend unauthorized border-crossers on their way to rural environments. Besides, fencing provided more security to border agents, as it limited the ability of unauthorized immigrants to organize mass crossings, which put the patrol agents' safety at risk (U.S. Government Accountability Office, 2017).

The initiative was presented by former presidents decades earlier. Though in favor of comprehensive immigration reform, former U.S. President George W. Bush introduced a project known as the Southern Border Initiative Network. The initiative called for the construction of a virtual fence containing a string of towers, cameras, and sensors along the U.S. borders with Mexico and Canada to halt the flow of unauthorized immigrants. Given its high cost, around \$2.7 billion, and the difficulty of construction, the following administration under Obama's presidency backed away from the plan (Hudak, Kamarck, & Christine Stenglein, 2017).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Given its high cost along with the possibility to implement other tactics, many questioned the necessity of building a physical wall on the U.S. border. In terms of its expenditure, estimates varied from one sector to another, ranging from the Trump's administration \$4-7 billion, the government \$21-27 billion, to the highest Democratic estimate with \$70 billion (Hudak, Kamarck, & Christine Stenglein, 2017). The DHS indicated that other tactics were available to secure borders rather than physical barriers, providing that in FY 2015, about 530,000 people overstayed their visas. According to Mexican journalist and author Jorge Ramos, no matter how long or high the wall was, it would not be an effective deterrent measure, as almost half of illegal aliens would not be affected by the wall and would remain in the U.S. (Ramos, 2018).

Moreover, in "Hitting the Wall: On Immigration, Campaign Promises Clash with Policy Realities", John J. Hudak, Elaine C. Kamarck, and Christine Stenglein questioned the possibility of implementing other more cost-effective measures; such as tracking foreigners who enter with time-limited visas. The trio argued that "without convincing data, it is difficult to argue that a massive amount of money on a wall couldn't be better spent on other parts of the fight against unauthorized immigration" (Hudak, Kamarck, & Christine Stenglein, 2017).

Regardless of its cost, the construction of the wall would be one of the major construction projects, thus increasing the demand for unauthorized workers who were more concentrated in the construction field. Contractors relied on unauthorized workers. However, the Great Recession led to a massive decrease in the number of unauthorized workers. As a huge public work project, the construction of the wall would increase the demand for workers, which would ultimately lead to an increase in the number of unauthorized population (Hudak, Kamarck, & Christine Stenglein, 2017).

Determined to enter the U.S., undocumented aliens chose an alternative way to reach their destination. According to 2017 research by Robert Warren and Donald Kerwin, unauthorized immigrants became more dependent on visa violation as a means of entering the U.S. Those others entered the U.S. as temporary visitors then violated their visa validity. The number of visa overstays increased exceedingly, reaching 66 percent of the total undocumented arrivals in 2014 (Warren & Kerwin, 2017).

Indifferent to those shortcomings, the Republican candidate re-adopted the measure and made it a top priority in his presidential campaign. Stressing it in every speech, Trump claimed the real threat of the unauthorized population, namely Mexicans, was the main reason driving him to build the wall. In contrast to what Nunberg had claimed, Trump's hostile rhetoric cost

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

him a considerable business loss. Trump lost several deals as several companies had cancelled their partnership, such as NASCAR, which cancelled its annual banquet at the Trump National Doral resort (Davis & Shear, 2019).

Politically, Trump's wall set the Republican candidate apart from his peers, leading to two diversified opinions. Within three weeks of his first candidacy announcement, in which he portrayed Mexicans as rapists, drug dealers, and criminals, Trump received significant opposition from several Republican leaders. To mention, Reince Priebus, chairman of the Republican National Committee, asked Trump to back down from his harsh rhetoric, as he was concerned that it would cost the party a considerable share of votes among the people of color (Davis & Shear, 2019).

Republicans were right in their concerns, as Democratic candidate Hilary Clinton held the majority of the Hispanic registered voters (Pew Research Center, 2016). In contrast, Trump received the highest share of the Hispanic opposition. According to a survey by the Wall Street Journal / NBC News in September 2016, 78 percent of the Hispanic population had a negative view of Trump (Ramos, 2018). Nevertheless, Trump succeeded in gaining another pool of voters, which in turn was vital to the party's triumph. Trump received the majority of the white votes, with 58 percent compared to 37 percent for Clinton (Henley, 2016).

The refugee group was also concerned with Trump's immigration reform, particularly Muslims of the Middle East. The Republican presidential nominee argued that the number of refugees to the U.S. should be diminished. His announcement came as a response to President Obama's plan to increase the number of refugees to 85,000 in 2016 (The White House: Office of the Press Secretary, 2016). Trump opposed Obama's plan and asked for its suspension (Kelemen, 2016). Instead, he called for a total ban on Muslims.

Trump's announcement led to widespread controversy among the U.S. public and political arenas. Similar to the border wall measure, the Muslim ban raised several concerns among the American public opinion. Conducted on October 27, 2016, a Gallup survey revealed that the largest share of Americans disagreed with the Muslim ban, with 52 percent against the proposal and 31 percent in favor of it (Newport & Brands, 2016).

Similarly, different political figures expressed their deep concern about the ban plan. Though differed in their political standing, both Republicans and Democrats shared a bipartisan opposition to Trump's Muslim ban. Concerning Republicans, Trump received a memo drafted by Representative Michael McCaul, the Republican chairman of the House of Homeland Security Committee, arguing that his ban plan was unconstitutional and would cost them the

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

election (Davis & Shear, 2019). Besides, Republican National Committee Chairman Reince Priebus criticized the ban for being against the U.S. longstanding values (Walsh, Diamond, & Barrett, 2015). Moreover, Democrat Josh Earnest, then-White House Press Secretary, called for the suspension of Trump from presidential elections, arguing that he was not qualified to be a president (BBC News, *Donald Trump's Muslim U.S. Ban Call Roundly Condemned*, 2015).

The proposal had even received foreign objection. To mention, British Prime Minister David Cameron considered the proposal wrong and argued that it would cause a divisive issue to the U.S. French Prime Minister Manuel Valls shared the same opinion, accusing Trump of stoking up racial hatred. Besides, the United Nations High Commissioner for Refugees (UNHCR) expressed serious concerns about the human status of Syrian refugees, who were the most affected by the ban (BBC News, *Donald Trump's Muslim U.S. Ban Call Roundly Condemned*, 2015).

Growing outcries drove both McCaul and Rudy Giuliani to present Trump with an alternative measure. The new proposal included the same hard-line stance Trump used to ensure U.S. national security. However, rather than targeting an entire ethnic group, McCaul and Giuliani suggested using the term 'extreme vetting', as it targeted suspected terrorists without stopping the legal entry of individuals of goodwill (Davis & Shear, 2019).

Trump defended his proposal, claiming that it was the only solution to avoid future terrorist attacks. He argued that the terrorist attacks in San Bernardino were an inevitable consequence of the U.S. inclusive immigration policy. Unlike his Democratic rival, Hillary Clinton, who requested the admission of more Syrian refugees, Trump announced his devoted plan to impose "extreme vetting" on refugees (Hudak, Kamarck, & Christine Stenglein, 2017, p. 10). The Republican presidential nominee assured he would bring several reforms to the refugee resettlement policy in the U.S., stating that:

As soon as I enter office I am going to ask the Department of State...Homeland Security and the Department of Justice to begin a comprehensive review of these [terror] cases in order to develop a list of regions and countries from which immigration must be suspended until proven and effective vetting mechanisms can be put in place. I call it extreme vetting right? Extreme vetting. I want extreme. It's going to be so tough, and if somebody comes in that's fine but they're going to be good. It's extreme (Los Angeles Times Staff, 2016).

In his August speech on refugees, Trump stated that from 9/11 till late 2014, about 380 foreign-born individuals participated in terrorism-related acts in the U.S. More importantly,

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Trump deliberately accused Syrian Refugees of terrorism during a speech at Keene High School, stating that: "I hear we want to take in 200,000 Syrians. And they could be - listen, they could be Isis [Islamic State]" (Donald Trump: I would Send Syrian Refugees Home, 2015). The candidate combined the growing number of refugee flows, namely Syrians, with the rate of foreign-born terrorist attacks, arguing that imposing extreme vetting was an essential measure to ensure U.S. safety (Hudak, Kamarck, & Christine Stenglein, 2017).

In contrast to Trump's claims, the rate of refugee involvement in terrorist attacks was lower compared to other foreign-born categories. According to the Cato Institute analysis on terrorism risk of individual visa categories, an individual in the U.S. had one in over 3.64 billion chance of being killed by a refugee in a terrorist attack (Nowrasteh, 2016). Besides, according to an analysis by the Migration Policy Institute in 2015, of the 84,000 refugees admitted to the United States since 11 September 2001, only three were convicted of terrorist activities (Gambino, 2016).

The Republican nominee added that the huge number of individuals who entered the U.S. unchecked increased the potential risk of terrorism. As a preventive measure, Trump insisted on a comprehensive review of the U.S. refugee resettlement policy by imposing an extreme vetting process. Nevertheless, Trump's promise to pursue drastic policy changes seemed unattainable, as the refugee vetting process was already strict (Hudak, Kamarck, & Christine Stenglein, 2017). Initially, individuals seeking refugee admission to the U.S. had to be approved by several government agencies, including the Department of State Bureau of Population, Refugees, and Migration (PRM), the Department of Health and Human Services, and the Department of Homeland Security. About security concerns, applications were constantly verified in security databases. Besides, applicants had to pass in-person interviews held separately. As a whole, applicants spent up to two years to complete the process (United Nations High Commissioner for Refugees).

Regarding Middle Eastern refugees, notably Iraqis and Syrians, the vetting process was the most stringent (Hudak, Kamarck, & Christine Stenglein, 2017). However, Trump introduced a comprehensive refugee resettlement program that included a temporary suspension of refugees from terror-prone regions where vetting was considered extremely dangerous (Amos, 2016), referring mostly to the Middle East.

Stephen Yale-Loehr, a U.S. law professor and immigration law attorney, argued that the admission process for Syrian refugees could not be any stricter, questioning the ability of any president to impose a more stringent program (Amos, 2016). Moreover, former DHS

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

immigration officer Natasha Hall stated that Iraqi, Syrian, and Iranian applicants were among the well-documented refugees. Though holding high school degrees, baptismal certificates, marriage and birth certificates, honors and awards, photos with U.S. service personnel, and recommendations from American military members, Iraqi and Syrian refugees were the least admitted (Hall, 2017).

The 2016 Republican nominee was one of the most vocal presidential candidates to question the loyalty of Muslims to the U.S. Hence, he presented an additional standard for admission known as ideological certification. The new measure aimed to reveal the full commitment and compliance of the applicants with American values by analysing their viewpoints on specific topics, such as honor killings, women, and radical Islam (Gambino, 2016).

As the Guardian political correspondent Lauren Gambino pointed out, the new refugee admission measures of the Trump administration would break the "decades-old American tradition" (2016). The U.S. has always been considered among the world's leading resettlement country for refugees, adopting refugee admission policy as an essential part of its foreign policy decades ago (Amos, 2016). As of the Second World War, the U.S. initiated its first official resettlement programs directed towards victims of persecution. To mention, the U.S. admitted hundreds of thousands of Vietnamese and Cuban refugees during the 1970s and 1980s, respectively (Gambino, 2016). The Co-founder and Executive Director of the International Refugee Assistance Project (IRAP), Becca Heller, warned: "To give that up now will seriously damage our credibility with our allies abroad" (Amos, 2016). Heller argued that other than losing its longstanding efforts on the refugee crisis, abandoning the case would undermine the U.S. international position.

In line with his border wall plan, candidate Trump promised to deport every individual of all the 11 million undocumented foreigners by imposing a massive deportation force (LoBianco, 2015). In his interview with NBC journalist Chuck Todd, Trump stated that the 11 million undocumented immigrants would leave the U.S. voluntarily; otherwise, he would forcibly expel them, emphasizing that: "they have to go" (Ramos, 2018, p. 98). Trump set a period of 18 months to two years as a timeline of his massive deportation plan (Deb, 2015), adding that it would cost a net worth of \$10 billion (Lind & Zarracina, 2015). The deportation scheme came under widespread criticism at the public and political levels.

In terms of the U.S. public opinion, a 2015 study by the Pew Research Center revealed that 72 percent of American respondents supported the legalization pathway instead of

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

deporting illegal immigrants (Ramos, 2018). The plan was considered brutal and inhuman. As Mexican journalist and author Jorge Ramos put it, Trump's deportation plan was unprecedented, and one of the most aggressive measures the U.S. had ever taken against the immigrant population. He expressed deep concerns about the 4.5 million American children who had at least one unauthorized parent. He questioned the fate of those children and whether they would be deported with their undocumented parents or remain under U.S. custody (2018).

Moreover, many questioned Trump's proposed budget and timeframe. First, deportation should pass through several measures, namely apprehension, detention, and legal processing. Those measures required the involvement of different U.S. law enforcement and border patrol agencies. Based on a study conducted by American Action Forum in 2015, the deportation process would take about 20 years to be fully accomplished. In terms of funding, appropriations ranged between \$420 to \$620 billion, covering only necessary operational costs, not to mention the economic collapse that it would cost. Another report by AAF revealed that undocumented immigrants covered 6.4 percent of the U.S. labor force. The deportation of those workers would cost the U.S. economy around \$ 1.6 trillion by 2035 (Gitis & Collins, 2015).

Even more controversial was that the deportation plan of Trump was against the American traditions of ethnic diversity, multiculturalism, and immigration acceptance. In the words of Jorge Ramos: "There is nothing more American than incorporating and integrating those who come from outside the nation's borders, regardless of their accents or origins" (Ramos, 2018, p. 99). The deportation of those immigrants based on their race, religion, or nationality was against the long history of the United States and its longstanding conception of a "nation of immigrants."

In response to those outcries, Trump changed his position. Known for his harsh rhetoric on immigration, Trump surprised the majority of the American public when he announced during a private meeting with Hispanic evangelical leaders that he was with granting legal status to undocumented immigrants with clean criminal records (Davis & Shear, 2019). The announcement escalated controversy even further due to Trump's inconstant position. To revitalize the situation, Sessions and Miller provided Trump with an alternative plan, considered as a compromise aimed at withdrawing the mass deportation plan, but with an emphasis on the hard-core agenda of Trump (Davis & Shear, 2019).

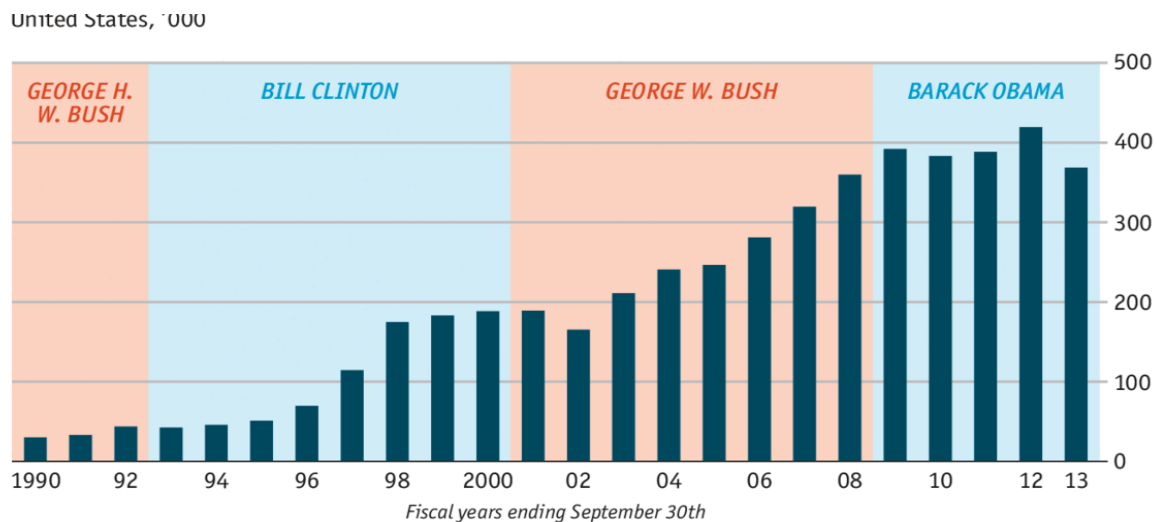
In his August 2016 campaign speech delivered in Arizona, Trump laid the foundation for his new strategy. The candidate stated that his new plan contained ten essential points that would lead to a significant shift in the U.S. immigration system (Pierce, Bolter, & Selee, 2018).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

A core feature of Trump's plan included reversing the non-executive measure taken by then-President Obama that granted amnesty to the Dreamers. Trump accused Obama of allowing millions of criminals to remain in the United States (Hudak, Kamarck, & Christine Stenglein, 2017). Hence, he pledged to end Obama's DACA program, claiming that he would set particular priorities for his deportation plan, starting with convicted aliens. "Then and only then will we be in a position to consider the appropriate disposition of those individuals who remain," Trump asserted in his speech at the Phoenix Convention Center (Davis & Shear, 2019, p. 41).

Despite Trump's accusation, the Obama administration was one of the administrations with the highest number of deportations, with a total of 435,015 removed aliens in FY 2012 (see Figure 15). More importantly, of the 117,000 apprehended immigrants in 2016 who were permitted to remain in the U.S., only 6,640 had a criminal charge, which was 5.6 percent (Hudak, Kamarck, & Christine Stenglein, 2017).

Figure 15: Illegal Alien Removals (1990-2013)



Source: Department of Homeland Security. Retrieved from Goddard, S. (2014, February 18). Protests Continue Over 'Greatest Mass Deportation in U.S. History'. Retrieved November 12, 2020, from <http://wonkwire.com/2014/02/18/protests-continue-greatest-mass-deportation-u-s-history/>

To ensure an effective border patrol, Trump proposed consolidating the physical wall with technological devices and new personnel hirings. Along a similar line, Trump stated that he would end the Catch-And-Release policy, asserting that every undocumented alien was subject to deportation once apprehended. Besides, he promised to restore the 287 (g) policy and expand in-joint operations between federal agencies and local jurisdictions. To ensure full compliance, Trump threatened to withhold federal funding for Sanctuary cities in case they

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

refused to fully cooperate with federal authorities (Politico Staff, 2016). Similar to his other measures, restoring the 287 (g) raised an increasing debate across the U.S. State and local governments. While some states and localities were fully committed to assisting federal agencies with their immigrant enforcement policies, others were more supportive of an inclusive approach providing help and care to the immigrant population, including the undocumented (Kerwin, Suro, Thorman, & Alulema, 2017).

Although most of Trump's immigration debate revolved around undocumented immigrants, legal entries also occupied a significant share of the Republican candidate's immigration reform plan. The plan introduced new admission preferences. Instead of family reunification, Trump stressed the need to select immigrants based on their merits, skills, competence, and most importantly, their tolerance of long-established American traditions and values (Kerwin, Suro, Thorman, & Alulema, 2017).

Trump's immigration proposal showed that the Republican candidate did not initiate radical changes. He just expanded the previously established measures, including the border wall, intensive vetting, and deportation. However, the way he intended to apply the measures was aggressive and exaggerated. The Republican candidate argued that the main reason behind his harsh stance was to ensure the U.S. safety and protect its values. In effect, his immigration reform plan was the one threatening the U.S. social and economic status, and more importantly, its longstanding heritage as a nation of immigrants.

3.2. President Trump's Actions on Immigration

The Obama administration's nonenforcement measures eased the fears of undocumented immigrants, particularly those brought to the U.S. as children. In contrast, Trump's triumph reinvigorated public resentment towards immigration, leading to mounting anxiety among the immigrant population and its advocates. During his electoral campaign, Trump promised several strict immigration regulations, sparking growing debate about his commitment to keeping his promises. In her book *Why Presidents Fail and How They Can Succeed Again*, Elaine Kamarck argues that while a presidential candidate's success depends on the ability to articulate policy, the presidential achievement revolves around the ability to implement policy (Kamarck, 2016). Once in office, Donald Trump faced many challenges in implementing his immigration enforcement measures (Hudak, Kamarck, & Christine Stenglein, 2017). However, he passed several executive orders and proclamations related to immigration, bringing broad changes to the U.S. immigration system.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

3.1.1. President Trump to Ban Muslims

Despite the amount of public and legal challenges, during his first year in office, Trump passed three Muslim bans, fulfilling many of his campaign promises. In 2017, the Trump administration issued three actions directed towards individuals from Muslim-majority countries. Thus, most scholars and politicians referred to the orders as Muslim bans rather than Travel bans. As an expert on immigration law, Professor Shoba Sivaprasad Wadhia argued that the Muslim ban was an adequate description of Trump's three bans. Trump relied on two forms to issue Muslim bans. While he passed the first two bans under executive orders, he introduced the third ban in the form of a presidential proclamation (Wadhia, 2019, p. 14).

On January 27, 2017, President Trump signed Executive Order 13769. The order contained three controversial measures. Entitled Protecting the Nation from Foreign Terrorist Entry in the United States, the order suspended the entry of foreign nationals from 7 countries, including Iran, Iraq, Libya, Sudan, Yemen, and Syria, for 90 days. The order also suspended the admission of refugees for 120 days. Critically, it halted admissions of Syrian refugees indefinitely. The measures were to be immediately effective (Trump, Executive Order Protecting the Nation from Foreign Terrorist Entry into the United States (13769), 2017). On March 6, 2017, Trump issued his second ban, Executive Order 13780. The second ban contained almost the same provisions of EO 13769, including suspending the entry of foreign nationals from certain countries, namely Iran, Libya, Sudan, Somalia, Yemen, and Syria, as well as halting the refugee admissions program for 120 days (Trump, Executive Order Protecting the Nation from Foreign Terrorist Entry into The United States (13780), 2017).

Despite those similarities, the two executive orders differed in several details. For instance, unlike the first Muslim ban, the second-order dropped the indefinite ban on Syrian refugees. Further, while the first ban was to be effective immediately, the second order was delayed by ten days. Regarding citizens denied entry, both orders contained the same countries, except for dropping Iraq in the second ban. Most incomparably, while the first ban had no exemptions, the second Muslim ban included exemptions, including LPRs, aliens who had already been paroled or admitted into the U.S., those permitted to travel, aliens traveling on a diplomatic visa, and refugees granted relief. In a similar vein, Section 3 (C) of the second Muslim ban included a waiver scheme granted on a case-by-case basis. Aliens could benefit from the waiver in the case denying entry would lead to undue hardship, a threat to the national security or public safety of the U.S., or would be in favor of the U.S. national interest (Trump,

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Executive Order Protecting the Nation from Foreign Terrorist Entry into the United States (13780), 2017).

Both orders were subjects to heated debate. Due its immediate execution and unmentioned exemptions, the first ban caused extreme chaos and disorder, particularly among LPRs. They were at a loss as to whether the ban would be applied to them or not (Wadhia, 2019). Besides, the Trump administration issued the order without consulting or interagency review, neither by the State Department, the Justice Department, nor the Department of Homeland Security. Even the agencies responsible for implementing the policy, Customs and Border Protection and U.S. Citizen and Immigration Services, were not notified of the order until it was signed (Wittes, 2017). Hence, charged officials were not sure which nationals they had to ban. As of the second ban, many argued that it was not well-clarified. To illustrate, the set of waivers included in the order, namely undue hardship, national security, and national interest, lacked an appropriate definition. Most lawyers and immigrant advocates considered the measure to be nothing more than a rebranded version of the first ban (Wadhia, 2019).

Trump introduced the third ban on September 24, 2017, under Presidential Proclamation 9645 (Executive Office of the President, 2017). Both executive orders and presidential proclamations are presidential instruments. While both differed in form, they shared the same substance. Executive orders are directed to and govern actions by government, officials, and agencies, affecting private individuals in an indirect way. Presidential proclamations are concerned with the activities of private individuals. However, both are authorized under constitutional provisions (Contrubis, 1999).

Entitled *Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats*, the proclamation blocked the entry of nationals from eight countries, including Iran, Libya, Chad, North Korea, Syria, Somalia, Venezuela, and Yemen. The order exempted the categories previously mentioned in the second ban (Executive Office of the President, 2017).

To ensure a rapid advance of his political agenda, Trump reinforced his executive orders and proclamation with a set of substantive actions, serving as the backbone of his anti-immigration policy. Concerning presidential appointments, the Trump administration sought to appoint cabinet members and agency heads with the same anti-immigration stance. The members undermined the functions of the U.S. federal agencies by implementing their hostile directives opposing the agencies' traditional missions (Pfiffner, 2018). Furthermore, the administration granted the office of the White House Counsel an unprecedented degree of

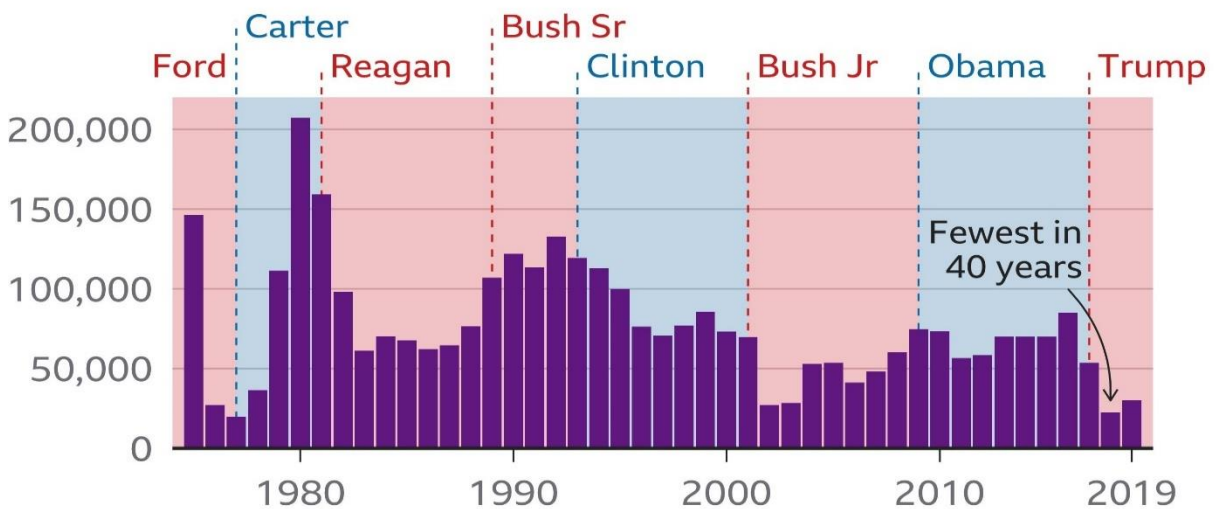
Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

control over the judicial selection process, with priority given to appointing conservative judges (Zengerle, 2018).

The three bans resulted in a sharp decline in the number of refugees, particularly among Muslims. The overall number of refugee admissions to the U.S. witnessed a remarkable decrease. Their numbers dropped from more than 80,000 in 2016 to less than 55,000 in 2017 (see Figure 16). More importantly, the share of Muslim refugees fell from almost 50 percent of the U.S. total refugee admissions in FY 2016 to less than 25 percent in FY 2018-2019 (see Figure 17). Syrian refugees were the most affected, as their number dropped from 15,479 in FY 2016 to just 2,273 in FY 2018 (Hudak, Kamarck, & Christine Stenglein, 2017).

Figure 16: Refugee Admissions Have Fallen to New Lows

Number of refugees admitted to US each year, under Democratic and Republican presidents

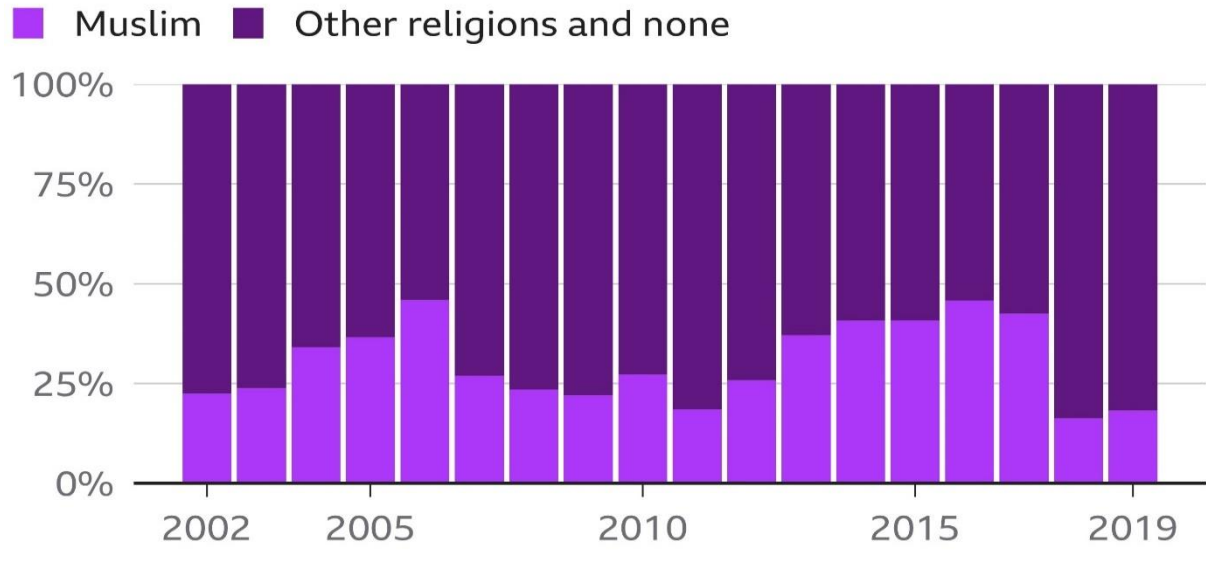


Source: U.S. State Department. Retrieved from Lowther, E. (2020, October 22). US election 2020: Trump's Impact on Immigration - in Seven Charts. Retrieved January 12, 2021, from <https://www.bbc.com/news/election-us-2020-54638643>

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Figure 17: Continuous Decrease in the Proportion of Muslim Refugees to the U.S.

Refugee admissions by religion, as a percentage of annual total



Source: US Refugee Processing Center. Retrieved from Lowther, E. (2020, October 22). US election 2020: Trump's Impact on Immigration - in Seven Charts. Retrieved January 12, 2021, from <https://www.bbc.com/news/election-us-2020-54638643>

Besides those bans, the Trump administration kept on reducing the U.S. refugee annual admissions. In 2018, the administration capped the total number of refugees to the U.S. at 45,000. The following year, President Trump reduced the number to 30,000 (Krogstad, 2017). Besides, during the annual Report to Congress on Proposed Refugee Admissions for FY 2020, the administration set the lowest level of refugee ceiling since the issuance of the U.S. refugee program, with only 18,000 individuals. Besides border security, the Trump administration argued that the new ceiling was essential to overcome the backlog the almost one million asylum seekers awaiting to adjudicate their claims inside the U.S. The administration prioritized the use of diplomatic tools, including foreign assistance, economic and political engagement, and alliance-building, as a primary move to help those people. The tools would ensure resolving the conflicts and, more importantly, the U.S. national security (The U.S. Department of State, 2020).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

The unprecedented decline in refugee admissions caused widespread controversy among political elites, including Republicans (Lankford, et al., 2019). Moreover, the bans raised concerns over the new administration's respect for the U.S. established laws. Several lawmakers accused President Trump of directly challenging the U.S. constitutional protection of religious freedom and equal protection (Driesen, 2018). The First Amendment of the U.S. Constitution prohibits interference with the free exercise of religion (Legal Information Institute, n.d.). Hence, it prevents the government from acting out of religious discrimination (*Church of the Lukumi Babalu Aye, Inc. v. Hialeah*, 508 U.S. 520 (1993)). Moreover, as indicated by the 1965 Immigration and Nationality Act, no individual should be "discriminated against in the issuance of an immigrant visa because of the person's race, sex, nationality, place of birth or place of residence" (Legal Information Institute, 8 U.S. Code § 1152 - Numerical limitations on individual foreign states). By excluding an entire population based on their religious affiliation and nationality, as was the case for Syrians, the Trump administration vehemently challenged both the U.S. Constitution and the INA provisions (Arafa, 2018).

The Trump administration justified its anti-refugee actions by using misconceptions about refugees, namely Syrians. Stephen Miller, President Trump's senior policy adviser, explained that the president believed refugees cost the United States high expenditures (Davis & Shear, 2019). Refugees were considered terrorists and uneducated individuals, who heavily depended on public benefit programs, such as cash assistance and Medicaid. However, several refugee advocates challenged those allegations, arguing that Mr. Trump presented an unrealistic image of refugees. Lawrence Bartlett, head of refugee admissions at the State Department's Population, argued that refugees contributed positively to the U.S. economy, and he stressed the fact the refugees were not terrorists but were fleeing terrorism (Davis & Shear, 2019).

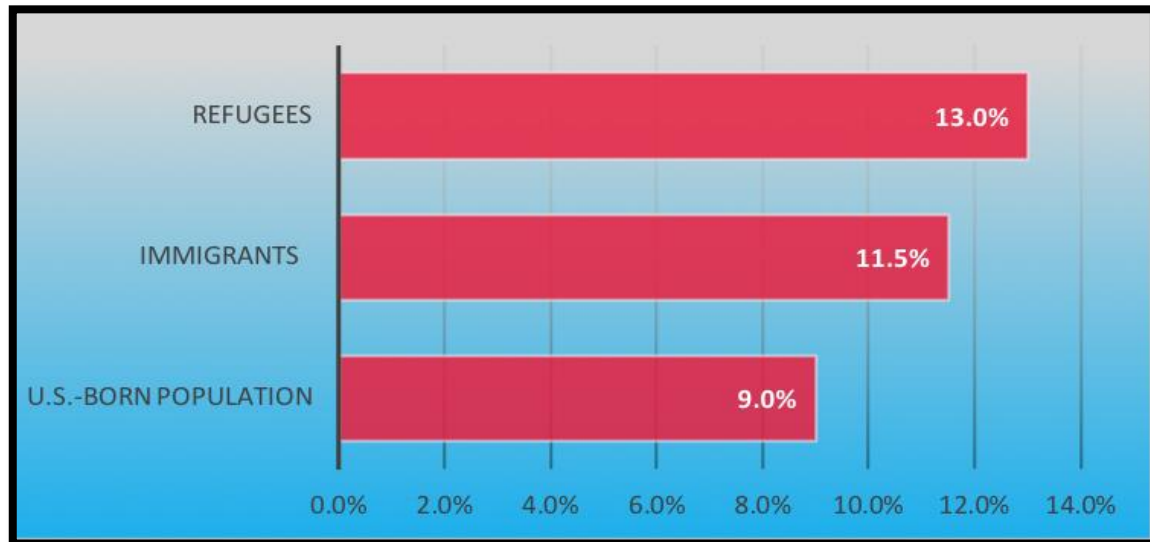
Concerning the economy, refugees contributed the most to the U.S. economic prosperity. They participated in the labor market, filling job vacancies that most native-born Americans refused to take. From 2009 to 2011, the rate of male refugees employed surpassed that of the U.S. native-born males, with 67 % and 60 %, respectively. Refugee employers were more concentrated in manufacturing, health care, and general services (The National Immigration Forum, 2018).

Besides, refugees had the highest rate in terms of entrepreneurship, reaching 13 percent in 2015, compared to 11.5 % for immigrants and 9 % for the U.S.-born population (see Figure 18). In addition to their considerable business income, generating \$4.6 million to the U.S. income, refugee entrepreneurs provided jobs, goods, and services for thousands of Americans.

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

They also created some of the best-known companies in the U.S., such as WhatsApp by Jan Koum and PayPal by Max Levchin (The National Immigration Forum, 2018).

Figure 18: Entrepreneurship Rate Among Refugees, immigrants, and U.S.-born Workers



Source: National Immigration Forum. Retrieved from Kosten, D. (2018, July 11). Immigrants as Economic Contributors: Immigrant Entrepreneurs. Retrieved June 12, 2020, from <https://immigrationforum.org/article/immigrants-as-economic-contributors-immigrant-entrepreneurs/>

Moreover, the Trump administration's bans led to massive changes to the U.S. historical commitment to global refugee resettlement. The U.S. bounding commitment to assisting refugees dates back to 1948, with Congress approving the admission of 400,000 displaced Europeans after World War II (Singer & Wilson, 2006). The U.S. passed other acts that stressed its supportive position on refugee admissions. One of the most significant pieces of legislation was the 1980 Refugee Act. The Act instituted the first permanent statutory based program. Named the U.S. Refugee Admissions Program (USRAP), the initiative aimed at providing assistance and protection to displaced people around the world. To ensure effective assistance, the U.S. Congress created new government institutions, including the Bureau of Population, Refugee, and Migration (PRM) and the Office of Refugee Resettlement (ORR) (Singer & Wilson, 2006).

The program set default resettlement of 50,000 refugees per year, with the possibility of increasing or decreasing the number according to global displacement trends 50,000 refugees (Singer & Wilson, 2006). Based on the Presidential Determination process, the president, in

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

consultation with Congress, is responsible for setting the precise annual refugee ceiling (Beers, 2020). In contrast, the Trump administration issued its executive orders halting the admission of thousands of refugees, notably Syrians, without any interagency review or legislative consultation.

As of 1980, the U.S. was consistently the leading country in terms of the number of refugees admitted, with more than 4 million refugees resettled. Of those, 3 million were admitted under the USRAP program (The National Immigration Forum, 2020). As immigration policy expert Donald Kerwin argued, the USRAP was "one of the most successful humanitarian programs in U.S. history" (Kerwin, *The U.S. Refugee Resettlement Program — A Return to First Principles: How Refugees Help to Define, Strengthen, and Revitalize the United States*, 2018, p. 207). Trump was the first Republican president to show such an outright objection to the U.S. refugee policy. Former Republican presidents were among the most vocal refugee advocates. To name, Republican President Gerald Ford supported the passage of the Indochina Migration and Refugee Assistance Act in 1975, which allowed entry to roughly 300,000 refugees from Southeast Asia (International Rescue Committee, 2019). Even after the most devastating foreign attack on the U.S. on September 11, 2001, then-Republican President George W. Bush did not halt refugee admissions. On the contrary, he maintained the U.S. commitment to refugee resettlement. Except for an immediate memorandum leading to a remarkable decline in the number of refugee admissions, Bush kept the annual refugee ceiling at 70,000 (International Rescue Committee, 2017).

Along the same line, the Obama administration maintained long-term U.S. support for refugee resettlement. Given the worldwide refugee crisis, occurring mostly in Muslim countries, Obama adopted a more inclusive policy, increasing the number of refugees admitted from 70,000 in FY 2015 to 85,000 in FY 2016 (Eilperin, 2016). Concerned more with the humanitarian circumstances of global refugees in general and Syrian refugees in particular, Obama emphasized the need to expand the U.S. leading role in refugee resettlement. He considered the U.S. efforts insufficient, complaining that "We are not as unified as we should be in pushing to make it stop" (Koran, 2016).

Former President Barack Obama expressed deep opposition to the executive orders of Trump, arguing that the American "core values may be at stake" (Taylor, 2017). President Trump claimed that Obama had previously employed the same ban plan in 2011 when he suspended Iraqi refugees for six months (Kessler, 2017). Trump added that the nationals concerned with the bans were set by the Obama administration as a source of terrorism (Finer,

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

2017). The Republican president went even further, ensuring that his executive orders were an extension of the previous policy of the Obama administration (Qiu, 2017). However, several lawmakers and scholars opposed Trump's allegations, arguing that there were many differences between the two strategies.

Former Director of Policy Planning at the U.S. Department of State, Jon Finer, shared the same ruling, proclaiming several fundamental differences between the administrations' executive orders. In terms of focus, unlike Trump's executive order targeting seven countries with an entire population of over 130 million, the Obama order targeted a specific country; that was Iraq. Even more, Obama applied his order to limited groups, including refugees and applicants for Special Immigrant Visas (SIVs). Conversely, the 2017 executive order targeted all visa categories, such as tourists and business travelers (Finer, 2017).

Refugees did not need a visa to travel. Hence, one cannot assume that the Obama administration banned refugees. Despite the significant decrease in the number of refugees admitted, the process did not stop entirely (Finer, 2017). Eric Schwartz, former Assistant Secretary of State for Population, Refugee, and Migration, emphasized that the Obama administration had just reduced the number of Iraqi resettlements by implementing strict security patterns. But there was never a complete lockdown (Arafa, 2018).

Besides, Obama issued the order in response to accurate threatening information. On the other hand, Trump's order was issued as a pre-emptive response with no clear evidence of a potential threat (Finer, 2017). In May 2011, the FBI arrested two Iraqi refugees in Bowling Green, Kentucky. The two were accused of being involved in and attempting to assist terrorist groups abroad. As for Trump's order, except for a few Iranian and Somali convicts involved in three non-fatal cases, no citizen of the seven banned countries included in Trump's executive order participated in a terrorist attack on the United States (Qiu, 2017). Contrary to Trump's unreviewed order causing extreme chaos, Obama's executive order was initially reviewed by the cabinet and deputy cabinet-level officials from all relevant departments and agencies - including the Department of State, the Homeland Security Department, and the Department of Justice - and the intelligence community (Finer, 2017).

Moreover, Trump's claim that the banned countries were already listed by the Obama administration was based on a misinterpretation. The Obama administration issued a provision related to the Visa Waiver Program, removing dual nationals from four countries- Iraq, Iran, Sudan, and Syria, Libya, Somalia, and Yemen from the 38 countries permitted to travel to the United States without obtaining visas. The amendment came in response to the December 2015

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

terrorist attack in San Bernardino, California. However, the administration did not impose a total ban. The provision required a particular category of travelers to obtain a visa to enter the U.S., except for some travelers, including journalists, aid workers, and officials from international organizations like the United Nations (Finer, 2017).

3.1.2. Interior Enforcement of Immigration Laws Under the Trump Administration

Accusing the Obama administration of releasing criminal aliens who threatened the lives of American citizens, the Trump administration stressed the need for mass deportations to ensure the safety of the United States (Sessions, 2017). Once in office, Trump expressed his strong will to deport the 3 million undocumented aliens with criminal records present in the U.S. (Wang A. B., 2016).

In this regard, the Trump administration passed an executive order on January 25, 2017, bringing drastic changes to the immigration interior enforcements (National Immigration Law Center, 2017). Trump began by asserting the authority granted to him under the United States Constitution and laws to ensure the public safety of the United States and the full implementation of immigration laws. Entitled Enhancing Public Safety in the Interior of the United States, the main aim of the Executive Order 13768 was to ensure full interior enforcement of the U.S. immigration laws. Trump insisted that the order was an essential step to ensure the national security and public safety of the United States., arguing that violators of immigration law posed a real threat to U.S. security (Trump, Executive Order: Enhancing Public Safety in the Interior of the United States, 2017).

As an imperative measure, Trump called for mandatory participation of all U.S. law enforcement agencies, particularly state and local law agencies. The Trump administration considered the involvement of state and local law enforcement agencies in federal immigration law enforcement an essential measure to ensure full compliance with the U.S. immigration law. Trump condemned Sanctuary jurisdictions for the devastating consequences of violating the Federal law, expressing wide opposition to local judicial authorities refusing to cooperate with federal immigration enforcement orders. Trump deliberately threatened to cut federal funds, except those mandated by law, from sanctuary cities (Sessions, 2017).

Determined to carry out his plan, President Trump ordered the DHS secretary to hire 10,000 new ICE officers (Trump, Executive Order: Enhancing Public Safety in the Interior of the United States, 2017). Besides, he employed the interweaving of immigration and crime as a mainstay to his anti-sanctuary jurisdictions order, claiming that sanctuary cities were

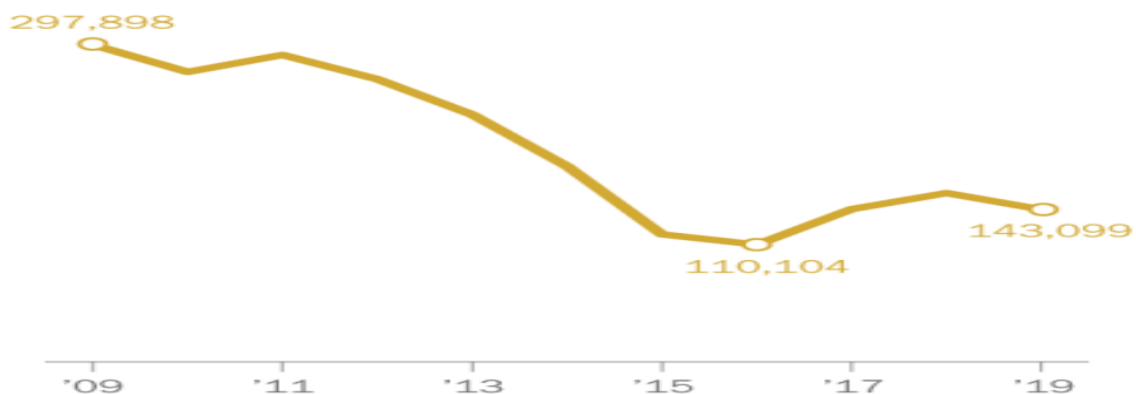
Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

protecting criminal aliens (Lasch, Chan, Eagly, Haynes, & Lai, 2018). Besides, the Trump administration sought to reintegrate local law enforcement agencies into federal immigration law enforcement by threatening to withhold federal funding from cities adopting protective-immigrant sanctuary policies (Sessions, 2017).

Trump's interior immigration enforcement measures increased the number of internal arrests. The Obama administration recorded the largest number of arrests. Nevertheless, the number saw a steady decline, dropping from 297,898 in 2009 to 110,104 in 2016. Shortly after his election, President Trump issued orders aimed at increasing the number of arrests. The rate of interior arrests rose by 30% in FY 2017 (see Figure 19). The majority of apprehended aliens were subject to deportation. Similar to the apprehension process, the number of deported aliens during the Trump administration grew steadily. Though the highest number of deportations occurred during the Obama administration, the number began to decline in 2015, reaching about 240,000 (see Figure 20). The number started to increase under the Trump administration, reaching 337,287 in fiscal year 2018 (see Figure 21).

Figure 19: ICE Arrests Went up after Trump Took Office, but Remain Lower than During Much of Obama's Tenure

Number of Immigration and Customs Enforcement arrests, by fiscal year

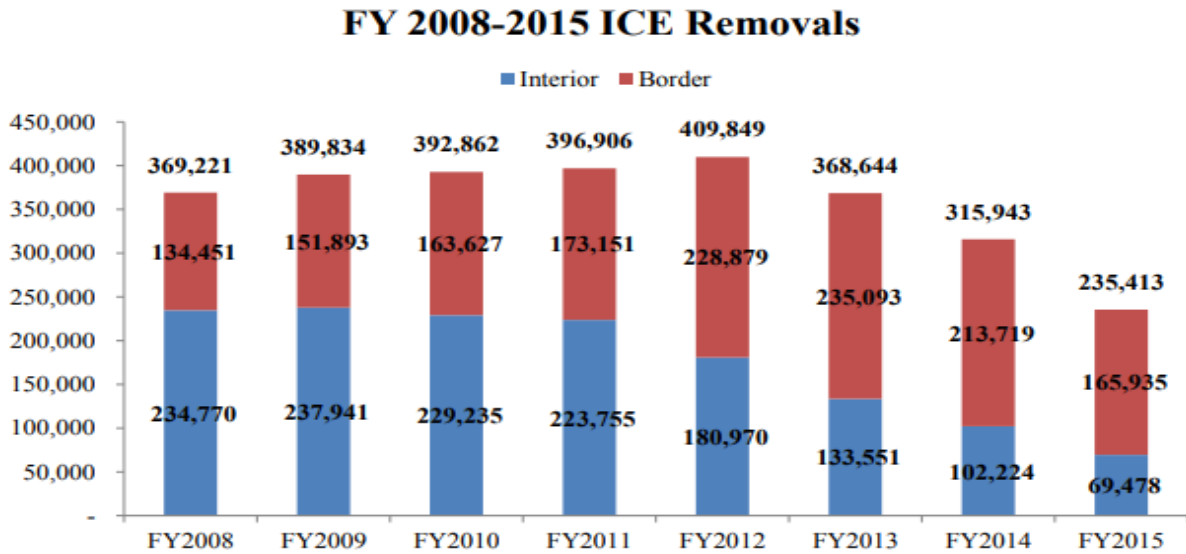


Notes: Includes only administrative arrests by ICE Enforcement and Removal Operations. Figures do not include Customs and Border Protection apprehensions.

Source: Gramlich, J. (2020, March 02). How Border Apprehensions, ICE Arrests and Deportations have changed Under Trump. Retrieved from <https://www.pewresearch.org/fact-tank/2020/03/02/how-border-apprehensions-ice-arrests-and-deportations-have-changed-under-trump/>

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

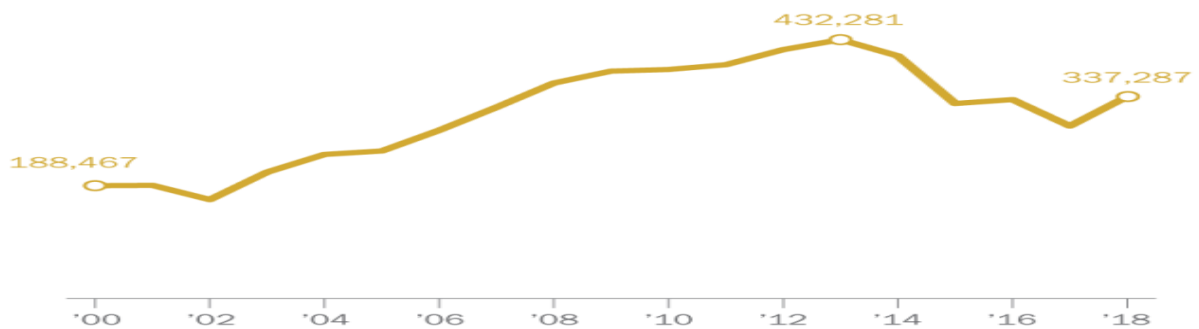
Figure 20: Immigration and Customs Enforcement Deportations



Source: U.S. Immigration and Customs Enforcement. (2015). *ICE Enforcement and Removal Operations Report*. U.S. Department of Homeland Security.

Figure 21: Removals of Unauthorized Immigrants (2017 to 2018)

Removals of unauthorized immigrants, by fiscal year



Notes: Includes removals by Customs and Border Protection and Immigration and Customs Enforcement. Removals are defined as “the compulsory and confirmed movement of an inadmissible or deportable alien out of the United States based on an order of removal.”

Source: Department of Homeland Security, Yearbook of Immigration Statistics 2018. Retrieved from Gramlich, J. (2020, March 02). How Border Apprehensions, ICE Arrests and Deportations have changed Under Trump. Retrieved from <https://www.pewresearch.org/fact-tank/2020/03/02/how-border-apprehensions-ice-arrests-and-deportations-have-changed-under-trump/>

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

The measures were perceived differently, ranging between proponents who stressed their significance and opponents who questioned their reliability. Several officials supported Trump's anti-sanctuary provisions, blaming sanctuary jurisdictions for protecting criminal aliens who caused massive harm to U.S. citizens. To mention, Attorney General Jefferson Sessions argued that sanctuary cities that released convicted aliens were responsible for the death and suffering of the American people (Sessions, 2017).

On the other hand, the Trump anti-sanctuary order received widespread opposition, particularly at the Justice Department level. Several jurisdictions filed lawsuits challenging the executive order, including the city of Richmond, the city of Santa Clara, and the city of Chelsea (Lasch, Chan, Eagly, Haynes, & Lai, 2018). The jurisdictions questioned the constitutionality of Section 9 of the order, arguing that it violated all of the separation of powers doctrine, the Tenth Amendment, and the Fifth Amendment (Orrick, 2017). However, DOJ ruled that it would deny the Byrne Justice Assistance Grants to local jurisdictions refusing to cooperate with federal immigration authorities (Templeton, 2019). The ruling led to further lawsuits (Lasch, Chan, Eagly, Haynes, & Lai, 2018).

Regardless of those charges, Trump's order was reinforced by several measures taken by the House of Representatives. A case in point was the No Sanctuary for Criminals Act, which provided for the punishment of resistant localities by withholding DOJ and DHS grant funds (Goodlatte, 2017). Moreover, due to insufficient enforcement resources, the U.S. government set deportation priorities, with each administration focusing on particular deportation grounds (National Immigration Law Center, 2017). The lack of enforcement priorities of deportations under the Trump administration raised significant concerns and suspicions among immigrants of all backgrounds and groups. Immigrants were even afraid of sending their children to school (Wolf, 2019).

The deportation process was one of the main subjects under scrutiny, raising questions about its impact on the United States' full compliance with human rights. Similar to previous American presidents, President Trump conducted several deportations that led to an escalation of outcries among immigrant and human rights advocates. While former presidents were criticized for the number of deported aliens, Trump was criticized for misconduct, namely the lack of enforcement priorities.

3.2.3. Funding the Trump Wall in Exchange for the DACA Extension

Deliberately expressing his opposition to the previous immigration policy of President Obama, Trump promised to end the Obama DACA program. The former president showed high

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

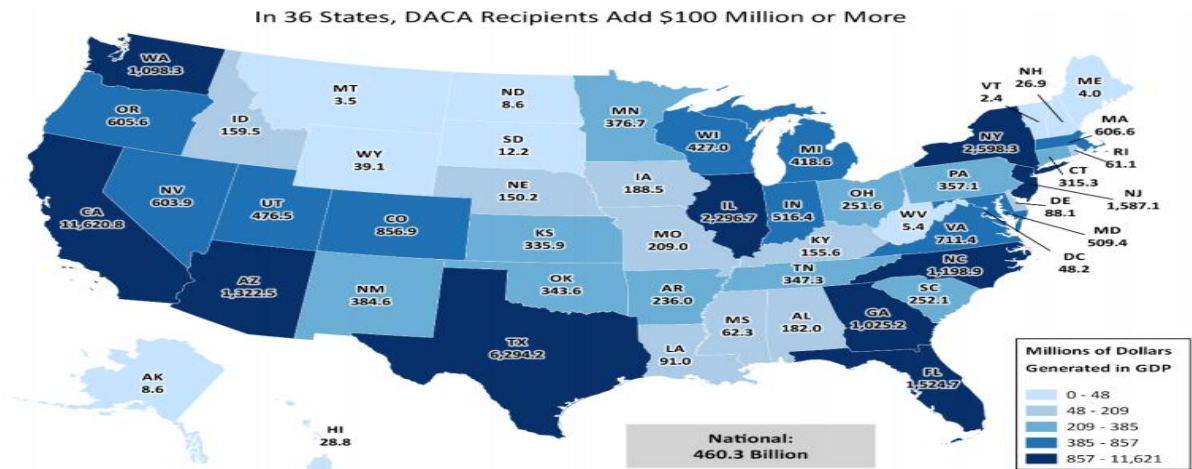
support to illegal aliens brought to the U.S. as children. Hence, he issued the DACA program, granting temporary relief to those aliens. Obama considered immigrant youths as positive contributors to U.S. welfare. Conversely, President Trump portrayed them as exploiters, posing a real threat to the U.S. (Shear & Davis, 2017). On September 5, 2017, the Trump administration officially announced that it would terminate DACA, indicating that it would not accept new applications, and would set March 6, 2018, as an expiration date for those who had already benefited from the program (Lind, 2018). Calling it an "unfair system," President Trump provided Congress with six months to pass an alternative measure before he began to suspend the DACA protections (Shear & Davis, 2017), putting a large number of DREAMers under the risk of being deported.

Conflicting views emerged following the Trump announcement to end the Obama-era DACA permits. A long-time opponent of the DACA program, Attorney General Jeff Session was among the first to defend Trump's move to halt the program. Other than being unconstitutional, Session argued that DACA allowed illegal aliens to take on jobs that U.S. citizens deserved the most. Moreover, Sarah Huckabee Sanders, the White House Secretary, added that Trump aimed to prevent an immediate termination of the program by the federal court (Romo, Stewart, & Naylor, 2017).

On the other hand, protests escalated among supporters of the DACA program, complaining that it was unfair to punish those young immigrants for an act they were not aware of or responsible for it. Besides, they argued that ending DACA would hurt the U.S. economy. Considering the Trump decision damaging and inhumane, Sen. Martin Heinrich argued that rescinding DACA would not only harm dreamers but also U.S. employers and local communities (Committee Democrats). DACA recipients contributed with \$ 460.3 billion to the U.S. national economy (see Fig. N° 22). Besides, according to an analysis by the Center for American Progress, rescinding DACA would cause a \$434.4 billion loss to the U.S. Gross Domestic Product (GDP) (see Fig. N° 23). In his turn, the initiator of the program, Barack Obama, expressed his strong opposition to the Trump decision, describing it as wrong, self-defeating, and cruel (Shear & Davis, 2017).

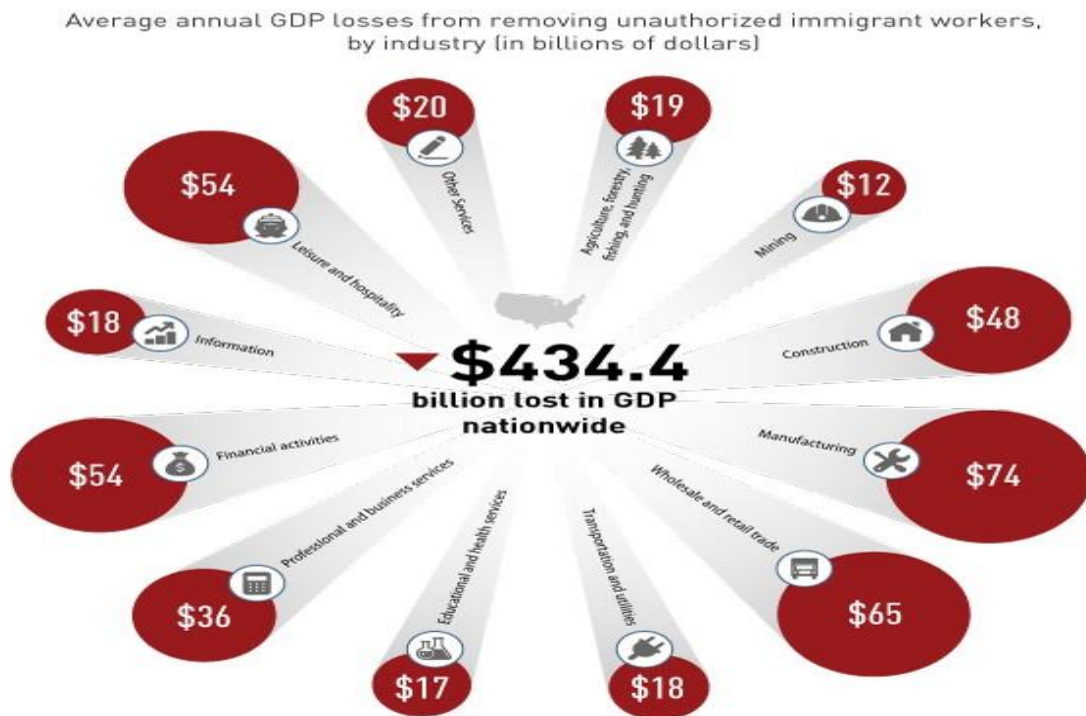
Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

Figure 22: Over a Decade, DACA Recipients Add \$460.3 Billion to the Economy



Source: Center for American Progress. Retrieved from Democrats, J. (2017, September 9). Ending DACA means widespread economic harm.

Figure 23: The National Economic Losses as a Result of the Removal of Unauthorized Immigrant Workers



Notes: The annual estimates of GDP lost are the long-run impacts on production in 2013 dollar of a policy that removes all unauthorized immigrant workers. Total GDP lost excludes public-sector, or government, contributions to GDP, which are not shown separately because they do not change with this policy. Estimates are not available, or N/A, for industries with a state where there are too few unauthorized workers observed in the 2011-2013 pooled American Community Survey.

Source: Ryan Edwards and Francesc Ortega, "The Economic Impacts of Removing Unauthorized Immigrant Workers: An Industry and State-Level Analysis" (Washington: Center for American Progress, 2016).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

As reported by Sarah Huckabee Sanders, Trump aimed to include DACA as a permanent measure of comprehensive immigration policy (Romo, Stewart, & Naylor, 2017). However, with deep intra-party divisions over the immigration policy, Trump placed the burden on Congress to pass legislation that would replace DACA and protect the Dreamers (Shear & Davis, 2017). Surprisingly, during his meeting with several lawmakers to discuss the DACA issue at the White House, Trump made an unusual comment in which he said that he hoped to sign "a bill of love" (Shear & Davis, 2017). The Republican president expressed his willingness to legalise the Dreamers if Congress succeeded in passing his border security measures (Davis & Shear, 2019).

In a move aimed at finding a compromise, members of the Republican-controlled Congress introduced several drafts aimed at reaching a bipartisan agreement between both Republicans and Democrats on the Dreamers issue. However, the process faced many hurdles, with conservative lawmakers seeking to pass legislation that would meet Trump's strict immigration measures and moderates whose main aim was to come up with an agreement that would satisfy the Democrats' inclusive policy (Davis & Shear, 2019). Regarding Trump's immigration plan, he sought to bring drastic changes to legal immigration, urging cutting the share for family-based visas and ending the diversity visa lottery. Also, DHS Secretary Kirstjen Nielsen stated that providing funding for Trump's 2,000-mile wall along the U.S. southwest border and deporting large numbers of unauthorized aliens were a top priority (Davis & Shear, 2019).

Despite the growing controversy regarding Trump's wall plan, the concept of the wall existed decades ago. Intending to assuage concerns about drug smuggling and illegal entry, the U.S. government passed several laws geared towards building barriers along the U.S. southern border. As the American public became more concerned more with the growing number of illegal entries and the U.S. national security, the Trump administration issued further provisions to expand fencing along the U.S. border. The 2,000-mile-long border wall plan presented by the 45th U.S. President Donald Trump was the longest in U.S. history. Funding constraints were one of the various hardships standing against the Trump-wall. A year after his first EO passed on January 25, 2017, in which he directed the Secretary of Homeland Security to provide funding for the wall construction, Trump stated that: "The Wall is the Wall, it has never changed or evolved from the first day I conceived of it" (Davis & Shear, 2019, p. 227).

As Congress refused to fund the border wall, Trump sought an agreement, known as the DACA deal. In this regard, President Trump would sign a bill extending DACA protections. In

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

exchange, he would receive funding for his wall. In addition to various immigration enforcement measures, Trump demanded a \$ 25 billion-funding for his wall (Davis & Shear, 2019). The debate intensified following the failure of a DACA deal meeting held on January 11, 2018 (Davis & Shear, 2019). On the one hand, Democrats announced that they would not sign a funding bill unless the DACA deal was signed. On the other, Republicans repeatedly opposed Democratic drafts, arguing that Democrats granted too many rights to the Dreamers and neglected significant immigration enforcement measures (Davis & Shear, 2019). Trump, in turn, threatened a government shutdown if Congress refused to fund the border wall (Becker & Cornwell, 2017).

Despite the long and fierce struggle, Trump ended up signing the Omnibus Spending Bill, a deal that failed to protect the Dreamers but succeeded in reducing the Trump-wall funding from \$ 25 billion to only \$ 1.6 billion (Matthews, 2018). By doing so, Trump raised concerns over his commitment to the set of promises he made during his election campaign. According to a survey by Quinnipiac University, views regarding Trump's strong leadership dropped from 56 percent to only 37 percent (Blake, 2017). Moreover, Trump received heavy criticism from several restrictionists, questioning his statesmanship. To mention, far-right media pundit Ann Coulter expressed her outrage at Trump's decision, describing him as: "the Worst Negotiator God Ever Created" (Davis & Shear, 2019, p. 232).

As a matter of fact, Trump's battle with Congress over funding the wall was far from over, and neither was the Democrats' struggle for the DACA deal. Alternatively, Trump sought a new source of funding. Unable to win congressional passage for his budget request, Trump declared the border a national emergency. He argued that his unilateral action was the only left solution to protect the U.S. border from the "invasion" of drug trafficking, criminals, and illegal immigrants from Mexico (Baker, 2019). On February 15, 2019, President Trump passed Proclamation 9488 entitled Declaring a National Emergency Concerning the Southern Border of the United States, invoking Title 10 U.S.C. Section 2808. The proclamation permitted the Executive Chief to use military construction (MILCON) funds for a declared national emergency (Vassalotti & McGarry, 2019). Trump considered the U.S. border control a national emergency, a thing that allowed him to offset the remainder of the funding from other departments, as Congress devoted only \$1.375 billion. Following his 2019 proclamation, Trump redirected \$ 601 million and \$ 6.1 billion from the Treasury and Department of Defense, respectively (Rampton, 2019).

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

As he predicted: “Look, I expect to be sued,” Trump’s decision received considerable criticism from Democrats and even some Republicans who considered the declaration unconstitutional (Baker, 2019). On February 26, 2019, the House of Representatives passed H.J.Res. 46, requesting the termination of Trump’s national emergency declared in Proclamation 9844 by a vote of 245-182. In response, Trump vetoed the resolution, bringing back the proposal to the originating chamber; that was the House. However, the House failed to reach a two-thirds vote to override the veto with only a vote of 248-181 (Halchin, 2019), leaving Trump’s national emergency decision in effect.

About DACA, President Trump failed to win the Supreme Court approval to end the program. The Court ruled that the Trump administration lacked substantial evidence to rescind the program. Outraged by the decision, President Trump asked for a second opportunity to end the program, asking the American people to re-elect him in the 2020 presidential elections. Former President Barack Obama supported the Court decision and asked the American public to vote for a Democratic candidate. A candidate who would guarantee a fair and lasting comprehensive immigration system, commensurate with the long-standing history of the United States as a tolerant, melting pot country (BBC, 2020).

Conclusion

Immigration was a central issue between the Democratic and Republican parties due to their diverging policies and ideologies. That led to the introduction of several immigration regulations that aimed at meeting each party’s position. The Democratic party held strong support for comprehensive immigration reform. In contrast, most Republicans sought more immigration restrictive measures. That was related to the fact that both parties perceived immigration differently. While Democrats considered immigrants significant contributors to the U.S. development, Republicans perceived immigrants as a threat to the U.S. national security and economic prosperity. In an attempt to reach a comprehensive solution, both Congress chambers proposed a set of bills. However, no act succeeded in passing into law, leaving the immigration subject matter unresolved. Given the increasing concerns over the U.S. national security, economic prosperity, and the growing number of illegal entries, the immigration issue intensified during the Obama and Trump administrations. The debate revolved around border security, interior enforcement, and the legalization process. Placing immigration as a central political issue led to widespread public concern portraying immigrants as a threat to the U.S. national safety, social unity, and economic prosperity. The situation grew

Chapter Three: The Challenges of Immigration Policy Reform to the Obama and Trump Administrations

more dangerous following the intensive use of negative rhetoric against the immigrant community by the 2016 Republican President Donald Trump, calling them rapists, criminals, and terrorists. That intensified the white nativist feelings, considering not only immigrants but even Americans from different ethnic backgrounds as outsiders. Consequently, the number of hate crime incidents increased, not to mention the number of human rights and civil rights violations occurring at the border and interior levels.

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

Introduction

Founded by immigrants, the U.S. enacted several immigration laws to regulate the process. Similar to the previous immigration laws, the 21st-century immigration legislation came as a changing pattern to the U.S. common notion as a nation of immigrants. Congressional debate intensified, with Democrats favouring a more comprehensive immigration policy and Republicans pushing for more restrictive measures. Given their drastic and harsh nature, the immigration measures left considerable effects on different immigrant groups. However, some groups tended to be the most impacted. Even some American citizens were affected by the immigration laws. In addition to economic downturn, several Americans, mainly children, were subject to family separation. Overall, U.S. immigration measures resulted in several outcomes leading to the deterioration of social, economic, and political aspects of different individuals, foreigners, and natives alike. Severe immigration enforcement measures passed during the Obama and Trump administrations caused immense harm to many immigrant groups, particularly Latinos and Muslims. The harm ranged between family separation, economic hardship, mental health problems, social hostility, and in some cases fatal assaults. Enforcement measures were combined with an anti-immigration attitude, leading to the resurgence of white supremacy. Widespread stereotypes and racist prejudice placed not just immigrants, but natives of different racial/ethnic backgrounds under the threat of atrocity.

1. The Impact of Immigration Enforcement Measures on Targeted Immigrant Groups

Hostility towards immigrants, particularly Latinos and Muslims, culminated in the passage of several immigration enforcement provisions. Aimed at building an effective enforcement immigration system, the U.S. adopted a set of measures related to border patrol, interior enforcement, and worksite enforcement. Though differing in their strategies, both the Obama and Trump administrations passed immigration enforcement laws. Most of those measures affected immigrants, their families, and the communities where they resided (Pierce, Bolter, & Selee, 2018).

The U.S. border enforcement laws passed during the 21st century, including the deployment of Border Patrol agents and fencing, harmed different immigrant groups. Among the most contentious subjects about the immigration enforcement measures was the death risk

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

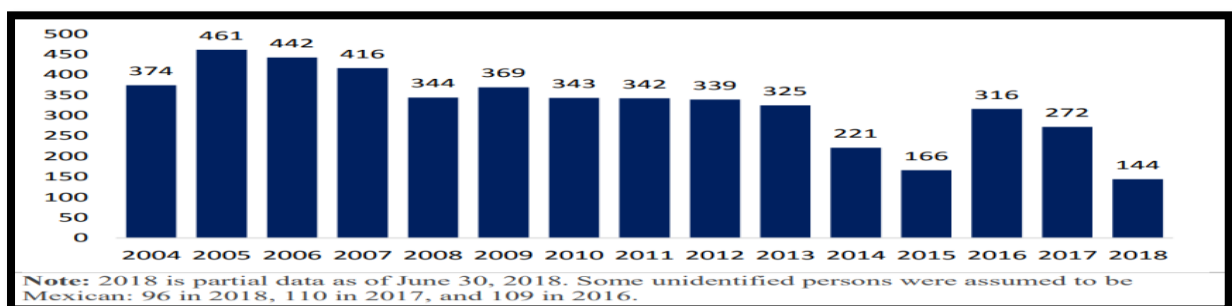
that thousands of illegal crossers faced due to U.S. border enforcement strategy. Given their increased share, Latino immigrants tended to be the most affected group.

Several studies reported that many deaths were caused by the Border Patrol agents' excessive use of power. According to the Police Executive Research Forum report, Border Patrol agents should use fire only in case of a direct physical threat from a source other than a moving vehicle. However, the report documented that between January 2010 and October 2012, in 15 cases, agents used firearms at vehicles. In other cases, they fired after objects like rocks (The Police Executive Research Forum, 2013). Continuous hiring of border patrol agents led to increased deaths of immigrants along the U.S.-Mexico border, reaching 81 deaths in 2018 (Lind, 2018).

Though Border Patrol received thousands of allegations about the agents' abusive use of power, very few were investigated, and agents were rarely prosecuted. For instance, Border Patrol agent Lonnie Swartz killed a 16-year-old Mexican national, José Elena Rodriguez, after shooting him in the back ten times because the young Mexican threw rocks at him (Press, 2018). Though tried in a cross-border shooting, federal prosecutors dropped the case against the agent (Galvan, 2018).

However, the highest number of deaths among unauthorized crossers was due to fencing. The 700-mile-long fence built by the Obama administration pushed Latinos into the rugged terrain of the southwestern border. That led to the killing of hundreds annually. From 1998 to 2017, about 7,216 unauthorized crossers died on the Southwest border (FitzGerald, López, & McClean, 2019). The Bush administration recorded the highest number, with an estimated 461 deaths in 2005 (see Figure 24).

Figure 24: Total number of Mexicans Who Died While Crossing into the U.S., 2004-2018



Source: Mexican Ministry of Foreign Relations data provided by Mexican consulates on the U.S. border. Retrieved from FitzGerald, D. S., López, G., & McClean, A. Y. (2019). *Mexican Immigrants Face Threats to Civil Rights and Increased Social Hostility*. University of California, San Diego: Center for Comparative Immigration Studies.

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

David Scott FitzGerald et al. questioned the reported number of deaths, arguing that the figure was undercounted. Several body-remains decayed through remote areas, including deserts, mountains, and canals, making it extremely hard to detect the exact number of deaths. Besides, the U.S. did not count the number of victims reported by other law enforcement institutions or civilians. Thus, it was difficult to determine the exact number of deaths along the U.S. border, but the death toll was higher.

In this regard, Republicans and Democrats hold two contradictory opinions. While Republicans, including Senators Roy Dean Blunt, John Kennedy, Tom Cotton, David Perdue, and Chuck Grassley, sought more restrictive measures along the U.S. borders, Democrats called for the suspension of ICE (*146 house DEMOCRATS call for suspension of immigration raids* 2016).

Despite the assured right of the U.S. government to protect its borders from illegal entry, the well-known implications of its enforcement policy sparked controversy about its commitment to protecting human and civil rights. Although hundreds of people died annually trying to cross the U.S. border, subsequent administrations continued to impose stricter measures. One must bear in mind that most deaths were among asylum seekers from Central America, escaping political instability and starvation. Despite President Trump's claims that Mexicans occupied the largest share of illegal crossers, their share dropped by 42 percent in 2017. Meanwhile, most apprehended aliens along the U.S. border in 2017 were asylum seekers from Central America (FitzGerald, López, & McClean, 2019). While trying to save their lives, several asylum seekers faced certain death on the U.S. border, a country they considered a haven.

1.1. The Socio-economic Impacts of Immigration Laws at Home on Immigrants

Detention and deportation were among the essential measures of immigration enforcement taken by the U.S. government to curb the number of illegal immigrants. The provisions resulted in several violations to the social and human rights of many immigrant groups. Unsuitable detention conditions, economic hardship, child molestation, and family separation were among the most controversial consequences.

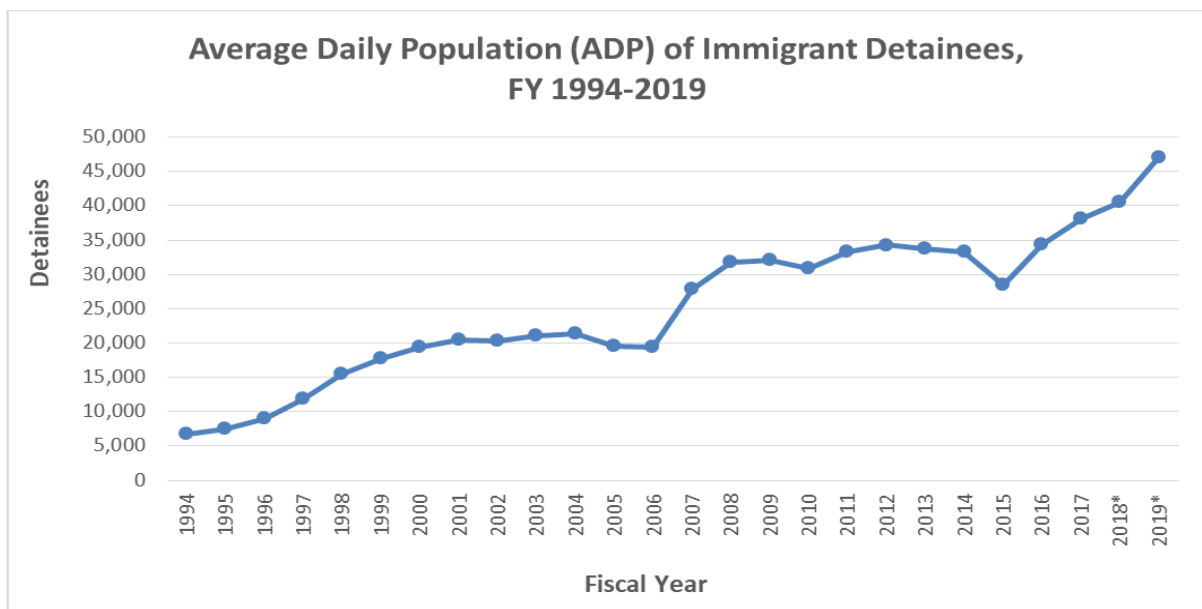
Since the 1990s, the U.S. adopted a set of legislation that prompted extensive detention and deportation as initial parts of immigration enforcement (Nethery & Silverman, 2015). The growing use of detention was due to the U.S. 1996 passed-laws, including the Antiterrorism

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

and Effective Death Penalty Act and the Illegal Immigration Reform and Immigration Responsibility Act. The laws introduced new categories of subject to detention and removal, leading to several detentions and deportations (Ryo & Peacock, 2018). The U.S. altered its immigration policy based on judicial discretion to harsh immigration measures favouring mandatory detention and deportation (Ewing, 2014).

The first two decades of the 21st century witnessed a fivefold increase in immigration daily detention (Ryo & Peacock, 2018). The number skyrocketed, from less than 10,000 in 1996 to more than 30,000 in 2008. The number continued to increase, reaching its highest rate in 2019 under the Trump administration, with more than 45,000 detained aliens (see Figure 25).

Figure 25: Average Daily Population of Immigrant Detainees, FY 1994-2019



Source: Reyes, J. R. (n.d.). *Immigration Detention: Recent Trends and Scholarship*. Retrieved from Center for Migration Studies: <https://cmsny.org/publications/virtualbrief-detention/>

The growing number of immigrant detainees raised dissension over detention conditions, which violated several human and civil rights of immigrants. A number of immigrant advocates claimed that detention was arbitrary and that captured aliens were denied several rights, including the right to due process. Also, detention facilities were subject to several allegations of mistreatment, substandard medical care, molestation and physical abuse, and family separation. As a result, several concerns emerged regarding the impact of detention on immigrants' socio-economic status, families, and children (Ryo & Peacock, 2018).

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

Several international treaties and covenants were signed to provide immigrant detainees with a set of rights. The U.S. joined those agreements guaranteeing the rights of all immigrants regardless of their status. Signed on December 10, 1948, Article 9 of the Universal Declaration of Human Rights (UDHR) prohibited arbitrary detention (*Universal declaration of human rights*). Article 9 of the International Covenant on Civil and Political Rights (ICCPR) declared the same (*International covenant on civil and political rights*).

According to Articles 9 and 13 of the International Covenant on Civil and Political Rights and Article 16 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, migrants had the right to follow due process of law. That included the right to know the reasons for detention, prompt judicial review, legal advice, and consular assistance (the International Covenant on Civil and Political Rights; the International Convention on the Protection of the Rights of All Migrant Workers). The 5th and 14th Amendments to the U.S. Constitution protected the same rights (*Bill of Rights*). Using the term people, the U.S. Constitution provided those rights to all individuals, citizens and immigrants alike.

While detained, immigrants have the right to humanitarian and respectful treatment. Under Article 5 of the UDHR and Articles 7 and 10 of the ICCPR, no cruel, inhumane, or degrading treatment to immigrant detainees is permissible. Also, they have to be separated from convicted individuals (*Universal declaration of human rights; International covenant on civil and political rights*). More importantly, immigrant detainees have the right to medical care (*Universal declaration of human rights, Article 25*). Family unity is another preserved right under Article 16 of the UDHR and Article 23 of the ICCPR. The articles emphasize the right for immigrant detainees to maintain contact with family members during detention (*Universal declaration of human rights; International covenant on civil and political rights*). However, several immigrant detainees during the Trump administration were denied their rights to family unity.

Despite the U.S. commitment to those rights, several complaints were filed regarding violations of detainees' human rights, including the right to freedom from arbitrary detention, due process, human detention conditions, and family unity. In 2015, immigrant detainees and community members filed 47,145 grievances against 304 detention facilities used by ICE (Ryo & Peacock, 2018).

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

Since the 1990s, the U.S. expanded the categories of individuals subject to mandatory detention, including individuals with non-violent misdemeanour convictions without any jail sentence and individuals considered national security or terrorist risk. Besides, aliens charged with crimes involving moral turpitude, an “aggravated felony,” a firearms offense, or a controlled substance violation were included (*[USC02] 8 USC 1226: Apprehension and detention of aliens*). Given the broad and confusing nature of the terms aggravated felony and crime involving moral turpitude, immigration judges tended to spend months determining whether a prior criminal conviction belonged to those categories. As a result, many aliens remained incorrectly in detention for prolonged periods (Amnesty International, 2009).

The U.N. Human Rights Committee deemed arbitrary any prolonged detention not based on appropriate justification (*A v. AUSTRALIA, Communication NO. 560/1993, U.N. Doc. ccpr/c/59/d/560/1993 (30 April 1997)*). The detention period varied from one sector to another. While ICE set 66 days as the average length of detention for asylum seekers who met the credible fear standard¹⁸ (Nethery & Silverman, 2015), the U.S. Supreme Court held six months as a reasonable period (Nethery & Silverman, 2015). Though both periods set by ICE and U.S. Supreme Court did not exceed six months, many asylum seekers were subject to prolonged detention (Acer & Chicco, 2009). In 2010, ICE reported detaining at least 100 asylum seekers for more than a year (Morton, 2012).

Expanding the categories of individuals subject to mandatory detention increased the risk of arbitrary detention of immigrants and asylum seekers (Amnesty International, 2017). In its 2009 report, Amnesty International found that more than 117 individuals were mistakenly held in mandatory detention (Amnesty International, 2009). Unnecessarily detained, many detained aliens posed no or little risk of flight or danger to public safety (Nethery & Silverman, 2015).

According to the UDHR and ICCPR, asylum seekers' detention should be an exceptional rather than routine practice (United Nations High Commissioner For Refugees, 2014). However, the DHS placed thousands of asylum seekers into mandatory detention (Acer & Chicco, 2009). Asylum seekers made up a significant share of detained aliens, and their numbers experienced a constant increase. In 2009, ICE detained 10,742 asylum seekers. In a

¹⁸ An individual meets a credible fear of persecution if he or she establishes that there is a “significant possibility” that he or she could establish in a full hearing before an Immigration Judge that he or she has been persecuted or has a well-founded fear of persecution or harm based on his or her race, religion, nationality, membership in a particular social group, or political opinion if returned to his or her country.

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

year, the number increased rapidly, reaching 15,769 detained asylum seekers in 2010 (Morton, 2012).

Another violated right to immigrant detainees is the right to due process. Stipulated in international and U.S. laws, every detainee has the right to due process. Once detained, individuals have the right to be informed of the reasons for detention. They also have the right to legal counsel and consular assistance. However, several immigrant detainees in the U.S. were denied the right to due process.

Other than arresting them without being informed of the charges against them, immigrant detainees were denied one of the most basic rights in due process, that is right to legal counsel. Though the U.S. law approved immigrants' right to be represented, it should be at no expense to the government (*[USC02] 8 USC 1362: Right to counsel*). Unable to afford a lawyer or access the outside world, immigrant detainees struggled to obtain legal assistance and support. Since many immigrants had no sufficient means to pay for legal counsel, they relied heavily on free-legal aid organizations for assistance (The Advocates for Human Rights, 2010). However, Amnesty International reported numerous cases in which immigrant detainees faced several hurdles in obtaining legal aid, including limited access to a telephone, sudden and frequent transfers, and being held at facilities at a great distance from non-profit immigration attorneys (Amnesty International, 2009).

Amnesty International received many complaints from detained immigrants who were unable to make free calls to pro bono legal services (Amnesty International, 2009). Besides, 48 percent of alien detainees were held at facilities located more than 60 miles away from the closest non-profit immigration counsel (Ryo & Peacock, 2018). That contributed to a significant increase in the share of unrepresented detainees, reaching 84 percent in 2005 (Human Rights Watch, 2005).

Legal assistance is of significant impact, as it contributes to protecting aliens from arbitrary detention. According to the TRAC study, individuals with legal representation were fivefold more likely to obtain asylum (2006). Another study revealed that immigration judges were more likely to release detainees represented by a legal counsel with a lower bond (Warden-Hertz, Fortin, Jhun, & Martinez, 2007). Given its high importance, most grievances, about 67 percent of all, the ICE Enforcement and Removal Operations' Detention Reporting and Information Line (DRIL) received in 2015 involved the detainee's inability to access legal counsel (Ryo & Peacock, 2018).

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

As an effective member of the UDHR and ICCPR, the U.S. is committed to providing immigration detainees with appropriate humane conditions of detention. This includes the right to be treated with humanity and respect, to be protected against torture, cruel, or degrading treatment, and the right to be housed separately from convicted people (*Universal declaration of human rights, Article 5; International covenant on civil and political rights, Article 7*).

However, Amnesty International documented pervasive problems with immigrant detention conditions (Amnesty International, 2009). The U.S. lack of mandatory standards for immigration detention facilities resulted in frequent human rights violations of immigration detainees (The Advocates for Human Rights, 2010). In 2009, Dora Schriro, a senior Department of Homeland Security official, reported that most immigration detainees were kept under quasi-punitive confinement conditions (2009).

Despite the administrative and civil form of custody of immigration detention, which served only to ensure court appearances without any punitive purpose, most detainees were held in jails and jail-like facilities, where they were subjected to punitive conditions (Kalhan, 2010). Besides unduly detention and lack of due process, individuals were detained under restrictive circumstances (Nethery & Silverman, 2015).

Excessive use of immigration detention prompted U.S. immigration authorities to contract with more than 350 state and county criminal jails to confine aliens pending deportation proceedings. An estimated share of 67 percent of immigration detainees was held in those facilities (Amnesty International, 2009). The majority of arrested immigrants and asylum seekers were frequently held with and treated like criminal suspects and offenders (Kalhan, 2010).

While detained in jails and jail-like centers, immigration detainees were subject to several inhumane, cruel, and degrading treatments. Though immigration detention aimed primarily at ensuring the detainees' appearance for hearings, they were subjected to similar treatment as criminal individuals. Besides wearing prison uniforms, whenever taken outside, immigration detainees were handcuffed and shackled (Inter-American Commission on Human Rights, 2010).

Moreover, they suffered from solitary confinement (Amnesty International, 2009), lack of privacy in showers and toilets, and lack of basic needs, including adequate food and medical care (Detention Watch Network, 2013). Besides, they had minimal contact with their family members and attorneys, usually through plexiglass barriers or videos (Epstein & Acer, 2011).

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

More importantly, immigration detainees were subject to several acts of physical, verbal, and sexual abuse by guards (U.S. Government Accountability Office, 2013). Regarding his detention experience, a Nigerian national said that Immigration and Customs Enforcement arrested him for overstaying his student visa. Though married to a U.S. citizen with four U.S. citizen children, the alien was subject to deportation. As he refused to sign his deportation order, the alien reported that officers handcuffed and beat him causing him long-lasting physical and psychological effects (Amnesty International, 2009). Those incidents were more likely to increase, as ICE failed to adequately respond to those abuses (U.S. Government Accountability Office, 2013). Immigration and asylum detainees faced other threats as they were mingled with convicted people (The Advocates for Human Rights, 2010). Detainees complained several times about being confronted or subject to physical violence by criminals (Amnesty International, 2009).

The punitive conditions under which immigrants and asylum seekers were detained increased the risk of human rights violations. They resulted in injury, illness, and in some cases to death (Detention Watch Network, 2013). From October 2003 to July 2018, ICE reported having more than 185 immigration detention deaths (Ryo & Peacock, 2018). As Katia Cardoso put it, immigration detention facilities were places devoted to human rights violations, in which immigration detainees were treated as "dangerous colonial savages" (Cardoso, 2016, p. 199).

The U.S. detention/deportation-based policy caused severe harm to different immigrant individuals and their families and children. Ranging from mental and physical health problems to economic hardship and family separation, immigration enforcement activities had both short and long-term negative impacts on immigrants and the communities where they resided.

Many concerns were raised regarding the impact of detention on individuals' mental health. Potential abuse from staff and violence from fellow detainees, social isolation, and forceful removal increased the risk of emotional distress in immigrant detainees, particularly refugees and asylum seekers (Von Werthern, et al., 2018). The detention experience and its outcomes, including the loss of job, family separation, and deportation, resulted in mental deterioration and frustration to many immigrants, including the detainees and their family members.

Detention and deportation led in several cases to the loss of an immigrant parent, sometimes both parents, who were the breadwinner to all family members. Consequently, the whole family, and children, in particular, faced severe economic hardship. The loss of a working

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

parent resulted in a substantial decline in family incomes necessary to pay bills, housing stability, and food supply (Chaudry A. , et al., 2010). Based on a Migration Policy Institute study, the sudden loss of a detained or deported parent's income resulted in a potential decrease of 73 percent to the family income (Capps, et al., 2016). By increasing the risk of parental detention and deportation, the Obama and Trump administrations exacerbated the economic insecurity of immigrant families.

Another devastating outcome of U.S. immigration enforcement at home was family separation. The U.S. reliance on immigration detention separated numerous immigrant families for weeks, months, and in some cases even to years (The Advocates for Human Rights, 2010). Detention center policies, including frequent and sudden transfers, limited calls, and remote centers, made it difficult for immigrant detainees to maintain contact with family members.

Given their fear of detention and deportation, as well as the great responsibility left on their shoulders to support and protect the family and children, the left-behind parent, particularly mothers, suffered from social isolation and depression (Chaudry A. , et al., 2010). Some worried about being detained to the point of not reporting crimes (Koball, et al., 2015). Due to their inability to cope with the loss of income caused by the detention or deportation of the family breadwinner, several immigrant families faced difficulties paying bills, renting, and even securing food (Chaudry A. , et al., 2010).

However, the most controversial hurdle immigrant parents had to face following the deportation of the parent as to whether take the children with them to their countries of origin or to keep them in the U.S. While some children joined their deported parents, others remained in the U.S. separated from one of their parents (Chaudry A. , et al., 2010). In both cases, children with detained or deported parents experienced strong effects that negatively impacted their well-being in the short and long term.

Concerning children who accompanied their deported parents, language and cultural barriers interrupted their academic performance. Besides, they lacked fundamental health and living conditions (Koball, et al., 2015). For children who remained in the U.S., family separation and economic hardship caused them immense harm. They were at risk for adverse outcomes, including mental, health, and behavioral changes. In a 2010 study, parents reported that their children manifested several behavior changes due to their parents' deportation. The most frequently observed behavioral changes were eating habits, sleeping, crying, fear, anxiety, withdrawal, clinging, and anger. For instance, regardless of their age group, most children

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

revealed a noticeable change in eating behavior; 62% for children of 0 to 5 years and 81% for children from 6 to 11 years. Besides, 55% of children of 0 to 5 years and 69% of those of 6 to 11 years suffered from sleeping disorders (Chaudry A. , et al., 2010).

As an inevitable consequence of their mental and physical health problems, as well as behavioral disorders, children's school performance witnessed a marked decline. In an Urban Institute study in 2011, interviewed school staff reported that some students with detained or deported parents lost interest in academic and long-term careers. Those who wanted to carry out their education, lack of money tuition, and economic hardship forced them to drop out of school and look for jobs to supply their younger siblings (Koball, et al., 2015).

Concerns about children with deported parents increased following the Obama and Trump administration's decision to increase the share of immigration detentions and deportations. As Mexican journalist and author Jorge Ramos put it, Trump's deportation plan was unprecedented and one of the most aggressive measures the U.S. had ever taken against the immigrant population. Ramos expressed deep concerns about the 4.5 million American children who had at least one unauthorized parent. He worried about those children, questioning whether they would be deported with their undocumented parents or remain under U.S. custody.

The Obama and Trump administrations faced thousands of attempts of unauthorized entries from different immigrant groups. All along, the two administrations witnessed the arrival of thousands of immigrant children attempting to cross the U.S. border illegally. While some accompanied their families, others arrived without a parent or a legal guardian and became known as Unaccompanied Alien Children (UAC) (FitzGerald, López, & McClean, Mexican Immigrants Face Threats to Civil Rights and Increased Social Hostility, 2019).

Most UACs were Hispanics, including Mexicans, Guatemalans, Hondurans, and Salvadorans. In 2014, about 70,000 UACs attempted to enter the U.S. illegally through the southwest border. Among these, 16,000 unaccompanied Mexican minors were apprehended (FitzGerald, López, & McClean, Mexican Immigrants Face Threats to Civil Rights and Increased Social Hostility, 2019). While both categories raised controversy over their detention conditions, minors' status occupied much of the debate. In 2018, Trump's zero-tolerance policy separated about 2,342 children from their parents (Lind, 2018). And they were placed with and treated like UACs.

The Center for Human Rights & Constitutional Law reported several civil rights violations across different facilities and shelters, including forcibly giving immigrant children

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

a range of psychotropic drugs (FitzGerald, López, & McClean, *Mexican Immigrants Face Threats to Civil Rights and Increased Social Hostility*, 2019). Other than that, minors in detention experienced several cases of abuse, including molestation, sexual abuse, and physical and verbal abuse.

Those findings were reinforced by a House committee report released in July 2019. The staff report found that detention led to prolonged family and child separation, with harmful, traumatic, and chaotic effects (Committee on Oversight and Reform, 2019). Once released, the report resulted in an intensified debate between Republicans and Democrats. Republican staff members questioned the findings, arguing that "the data had been taken out of context and that "this report is political — not serious oversight" " (Cochrane & Kanno-Youngs, 2019). In contrast, Democrats, including former Vice President Joe Biden and House Speaker Nancy Pelosi, considered the enforcement measures inhumane and against American values (Sullivan & Cole, 2019).

1.2. The Influence of Anti-immigration policy on the Rate of Hate Crimes

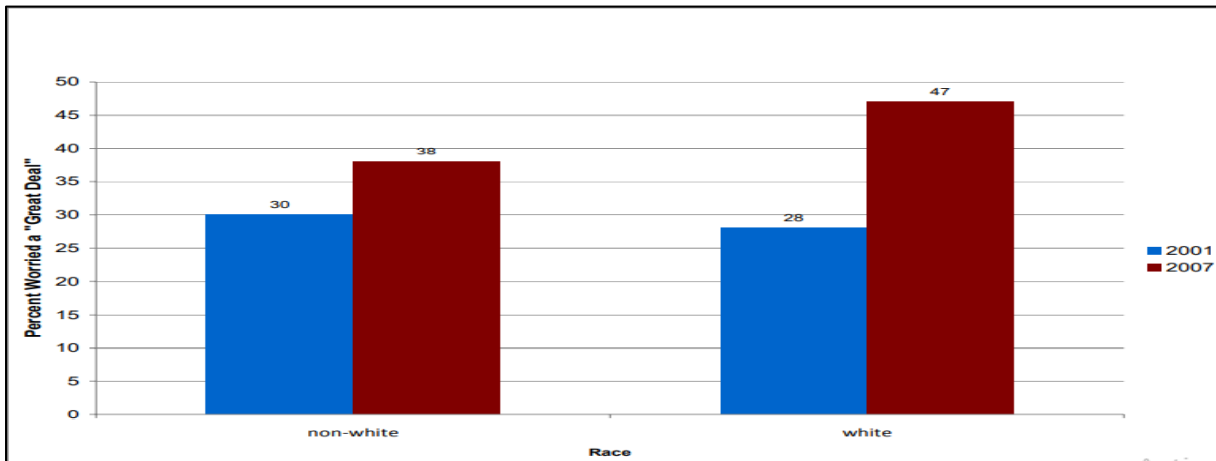
Despite its long existence, the subject of immigration held a significant share of the American public opinion, particularly the illegal one. The American public opinion perceived illegal immigration differently. Despite the changing rates, most Americans considered unlawful immigration a negative phenomenon, while a small share viewed it positively. Different influencing factors contributed to changing the U.S. public opinion on immigration. Age, gender, political ideology, and, most importantly, media portrayal were the most prevailing ones.

Trends in anxiety over illegal immigration varied among different segments of the U.S. population. According to a 2007 Gallup survey analysis, respondents of more than 65 years were more anxious about illegal immigration, with 53 percent (Suro, 2009). Besides, regardless of age pattern, males were more likely to express concerns about immigration than females. About 42 percent of males aged 18-49 and 56 percent of those aged more than 50 years old worried about immigration compared to 40 percent and 46 percent of females of the same age patterns (Suro, 2009). In terms of race, whites were more anxious about illegal immigration than non-whites, with 47 percent and 38 percent, respectively (see Figure 26). Also, political ideology played an important role in shaping public opinion. While 53 percent of Republicans cited illegal immigration as causing a great deal of concern, 34 percent of Democrats shared

Chapter Four: Repercussions of Presidents Obama and Trump’s Immigration Policies

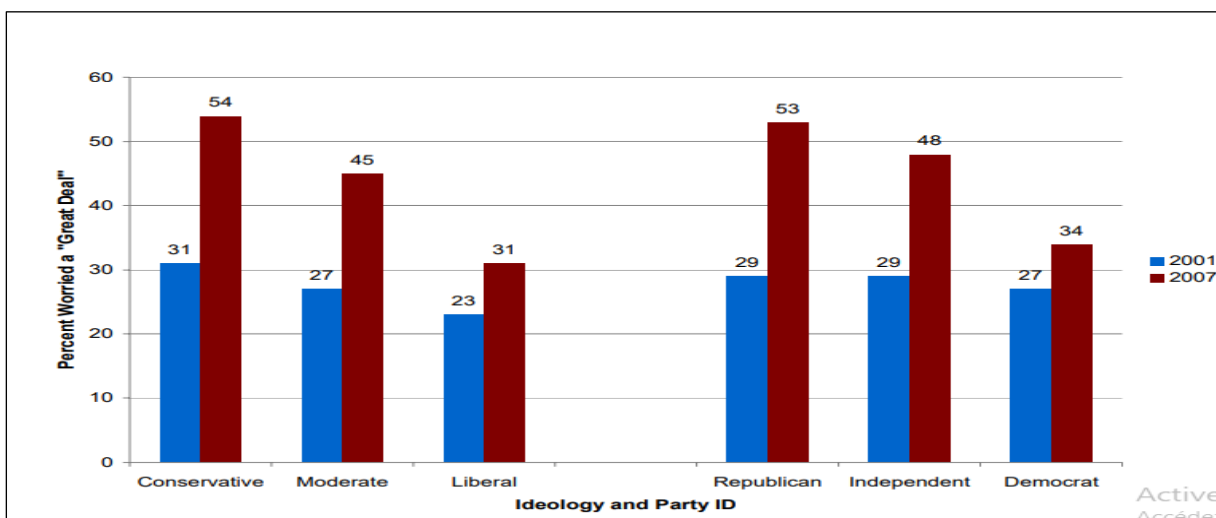
the same view (see Figure 27). Besides those characteristics, individuals with no college degree and those financially struggling were more likely to express concerns about illegal immigration.

Figure 26: Degree to which Respondents by Race Cited Illegal Immigration as Causing a Great Deal of Worry, 2001 and 2007



Source: Gallup Poll, "Social Service Series". Retrieved from Suro, R. (2009). *America's Views of Immigration: The Evidence from Public Opinion Surveys*. Washington, DC: The Migration Policy Institute, p. 13.

Figure 27: Degree to which Respondents by Ideology and Party Identification Cited Illegal Immigration as Causing a Great Deal of Worry, 2001 and 2007



Source: Gallup Poll, "Social Service Series". Retrieved from Suro, R. (2009). *America's Views of Immigration: The Evidence from Public Opinion Surveys*. Washington, DC: The Migration Policy Institute, p. 14.

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

Those anti-immigration sentiments were more likely to increase when combined with the widespread negative portrayal of immigrants. How the media portrayed immigrants in the U.S. had a critical role in shaping public opinion and public policy. Political scientist Diana C. Mutz considered both political elites and the media the two pivotal players in influencing mass public opinion over a particular subject of concern (Mutz, 2018). One could say that media portrayal determines the place of a group in the larger society. Some xenophobic people were more likely to negatively perceive an entire group on the basis of just one malevolent member (Small & Loewenstein, 2005). More critically, between good and bad news, people tended to absorb the bad ones more (Mutz, 2018).

The media's stereotypical portrayal of immigrants, notably Latinos, led to increased resentment toward them. Other than the human and civil rights violations committed on immigrants by U.S. officials under the banner of applying immigration law, a number of immigrants were subject to hostile treatment by certain U.S. citizens. Some political and social scientists combined the increasing share of hostility towards immigrants to the widespread use of demonizing rhetoric, portraying immigrants as intruders attempting to invade the United States.

The U.S. negative rhetoric on immigrants existed since the 2000s, mainly due to a number of terrorist attacks conducted by foreign born individuals and the growing number of undocumented aliens. Often-repeated threat narrative combining immigrants with pernicious fiscal, social, and cultural impacts led to increased white-American hostility against different immigrant groups. The threat narrative of immigrants, mainly Latinos and Muslims, was displayed across the media outlets, political narratives, and scholarly works. Crime, economic downturn, and educational and cultural decline became an indispensable feature of immigration (Abrajano & Hajnal, 2015).

In its report about the U.S. major English language television networks, such as ABC, CBS, NBC, and CNN, the National Association of Hispanic Journalists (NAHJ) concluded that most aired stories about Latinos portrayed them as troubled people exploiting U.S. resources (Subervi, Torres, & Montalvo, 2005). Also, negative media representation covered the Muslim minority group, including both immigrants and nationals. Following the 9/11 attacks, Muslims and Islam became the crux of common media threat narratives (Ahmed & Matthes, 2016).

Chapter Four: Repercussions of Presidents Obama and Trump’s Immigration Policies

Accused of being disloyal and distrusting, immigrants were considered intruders and criminals, threatening the U.S. mainstream development and stability. In a 2017 Gallup poll, most respondents claimed that immigrants made the state of crime worse in the United States, with 42 percent compared to just 9 percent saying immigration bettered the situation. Immigrants were also blamed for unemployment among Americans, with 28 percent saying immigrants reduced their and their family members' chances of finding a job compared to 20 percent having a positive view (see Figure 28).

Figure 28: U.S. Public Opinion about Immigration and Crime and Unemployment

	Better %	Worse %	Not much effect %	No opinion %
The crime situation				
2019 Jun 3-16	7	42	50	2
2017 Jun 7-11	9	45	43	3
2007 Jun 4-24 ^	4	58	34	4
2004 Jun 9-30 ^	6	47	43	4
2002 Jun 3-9	8	50	37	5
2001 Jun 11-17	7	50	38	5
Job opportunities for you/your family				
2019 Jun 3-16	19	25	56	*
2017 Jun 7-11	20	28	51	1
2007 Jun 4-24 ^	12	34	52	2
2004 Jun 9-30 ^	11	37	51	1
2002 Jun 3-9	14	37	46	3
2001 Jun 11-17	15	31	50	4

Source: GALLUP. (n.d.). *In Depth: Topics A to Z: Immigration*. Retrieved from Gallup: <https://news.gallup.com/poll/1660/immigration.aspx>

A number of Americans responded with anger and fear towards the growing number of immigrants. Some of those sentiments turned into violent actions. Irrespective of the U.S. immigration enforcement policies, several immigrants were subject to different acts of hostility and harassment. Immigrant advocates argued that heated debate about immigration law and policy increased the rate of hate crimes against certain immigrant groups (Costantini, 2013). The stronger the immigration debate, the more hate crimes occurred, and the opposite is correct.

For instance, a repeated portrayal of Latino illegal crossers as criminals and exploitive intruders bringing crimes and taking jobs from Americans led to increased numbers of hate crimes against the Latino population, regardless of their immigration status. From 1996 to 2011, 10,000 Latinos were subject to registered hate crimes in the U.S. (Costantini, 2013). Moreover, in the first few months following the September 11 terrorist attacks, hate crimes against

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

Muslims increased dramatically, reaching 296 anti-Muslim intimidation crimes and 93 simple and aggravated assaults. The number declined in the subsequent years to 26 aggravated assaults in 2004. However, in the aftermath of the San Bernardino attacks in 2015, the debate about the interrelation between terrorism and Muslims resurfaced again, increasing the number of hate crimes to 120 crimes of intimidation against Muslims and 91 aggravating attacks (Kishi, 2016).

Given his unprecedented level of hostility towards the immigrant community, the 46th U.S. President, Donald Trump, increased the share of hate crime incidents against immigrants. Besides his presidential nomination, Trump's hostile rhetoric towards immigrants, namely the illegal Latino and Muslim ones, sparked controversy. Trump used speech acts that portrayed immigrants as intruders causing remarkable damage to the U.S. on several levels, namely employment, economy, and security (Lamont, Park, & Ayala-Hurtado, 2017).

Donald Trump repeatedly referred to Latino immigrants, both legal and undocumented ones, using negative terms. Starting from his candidacy announcement to his presidency, Donald Trump used a harsh tone to attack Mexican immigrants, accusing them of being drug dealers, criminals, and rapists coming illegally over the U.S.-Mexico border (C-SPAN). Predominantly, Trump regarded Latino immigrants, notably Mexicans, as dangerous aliens who stole jobs that American citizens deserved the most. Moreover, Muslim immigrants occupied a significant part in Trump's harsh rhetoric, portraying them as terrorists and dangerous aliens whose only aim was to kill U.S. citizens. Within ten days of the Trump victory, harassment incidents motivated by anti-immigrant sentiment reached 280 cases (Miller & Werner-Winslow, 2016). Regardless of their immigrant status, Latinos were subject to several hate crime incidents. During his first year in office, the rate of hate crimes against Latinos increased by 24 % (FitzGerald, López, & McClean, Mexican Immigrants Face Threats to Civil Rights and Increased Social Hostility, 2019).

The Trump administration continued its anti-immigration messaging, leading to an increase in the number of hostile incidents against immigrants. During its October 2018 midterm election campaign, the administration aired on NBC an ad interspersing footage of unauthorized Mexican immigrant Luis Bracamontes, who was convicted of murdering two sheriff's deputies in 2014. The ad included a hate speech that read: "ILLEGAL IMMIGRANT, LUIS BRACAMONTES, KILLED OUR PEOPLE!" (Grynbaum & Chokshi, 2018). Though banned from several TV channels and websites, the ad was aired for some time, and certainly, several American people saw it, increasing their sense of hostility towards immigrants.

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

Trump's racist and xenophobic attitude moved anti-immigration actions. Besides his white supremacist appraisal, Trump supported racist groups and movements, such as the Ku Klux Klan and Neo-Nazism. More importantly, Trump spread violent prejudices against immigrants, claiming that "Haitians all have aids... Nigerians should go back to their huts"; his famous question "Why do we want all these people from shithole countries coming here?" (Dawsey, 2018).

Some individuals reported being subject to hostility in different places, including public, workplaces, and even universities and schools. Harassers did not even pay attention to the individual's immigration status. The more they looked like Hispanics or Muslims, the more they were vulnerable to animosity. Commonly used expressions included "You should be deported", "Go back to Mexico", "Trump", and "Build the wall" (Miller & Werner-Winslow, 2016, pp. 7-8). As reported by a teacher in a Washington school, students chanted: "Build a wall" and one of her students shouted: "If you aren't born here, pack your bags" during the class. Cassie Miller and Alexander Werner Winslow argued that the incidents were a predictable result of Trump's use of racial statements that opened "wounds of division" in the U.S. (Miller & Werner-Winslow, 2016, p. 5). Despite the growing share of incidents, Latinos were less likely to report. In a 2013 survey, about 45 % of Latinos said they did not report to police because they worried about being detained and deported (Theodore, 2013).

2. The Effects of Immigration Enforcement Laws on U.S. economic and Social Institutions

One of the controversial questions about immigration is its overall impact on the U.S. economy and social patterns. Immigrants were accused of undermining the U.S. economy and taking jobs from Americans. Besides, they were perceived as intruders unable to assimilate into American society. Some anti-immigration advocates considered the U.S. restrictive immigration policy an effective solution to recovering the U.S. economy, providing Americans with more job opportunities, and preserving the nation's social dimensions and cultural aspects. However, immigration enforcement policy caused the loss of several productive immigrant individuals who played a disproportionate role in the U.S. economic and social prosperity.

2.1. Immigrants Contribution to U.S. Economy

Immigration contribution to the U.S. economy was subject to several controversies. While skilled immigrant workers raised no doubts over their positive contribution to the U.S. economic well-being, unskilled immigrant workers, mainly the unauthorized ones, were targets

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

of contentious debate. However, the 2008 economic recession exacerbated Americans' fears about the risk of immigration on their financial and labor statuses, bringing both categories under increased scrutiny. Despite those assumptions, immigrants, skilled and unskilled alike, contributed largely to the economic growth of the receiving countries, and the United States was no exception. Besides its contribution to economic prosperity, immigration provided the U.S. with a workforce. Restrictive immigration policy caused more harm than good to the overall U.S. economy and labor market.

A number of economists and political scientists agreed on the positive contribution of immigration to the U.S. economy and labor market. Besides their positive contribution to the U.S. Gross Domestic Product (GDP) and the housing market, immigrants made a sizable share of the U.S. workforce. The increased presence of a foreign-born workforce helped boost different aspects of U.S. economies and accelerate its development by providing productive individuals who raised its overall income, job opportunities, and innovative capacity.

Several existing studies agreed on the positive effects of the foreign-born labor force on economic growth and productivity (Aleksynska & Tritah, 2014). Immigration implications on GDP depended on two variables, employment rate and capital productivity (OECD/ILO, 2018). Given their significant segment in the U.S. workforce, immigrants helped boost the U.S. GDP. In 2019, foreign-born individuals made up 17.4 percent of the U.S. labor force, with 28.4 million employed aliens (Bureau of Labor Statistics, 2020). The number covered both unskilled and skilled immigrant workers, playing an essential part in different U.S. economic sectors.

By filling labor shortages in certain occupations and industries, unskilled immigrant workers expanded business, ultimately increasing capital productivity (Business Roundtable, 2017). Among the 16 million new less-skilled jobs created in the U.S. between 1995 and 2005, 9 million were filled by immigrants (Castle & Miller, 2009). Industries and occupations like farming, fishing, construction, and hospitality were run by a significant share of immigrants, namely unskilled ones. In 2018, unskilled immigrant workers accounted for 36 percent of the total workforce in agriculture, fishing, forestry, construction, and maintenance. Besides, 29 percent of the textile and apparel manufacturing industry workforce was occupied by immigrants with no college degree. Less-skilled Immigrant workers occupied 27 percent of the workforce in other industries, including food manufacturing and accommodation. In terms of construction and administrative and support services industries, unskilled immigrant workers made up almost a quarter of the overall labor force, with 24 percent (see Figure 29).

Chapter Four: Repercussions of Presidents Obama and Trump’s Immigration Policies

Figure 29: Immigrants Without a Four-Year College Degree as a Share of All Workers in Selected Occupations and Industries: March 2018

Farming, fishing, and forestry occupations	36%
Building and grounds cleaning and maintenance occupations	36%
Textile and apparel manufacturing industry	29%
Food manufacturing industry	27%
Accommodation (e.g., hotel) industry	27%
Construction industry	24%
Administrative and support services industry	24%

Source: CBPP analysis of the March 2018 Current Population Survey. Retrieved from Sherman, A., Trisi, D., Stone, C., Gonzales, S., & Parrott, S. (2019, August 15). *Immigrants Contribute Greatly to U.S. Economy, Despite Administration’s “Public Charge” Rule Rationale*.

Given their low rates of youth, about 13 % of the U.S. total population (U.S. Census Bureau, 2020), and their higher educational attainment, U.S. native-born workers were less likely to fill key-gaps in such industries that required young, low-skilled labor (Waters & Pineau, 2015). Immigration provided the U.S. with a significant share of working-age workers, who helped the country overcome labor shortages that the aging American working class could not replenish. In 2019, foreigners made up 78 percent of the U.S. working-age population, compared with just 59 percent of the native population (Sherman, Trisi, Stone, Gonzales, & Parrott, 2019). Restrictive immigration policies that aimed at reducing the number of immigrants were likely to reduce the number of the working-age category and increase the risk of labor shortages.

Moreover, in the book *Exceptional People: How Migration Shaped Our World and Will Define Our Future*, Ian Goldin and Geoffrey Cameron added that immigrants helped stabilize the U.S. economies. Immigrants were more mobile, resilient, and willing to take on jobs that American workers could not or would not accept (2011).

Despite assumptions claiming that immigration implications were extremely negative on American workers, reducing their job opportunities and wages, economist George J. Borjas

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

concluded the opposite. He argued that: "the measured impact of immigration on the wage of native workers fluctuates widely from study to study (and sometimes even within the same study) but seems to cluster around zero" (2003, p. 1335). A number of studies showed that immigration stimulated rather than degraded the incomes and wages of American workers. In his study about the wage impact of immigration on American workers, economist Giovanni Peri found that between 1990 and 2004, immigration lifted the wages of higher educated American workers by 4 percent. Even the least educated ones benefited from a 1.8% increase (2007).

Goldin and Cameron shared the same opinion, challenging the idea that immigrant workers presented severe competition for scarce jobs. They argued that the immigration impact on American workers was irrelevant (Goldin & Cameron, 2011). Immigration provided Americans with new employment opportunities and helped increase their wages. More importantly, immigrant workers were not competitors to American workers. Instead, they complemented the missing skills of the native-born workforce. Given their different sets of skills and demographic profiles, immigrant workers occupied various jobs from those of the native-born. While American workers were concentrated in jobs that required English proficiency, immigrants were clustered in occupations that needed more flexibility and mobility, such as seasonal work in agriculture and hospitality sectors (Business Roundtable, 2017).

More importantly, low-skilled immigrant workers provided services that helped release skilled American workers into the labor market. Take as an example, providing home care or child care that helped mothers staying at home to be released to work (Goldin & Cameron, 2011). In this respect, Golden and Cameron argued that the one-person movement helped create jobs for two people. And those people would be consumers adding to the overall U.S. GDP by spending their wages on goods and services (2011).

The legalization of these undocumented workers would further extend their economic contribution. The U.S. previous experience with IRCA serves as the best illustration, as it provides insight into the economic benefits of legalizing the 3 million undocumented workers at that time. Legalization helped undocumented foreigners take English language classes and pursue higher education, allowing them to get better jobs.

A number of studies showed the positive effect of the legalization of undocumented workers on the U.S. economy. A Westat Inc. for the U.S. Department of Labor survey found

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

that several immigrant workers moved to higher-paying jobs, increasing their average wage by 15.1 percent by 1992. With these higher wages, immigrant workers paid taxes and bought goods and services, increasing the U.S. income (Hinojosa-Ojeda, 2013). Moreover, in assessing the long-term effects of IRCA, a study by the North American Integration and Development Center (NAID) found that legalized immigrants improved their socioeconomic status, opening bank accounts, buying new homes, and starting new businesses (Hinojosa-Ojeda, 2013).

Immigration had a positive impact on the American housing occupation, as well. In 2010, immigrants made significant contribution to the American housing market, accounting for one-third of housing demand (Bipartisan Policy Center, 2014). With about 44.8 million, immigrants accounted for 13.7 percent of the U.S. population in 2018 (Budiman, 2020). Given their increased birth rate, the number of immigrant families is likely to increase. Their significant share would ultimately increase their housing demand. Besides, the housing workforce relied in large part upon immigration. During the 2000s housing boom, immigrant workers filled most construction jobs (Bipartisan Policy Center, 2014).

Other than low-skill jobs, immigrants held a significant share of skilled jobs in many crucial sectors. In his book *The Post-American World*, Fareed Zakaria argued that the global "edge" of the U.S. and its "ability to invent the future" depended on high levels of immigration (2009, p. 198). Immigrant inventors played a substantial role in flourishing U.S. innovation. Their contribution started as early as the 19th century. Known for inventing the telephone and the electronic elevator, Alexander Graham Bell and Lindquist David Leonard were both immigrants who contributed significantly to U.S. technological development through their inventions (Akcigit, Grigsby, & Nicholas, 2017).

Immigration continued in providing the U.S. with skilled individuals who helped increase the rate of American inventions. The number of immigrant winners of the Nobel Prize in chemistry increased from 1 between 1901 and 1959 to 27 between 1960 and 2020 (Anderson, 2020). From 2000 to 2020, immigrants accounted for a significant share of America's Nobel Prize winners in different fields, including physics, chemistry, and medicine, with 43 %, 35 %, and 32 %, respectively (see Table N ° 5). According to Harvard researchers William Kerr and William Lincoln, higher admission rates for highly skilled people led to higher innovation rates

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

(Anderson, 2020). Thus, the more the U.S. increases the share of high-skilled admissions, the more it expands its technological progress.

Table 5: U.S. Nobel Prize Winners in Chemistry, Medicine and Physics : 2000-2020

Category	Immigrant	Native-Born	Percentage of Immigrant Winners
Physics	15	20	43%
Chemistry	12	22	35%
Medicine	10	21	32%
TOTAL	37	63	37%

Source: National Foundation for American Policy, Royal Swedish Academy of Sciences, George Mason University Institute for Immigration Research. Retrieved from Anderson, S. (2019, October 14). *Immigrant Nobel Prize Winners Keep Leading The Way For America*.

Immigration brought to the U.S. a significant share of entrepreneurial individuals who helped create new jobs for American workers. Between 1996 and 2011, the rate of new business among immigrants increased by more than 50 percent, while it decreased by 10 percent among the native-born. Compared to their modest population share, 12.9 percent of the U.S. population, immigrants contributed 28 percent of all new U.S. business in 2011. One in ten American workers was employed by an immigrant-owned company. Immigrants founded some of the best-known American firms, including Google, Intel, PayPal, eBay, and Yahoo (Golding, 2016). Besides creating new jobs for Americans, some of these firms helped the U.S. develop its exportation sector. Immigrant-owned businesses added over \$ 775 billion to the U.S. gross domestic product in 2011 (Fairlie, 2012).

Immigration helped boost GDP as well by increasing the demand they generated for goods and services. As new consumers, immigrants contributed to economic growth and caused additional economic activity that created new job opportunities (Business Roundtable, 2017). Immigrants made up a significant segment of the U.S. population, reaching 44.7 million in 2018 that accounted for 14 percent (American Immigration Council, 2020). Besides the \$1.2 trillion they paid in spending power, immigrants contributed with another \$308.6 billion they spent in federal taxes in 2018 (American Immigration Council, 2020).

Limiting the number of immigrants admitted would reduce the opportunity for many American workers to find jobs and shrink the U.S. economy. Through their significant contribution to different economic sectors, skilled and unskilled immigrants played a

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

substantial role in helping the U.S. alleviate its economy, particularly following the 2007 economic recession. Despite their significant contribution, immigrant workers, specifically the unskilled, faced increasing levels of discrimination and hostility.

2.2. Immigrants' Integration into the American society

Doubts about immigrants' social integration have long been an integral part of U.S. history. Each new wave of immigrants to the United States was the subject of a controversial debate that questioned the ability of newcomers to integrate into American society. Economic concerns, particularly labor competition, and ethnic diversity created several conflicts between native-born, who were the early arrivals, and new immigrants (Brimelow). However, immigration advocates hold a different opinion, arguing that non-white immigrants brought new diversified talents to the U.S. civic culture, which helped maintain its economy and strengthen its traditions (Binder and Reimers, 1995).

Sociologists differed widely in their reading for integration, introducing different variables responsible for immigrants' social adaptation. For instance, Richard Alba argued that the longer immigrants remained in the host country, the more they developed their economic and social patterns allowing them to assimilate. However, this view was not true for all immigrant groups. Particularly, ethnicity had a significant impact on immigrants' integration and assimilation process. Beyond this model, Herbert J. Gans assumed that integration was not a progressive process. Instead, it was primarily linked to the policy adopted by the receiving country. He emphasized that comprehensive immigration policies facilitated the integration of immigrants. From another perspective, it is possible to combine a comprehensive immigration policy towards particular immigrant groups with the positive characteristics of their source countries.

Alba argued that over time immigrants succeeded in integrating into the American mainstream (1995), asserting that assimilation was a generational process (Lieberson 1998). While early immigrants faced several obstacles, their children succeeded in improving many aspects of their lives and could even surpass the native-born category segment. The improved levels of immigrants' socio-economic status were associated with the period they spent in the U.S. The longer they remained in the U.S., the more they managed to improve their status.

For example, the first and second generations of south and east European immigrants to the U.S., who had different experiences. While the first generation showed difficulties in learning English and kept close contact with their countries of origin, the second generation,

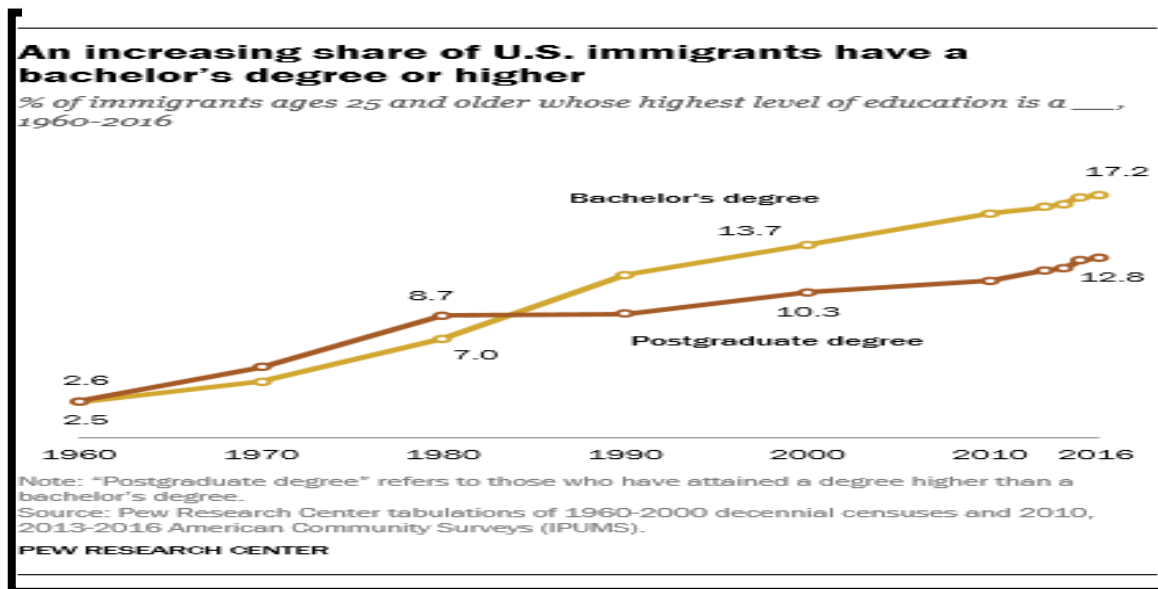
Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

composed of children and adolescents, was more flexible and acquired American features, including language, behavior, and outlook (Smith & Edmonston, 1997). However, the integration level differed from one immigrant group to another.

Smith and Edmonston introduced several variables to assess the level of immigrant integration, depending on educational attainment and language proficiency, employment participation, spatial mobility, naturalization, and intermarriage rates. These aspects were linked to the effects of immigrants on US institutions, including distinction in the sciences and the arts and levels of criminality (1997). Better explained, moving from clustered ethnic neighborhoods, improving educational, professional, and social status with less involvement in crime increases immigrants' chances of integration.

Despite common perceptions about the negative impact of immigration on U.S. social institutions, the educational level of immigrants improved steadily. In 1960, only 2.6 percent of immigrants aged 25 had a bachelor's degree, plus another 2.5 percent with a postgraduate degree. In 2000, the share increased to 13.7 and 10.3 percent for bachelor's and post-graduate degrees, respectively. Immigrants' educational attainment continued to increase, reaching 17.2 percent for bachelor's degrees and 12.8 percent for postgraduate studies in 2016 (see Figure 30).

Figure 30: Immigrants' Educational Attainment



Source: Pew Research Center tabulations of 1960-2000 decennial censuses and 2010, 2013—2016 American Community Surveys (IPUMS). Retrieved from Retrieved from Krogstad, J. M., & Radford, J. (2018, September 14). *Education Levels of U.S. Immigrants Are on the Rise*.

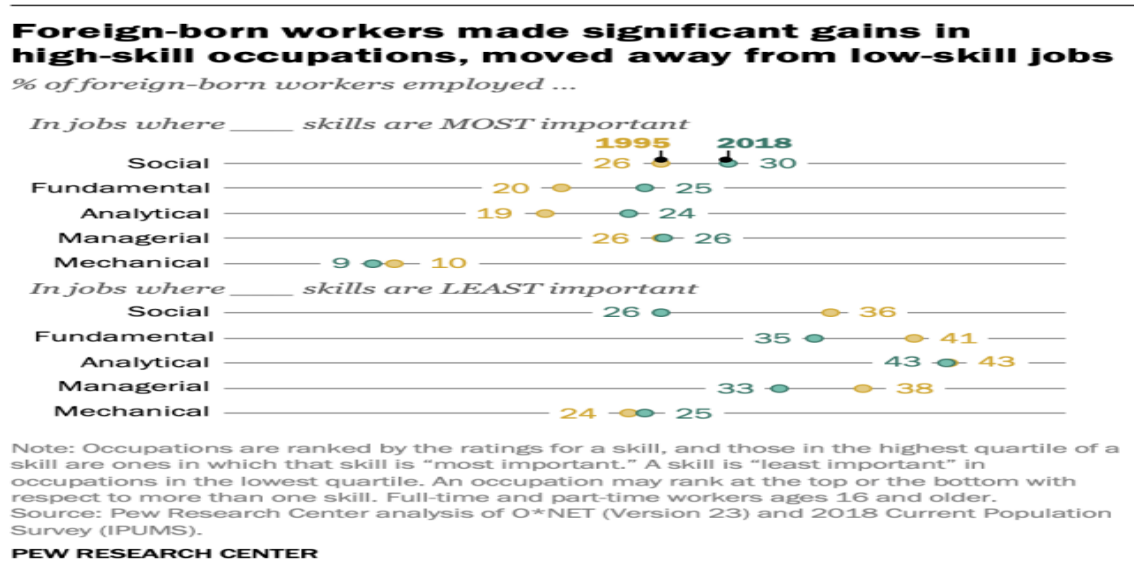
Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

More importantly, in their examination of the educational attainment of immigrant youth, Kao and Tienda (1995) found that "Hispanic, black and white students with immigrant parents performed as well as their native-born counterparts whose parents were US-born, and that Asian students with foreign born parents outperformed their counterparts whose parents were US-born" (Smith & Edmonston, 1997, p. 375). Besides, Rumbaut concluded that "Students whose parents are both immigrants outperform their counterparts whose mother or father is native born" (Smith & Edmonston, 1997, p. 376). Hence, immigration served as a positive feature to students' educational performance.

In terms of language, despite their disparate levels, most immigrant groups reported having well or very well levels of English proficiency and their share grew over time. Compared to early arrivals, recent immigrants demonstrated higher English language acquisition, with 86 percent reporting knowing English from 1900 to 1930 compared to 91.2 percent from 1980 to 2010 (Landgrave, 2019). Geoffrey Carliner argued that the longer immigrants stayed in the United States the better their English language skills became. He estimated a 1.1 percentage point increase in immigrants' English skills for each additional year of residency in the U.S. (2000). English proficiency enhanced immigrants' ability for social integration. Besides its disproportionate role in their educational performance, English skills provided immigrants with more job opportunities.

In terms of employment, immigrants made significant contributions to both low-skill and high-skill occupations. Immigrants performed important low-skill jobs that helped Americans improve their economic status. Besides, they succeeded in increasing their share in high-skill occupations in several critical sectors. According to a Pew Research Center study, immigrant workers improved their performance in several jobs requiring high social, fundamental, and analytical skills. From 1995 to 2018, the rate of foreign-born workers engaged in jobs where social skills were important increased from 26 percent to 30 percent. Moreover, their share increased from 20 to 25 percent and 19 to 24 percent in jobs requiring fundamental and analytical skills, respectively (see Figure 31).

Figure 31: The Share of Foreign-born Workers in High-skill Occupations (1995 to 2018)



Source: Pew Research Center analysis of O*Net (Version 23) and 2018 Current Population Survey (IPUMS). Retrieved from Bennett, J. (2020, February 24). *The Share of Immigrant Workers in High-skill Jobs is Rising in the U.S.*

Higher education and income levels helped immigrants reduce barriers to residential mobility. Besides, they succeeded in increasing their homeownership rates. Immigrants' residential integration served as an essential feature in assessing their assimilation level. According to economist James P. Smith and professor Barry Edmonston, living in neighbourhoods in proximity to the native-born population was a strong indicator of immigrants' social adaptation (1997). That is to say, immigrant groups who lived in clustered ethnic neighbourhoods were less likely to improve their social integration.

The integration process involves immigrants' residential location. Gordon considered the involvement of immigrants into dominant institutions and culture a strong indicator of their successful assimilation (Gordon, 1964). Alba et al. hold the same view, arguing that moving from ethnic clustered residential helped immigrants maintain their social interaction (Alba, Logan, Stults, Marzan, & Zhang, 1999). In the early 20th century, immigrant waves lived in clustered ethnic residential (Smith & Edmonston, 1997). Besides, immigrants had lower homeownership rates than native-born (Chakrabarty, Osei, Winters, & Zhao, 2017), which undermined their chance of social integration.

However, immigrant groups improved their residential status, moving to more dominant regions and increasing their homeownership rate. From a difference of 22.2 percentage points,

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

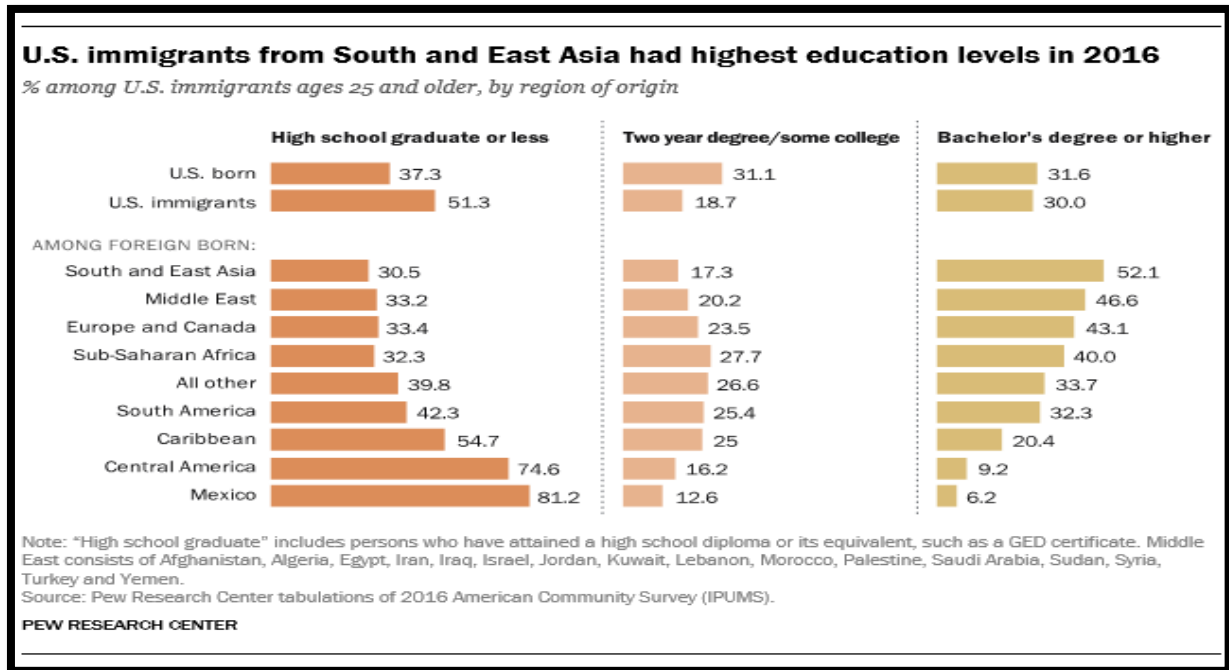
immigrants narrowed the gap between their rate of homeownership and that of the native-born to 16.4 % in 2014 (Painter, 2017). The share differed from one immigrant racial/ethnic group to another. While some immigrant groups succeeded in narrowing their homeownership gap, others remained relatively undermined (Chakrabarty, Osei, Winters, & Zhao, 2017).

Immigrants succeeded even in penetrating some of their cultural aspects into American society. Despite allegations accusing immigration of undermining American culture, immigrants brought new customs of dress and cuisine, national celebrations, and cultural expressions, which expanded the social dimensions of the mosaic country. Ethnic cultures entangled with each other and formulated a broader American cultural framework (Smith & Edmonston, 1997).

Although not fully assimilated, members of the second and third generations of immigrants succeeded in narrowing the gap between them and native-born Americans. Assimilation and integration helped immigrants and their children better their living conditions. Immigrants succeeded in improving their educational attainment, which provided them with better job opportunities. Not just immigrants benefited from their social and occupational mobility, but the whole American society.

Certainly, integration levels differed from one ethnic group to another. While some immigrant groups achieved a great deal of social integration, others faced increased levels of discrimination, slowing down their integration pace. Integration disparity was due to several factors. Other than the residential period, racial/ethnic discrimination against some immigrant categories slowed down their integration process.

Overall, in 2016, 30 percent of immigrants of 25 years and more hold a bachelor's degree or higher, an approximate share to the native-born with 31.6 percent (Krogstad & Radford, 2018). However, the share differed among ethnic groups. Except for Hispanic immigrants, most immigrant groups outpaced the native-born share. Immigrants from South and East Asia had the highest share, with 52.1 percent having a bachelor's degree or higher. Immigrants from the Middle East came second, at 46.6%. The lowest percentage went to Mexican immigrants, at only 6.2 percent, followed by Central American and Caribbean immigrants, at 9.2 percent and 20.4 percent, respectively (see Figure 32).

Figure 32: The Educational level of U.S. born and Immigrant Groups in 2016

Source: Pew Research Center Tabulations of 2016 American Community Survey (IPUMS). Retrieved from Retrieved from Krogstad, J. M., & Radford, J. (2018, September 14). *Education Levels of U.S. Immigrants Are on the Rise*.

In terms of their labor performance, while some immigrant groups worked principally in higher-skill occupations, others were largely employed in lower-skill jobs. Except for occupations requiring high mechanical skills, white and Asian immigrant workers hold the highest share in high-skill occupations. The Asian share was similar to and sometimes outpaced, the white one. For instance, in 2018, the rate of white and Asian immigrants holding occupations requiring high social skills was 45 percent and 36 percent, respectively. Besides, Asian immigrants occupied 42 percent of high analytical skill jobs, compared to 36 percent of white workers. In contrast, black and notably Hispanic immigrant workers lagged behind, with only 23% and 11 % of black and Hispanic foreign-born workers occupying high analytical skill jobs (Bennett, 2020).

Despite their moderate share, several immigrant groups moved from clustered ethnic neighborhoods and increased their homeownership rates. Yet, the results among immigrant households were heterogeneous. Among all immigrant groups, black and Hispanic immigrants remained quite undermined. For instance, while a number of immigrant groups, such as the Asians, managed to improve their residential and homeownership statuses, black and Hispanic immigrants stayed in clustered ethnic regions. Besides, their homeownership rate experienced

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

the highest drops following the 2008 economic recession. While the homeownership rate in the U.S. dropped by 1.2 percent in 2008, blacks and Hispanics experienced a loss of 1.9 % and 2.6 %, respectively (Kochhar, Gonzalez-Barrera, & Dockterman, 2009).

However, a wide gap existed between Asian and Hispanic immigrants. As of the 1960s, Europe ceased from being the top sending region of immigrants to the U.S. Instead, Hispanics and Asians became the largest immigrant groups in the U.S. These two immigrant groups had two diversified experiences. Whereas immigrants from Asia were among the most educated and skilled individuals, immigrants from Latin America were the least educated and poorest category.

Unlike the second and third generations of Asian immigrants, early Asian arrival occupied low-skill jobs, including mining, farming, and construction. Besides, they were subject to exclusionary immigration legislation. As of the 1880s, the U.S. passed restrictive immigration laws, excluding Asian immigrants, namely Chinese and Japanese (The Pew Research Center, 2013).

However, during the 21st century, Asian immigrants became the fastest-growing immigrant group in the U.S. Chinese, Filipino, Indian, Vietnamese, Korean, and Japanese immigrants made up the largest share of Asian immigrants to the U.S., accounting for 85 percent of the total Asian immigrant population (Malik, 2015). Not just their number, but even their socio-economic performance and level of integration increased. Asian immigrants became among the most important contributors to the U.S. educational, economic, and social development.

The largest share of international students to the U.S. came from Asia, with China as the top sending country, followed by India (Trines, 2018). Besides, Asian immigrants helped expand the U.S. economy. In 2007, Asian immigrants ran 1.5 million businesses, contributing \$506 billion to the U.S. GDP and employing 208 million people (Malik, 2015). Hence, Asian immigrants increased the U.S. share of professionals and high-skill workers.

In contrast, Hispanic immigrants showed low levels of educational and economic developments, as well as slow levels of integration. Despite their growing educational attainment rates, Hispanic immigrants held the lowest share. In 2018, about 58 percent of non-Hispanic immigrants had at least a bachelor's degree, compared to 26 percent for Hispanic immigrants (Noe-Bustamante, 2020). Besides being clustered in low-skilled jobs, Hispanic immigrants had higher rates of poverty compared to the national average, with 18 % compared

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

to 13 % in 2017, respectively (Noe-Bustamante & Flores, Facts on Latinos in the U.S., 2019). In terms of residential mobility, while first generations of both Asian and Hispanic immigrants faced residential segregation, the share of Hispanic immigrants was higher. Besides, compared to other immigrant groups, the improvement of the second and third generations of Hispanic immigrants was slower (Jimenez, 2011).

These disparities raise two fundamental questions. The first is whether the educational, labor and cultural characteristics of the sending country were responsible for U.S. immigration policy? The second is to what extent did the U.S. immigration enforcement policy affect the integration of immigrants? One may assume that the U.S. shaped its immigration policy according to immigrants' characteristics. High educational performance and labor skills contributed to altering the U.S. immigration policy towards certain immigrant groups, namely Asians. Another reading says that restrictive immigration policy directed towards particular groups, such as Hispanic immigrants, reduced their chance for successful integration. In contrast, Asian immigrants managed to improve their status because they were no longer targets for enforcement measures.

As a host country, the United States may draw its immigration policy toward a particular immigrant group based on the characteristics of the source country. Apart from their different immigration statuses, Asian and Hispanic aliens came from distinct regions, with educational, labor skill, and political dissimilarities. Asian and Hispanic immigrants fell into opposites, and they experienced key differences during the integration process. This may be related to the different characteristics surrounding both source regions.

A number of Asian countries experienced noticeable shifts in their knowledge and skills, reaching remarkable levels of development. As of the 1980s, China witnessed rapid expansion and development in its higher education system. China became one of the countries with the largest higher education system, reaching about 2723 higher education institutions with a total of 31 million enrolments in 2010 (Cai, 2013).

Besides their higher educational level, Asian immigrants came from countries with remarkable economic growth. For instance, the Philippines witnessed an economic boom, increasing its GDP by 6.7 percent in 2017 (Macha, Mackie, & Magaziner, 2018). With its tendency for entrepreneurial innovation, and its young, technically skilled, rapidly growing English-speaking workforce, India managed also to become one of the fastest growing major economies in the world (Trines, 2018).

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

Considered as positive contributors to its development, Asian immigrants changed the U.S. negative perception about them, leading eventually to a more inclusive immigration policy towards Asian entry. The majority of the American public held an image of highly educated and skilled Asian immigrants.

In contrast, the largest share of Hispanic immigrants came from regions with poor academic performance with low income and labor skills. More importantly, they suffered from political instability and high criminality rates. The rate of poverty among Latin American countries was very high, with 130 million living in chronic poverty in 2014 (Vakis, Rigolini, & Lucchetti, 2015). Most Latin immigrants to the U.S. were from Mexico, Central America, and South America. These regions contained the highest homicide rates. Between 2007 and 2012, Honduras and El Salvador had more than 70 and 60 homicide incidents per 100,000. Despite its moderate share, Mexico witnessed a remarkable surge in homicide rates, from 14 to 21.5 per 100,000 in 2012 (Verdugo-Yepes, Pedroni, & Hu, 2015).

Given the increased levels of poverty and criminality in their home countries and their low educational performance, Hispanic immigrants were perceived as intruders who brought more harm than good to the U.S. Hispanic immigrants were subject to widespread stereotypes, portraying them as exploiters and criminals. They were accused of undermining the U.S. economy and threatening its safety. This resulted in public resentment against them. Those anti-immigrant sentiments turned into immigration enforcement measures targeting Latin immigrants, which impacted their educational, labor, and social performance.

In addition to the resources, characteristics, and reception of the receiving society, the integration of immigrants depended on several factors, including their skills, talents, and human capital (Kerwin, 2017). Beyond their educational and economic performance, continuous and increased immigration enforcement policies limited Latin immigrants' chance for integration. Undeniably, a comprehensive immigration policy in favor of more educational and economic opportunities and an open job market was crucial for successful socio-economic integration. The fact that Asian immigrants ceased from being a central target of the U.S. enforcement immigration policy helped them improve their socio-economic status. In contrast, placing Hispanic immigrants, particularly the Mexicans, as the core for the U.S. immigration enforcement measures undermined their chance for advancement and integration.

Regardless of their educational level or work skills, immigrants contributed in different ways to the U.S. well-being. As Donald Kerwin argued: "The nation's well-being will

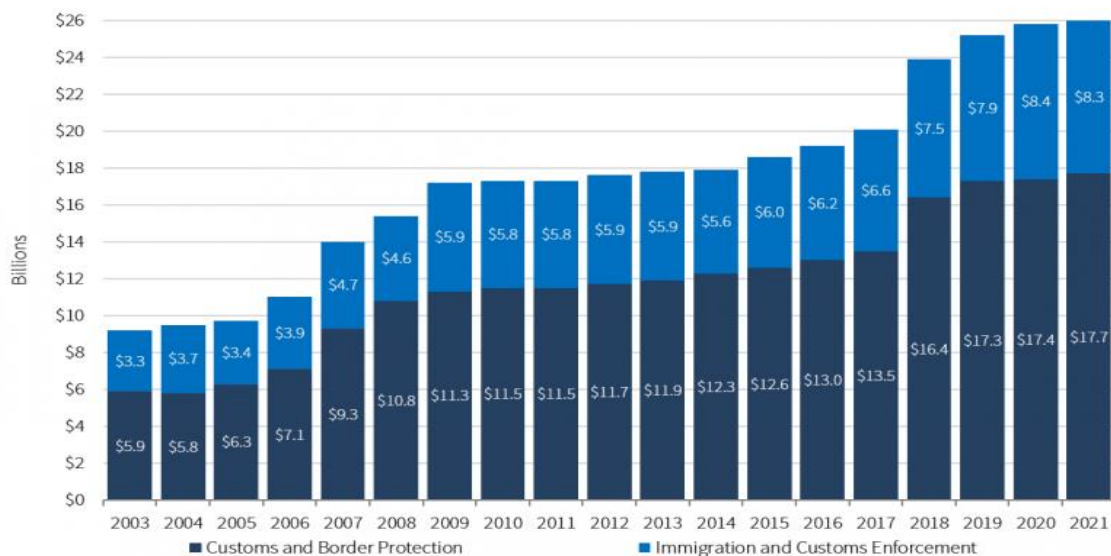
Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

increasingly turn on the success of its 43 million foreign-born residents and their children" (2017, p. 552). Despite their illegal status and low levels of integration, undocumented immigrants helped their legal immigrant counterparts, and even American citizens, perform significant tasks to the U.S. development. Besides educational performance and labor market participation, immigrants stood side by side with America in confronting several crises.

2.3. Economic and Social Consequences of Immigration Enforcement Policy

Rather than efficiency, immigration enforcement measures caused the U.S. significant financial burdens. The increasing number of unauthorized immigrants proved the enforcement strategy to be ineffective. Despite the great number of expenditures that the U.S. spent on immigration enforcement, unauthorized entry persisted. From 3.5 million in 1990, the number of unauthorized immigrants reached 11 million in 2017 (Budiman, Key Findings about U.S. Immigrants, 2020). Meanwhile, CBP and ICE, the agencies responsible for border security and interior enforcement, respectively, cost billions of U.S. dollars. From 2003 to 2021, the CBP annual budget increased from \$ 5.9 billion to \$ 17.7 billion. During the same period, ICE's spending tripled from \$ 3.3 billion to \$ 8.3 billion (see Figure 33). Not to mention the massive increase in the number of Border Patrol and Immigration and Customs Enforcement officers who cost the U.S. further billions of dollars. Overall, since its creation, DHS cost the U.S. an estimated \$ 333 billion to conduct immigration enforcement activities (American Immigration Council, 2021).

Figure 33: CBP & ICE Annual Budgets, FY 2003-2021



Source: Congressional budgets, gross budget authority as provided in Conference Reports, FY 2003-2021. Retrieved from American Immigration Council. (2021). *The Cost of Immigration Enforcement and Border Security*.

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

Beyond those expenditures, immigration enforcement policies caused a huge economic loss. Restrictive immigration policies cost the U.S. not just the loss of effective and productive individuals, but also an important share of its income source. Concerned about their civil and human conditions, a number of immigrant workers in the U.S. left or changed their destination, constituting a lost opportunity for the U.S. economy. Interior immigration enforcement combined with a constrained visa quota system drove both low-skilled and skilled immigrants to pursue their careers or studies elsewhere other than the U.S.

Economic experts Ben Gitis and Laura Collins estimated the overall cost of deporting the 11.2 million undocumented aliens present in the U.S. around \$ 100 billion to \$ 300 billion (2015). Besides being economically costly, the deportation of millions of undocumented aliens would cause an enormous shrink to the U.S. labor force, GDP, and economic growth.

According to Business Roundtable members, American employers repeatedly reported about their lack of labor force, especially that Americans were uninterested in long hours and manual labor. To mention, U.S. agricultural employers frequently struggled to fill in labor shortages (Business Roundtable, 2017). Deporting millions of undocumented workers, who constituted an important share of the workforce in the agricultural sector, would exacerbate the situation. All else being equal to other industries, including construction, hotel accommodation, and textile, that depended mostly on low-skilled immigrant workers.

Irrespective of their unwillingness to accept those jobs, the number of American workers tends to be insufficient to cover the share of the workforce required in these sectors. To achieve its projected economic growth in jobs, including home health care, food preparation, freight, child care, cleaning, landscaping, and construction, in 2013, the U.S. Bureau of Labor Statistics (BLS) argued that the U.S. would need 3 million additional low-skilled workers in the upcoming ten years. Along the same period, the overall U.S. new labour force entrants in both skilled and low-skilled jobs would be just 1.7 million (Clemens, 2013). Eventually, the U.S. would be less likely to meet its labor force needs without low-skilled immigrant workers.

Other than low-skilled jobs, even jobs requiring high skills would be affected by reducing the number of unskilled immigrant workers. According to economist Michael Clemens, less-skilled immigrant workers helped American skilled workers perfectly accomplish their work. By accomplishing those less-skilled services such as home health care, food preparation, freight, and child care, unskilled workers would save time and energy for skilled workers, allowing them to be more productive (Clemens, 2013). The deportation of

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

undocumented workers would cost the U.S a 6.4 percent loss of its labour force (Gitis & Collins, 2015).

The deportation of those aliens would not just cause the loss of workforce, but also an important share of consumers who contributed to U.S. income. In their assessment of the economic consequences of implementing a full enforcement policy toward undocumented immigrants, Gitis and Collins argued that the deportation of undocumented immigrants would have a profound negative impact on U.S. GDP. They estimated a \$1.6 trillion loss in the real GDP in 2034 (2015). Industries where undocumented workers were more concentrated would be certainly the most affected.

The U.S. economy and labor market lost other substantial elements that led to further deteriorating conditions, including foreign students and highly skilled workers. Both categories played a pivotal role in maintaining the U.S. economy and labor market, particularly after the 2008 economic recession. However, enforcement of immigration policies reduced the number of international students and skilled immigrant workers to the U.S.

Given their significant contribution to economic growth and the labor market, international students helped the U.S. reduce the pace of the 2008 economic recession. In 2008, they added \$ 16 billion to the U.S. economy (Ortiz, Chang, & Fang, 2015). Their contribution increased significantly, reaching \$ 27 billion in 2014 (Ortiz, Chang, & Fang, 2015). However, as their numbers decreased their contribution collapsed.

Restrictive immigration policy combined with high numbers of student visa delays and denials decreased the number of international students by 20,000 in 2019 (Israel & Batalova, 2021). Given their significant contribution to the U.S. economy, the loss of those students decreased the U.S. financial and economic benefits. According to NAFSA: Association of International Educators, in FY 2017, foreign students provided the U.S. economy with an income of \$ 36.9 billion and helped create about 450,331 new jobs. In FY 2019-2020, they contributed 38.7 billion and led to the creation of 416,000 new jobs (NAFSA: Association of International Educators, 2020). Although the amount of their financial contribution increased, it is considered insignificant compared to the previous increasing rates.

Besides, international students helped fill in labor shortages in several high skilled jobs, including Science, Technology, Engineering, and Mathematics (STEM) (Ortiz, Chang, & Fang, 2015). In the midst of this worldwide competition for talent, restrictive immigration policy

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

reducing the number of international students to the U.S. is more likely to undermine the country's position as the world scientific and technological leader.

More importantly, enforcement of immigration law threatened the U.S. leading role as the top receiving country for international students. Travel restrictions and complicated visa issuance drove thousands of international students to change their destination to other countries. This resulted in declining the enrolment share of international students in the U.S. and expanding the chance of other competing countries, like the U.K., Canada, and China in receiving highly-skilled individuals who would contribute to their development. Imposing a stricter immigration policy would ultimately reduce the number of international students, a thing that would decrease the U.S. chance to benefit from the incomes it receives from them.

Not just international students, but highly-skilled immigrant workers already in the U.S. also changed their destination to other more welcoming countries. The largest share of skill workers entered the U.S. through its H-1B program. Created in 1990, the program served as an initial channel for foreign-born college-educated professionals to join the U.S. workforce. As part of its immigration enforcement policy, the U.S. imposed constraints on H-1B issuance, reducing its share from 195,000 to 65,000 in 2004 (Mayda, Ortega, Peri, Shih, & Sparber, 2018).

Engaged in management, engineering, medicine and health professions, mathematic and physical science, and other important fields, H-1B recipients played a pivotal role in promoting U.S. progress. However, the H-1B binding policy resulted in large declines in H-1B employment. In their analysis of the H-1B constraints, economists Anna Maria Mayda et al. found that declines in foreign-born skill workers were not offset by native employment (2018). The U.S. already suffered from labor scarcity in highly-skilled jobs, and the reduction of H-1B issuances exacerbated the situation. In 2013, the vast majority, 98 percent, of American workers complained about facing difficulties finding qualified candidates for highly-skilled positions (Business Roundtable, 2014). Yet, the U.S. kept its H-1B binding policy (Business Roundtable, 2017). Increased lack of high skilled workers was more likely to persist as several high skilled immigrant workers left the U.S.

Given their large contribution to the U.S. economy, labor market, and innovation capacity, the U.S. H-1B cap reduction had several consequences on the country. Other than undermining an important share of taxpayers and consumers, the U.S. full-enforcement immigration strategy would cost the loss of effective members to the U.S. society. Apart from

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

their economic contribution, immigrants and their descendants helped the U.S. overcome several issues and crises, and most recently the Corona Virus Disease (COVID-19).

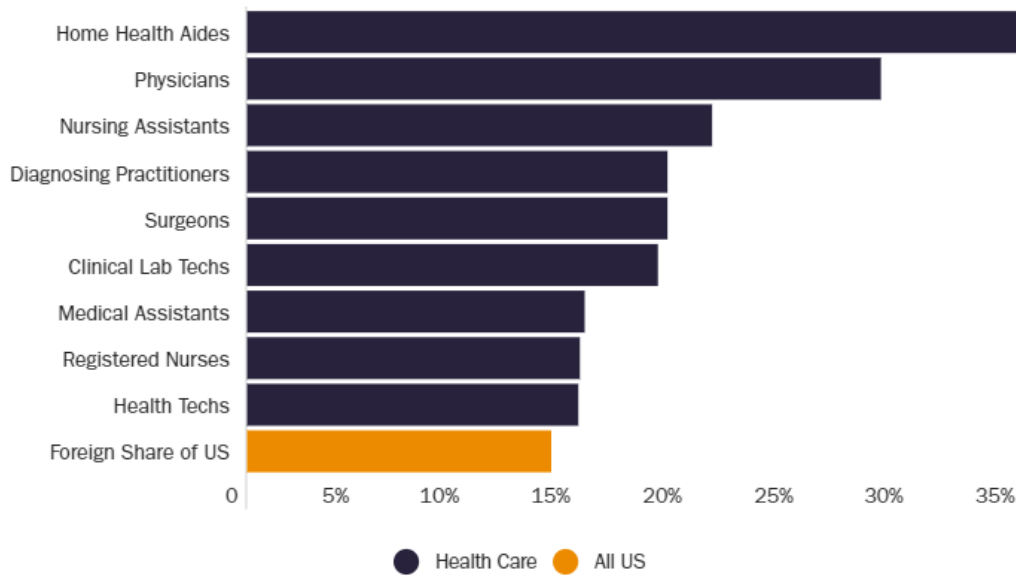
On April 13, 2020, U.S. Congress asked DHS to extend employment authorities for all immigrants. The request came as a response to COVID-19. Similar to most countries, the virus caused immense harm to the U.S. economic, educational, and social institutions. According to Congress members, immigrant workers would play an essential part in helping the country recover from the COVID-19 drawbacks (Congress of the United States, 2020).

Immigrants were key assets in undermining the consequences of the Coronavirus disease on American society. Besides providing U.S. residents with indispensable services during quarantine, immigrants contributed greatly to confronting the epidemic and finding a cure for it. Policy analyst David J. Bier praised the efforts of millions of immigrants in defeating COVID-19. Engaged in different sectors, immigrants occupied crucial positions that helped the country cope with the pandemic with minimal casualties.

Considered a critical countermeasure against the devastating pandemic, medical and health sectors were in dire need of coordination and cooperation. Despite their moderate population share, 13.7 % in 2018, immigrants provided the U.S. with a significant health workforce. In 2018, about 1.7 million foreign-born medical and health care workers were immigrants. were dispersed in different occupations. As for home health care aides, immigrant workers occupied 35.2 %. The share of foreign-born physicians and nursing assistants reached 28.5 % and 20.9 %, respectively. Foreign-born workers occupied important shares in other sectors, including 18.9 % health care diagnosing or treating practitioners, 18.5 % clinical lab technicians, 15.2 % medical assistants, 15 % registered nurses, and 14.9 % health technicians (see Figure 34).

Chapter Four: Repercussions of Presidents Obama and Trump’s Immigration Policies

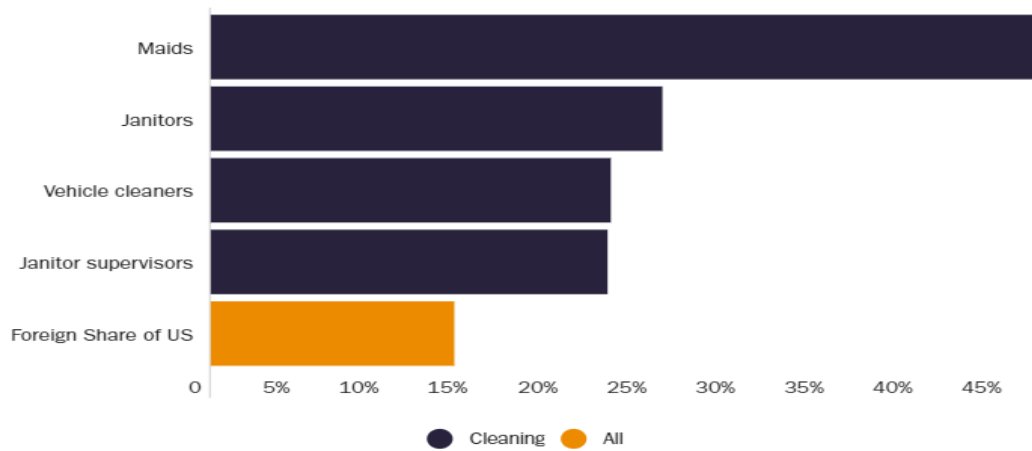
Figure 34: Foreign-born Share of Various Medical and Health Care Jobs and Foreign Share of U.S. Population 2018



Source: American Community Survey, 1-year, (2018). Retrieved from Bier, D. J. (2020, March 23). *Immigrants Aid America During COVID-19 Crisis*.

Given the contagious nature of COVID-19, cleaning and disinfecting were fundamental to reduce the transmission of the virus. Low-skill immigrant workers occupied an important share of the U.S. cleaning sector, with almost half of America’s maids, about 30 percent of its janitors, and 22 percent of its vehicle cleaners and its supervisors of janitors (see Figure 35).

Figure 35: Foreign-born Share of Cleaning Occupations and Foreign Share of U.S. Population (2018)



Source: American Community Survey, 1-year, (2018). Retrieved from Bier, D. J. (2020, March 23). *Immigrants Aid America During COVID-19 Crisis*.

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

Immigrant workers were engaged in other occupations, including delivery, shipping, and trucking, bringing products to households. These tasks helped the country reduce the spread of the virus by providing Americans with the necessities while confined at homes. Regardless of the job done, both low-skill and high-skill immigrant workers stood side by side with Americans and helped them confront not just COVID-19 but several hurdles.

A comprehensive immigration policy would provide the U.S. with other productive individuals. However,

Rigid caps for permanent residents and some categories of temporary foreign workers have resulted in tremendous backlogs and inefficient lotteries and have discouraged countless potential would-be immigrants from applying or staying in the United States; they may even encourage some companies to open or expand operations overseas instead of domestically (Orrenius & Zavodny, 2017, p. 189).

Restrictive immigration policy undermined the U.S. chance to receive other effective individuals, who would help the country meet its labor needs, evolving economic trends, and promote international competitiveness.

3. Impacts of Immigration Enforcement Policy on Immigrant Descendants

Despite their large contribution to the U.S. development, immigrants were perceived as intruders threatening the country's safety and economic prosperity. Those anti-immigrant sentiments were originated from a nativist feeling, portraying new immigrants with different racial, religious, and cultural aspects as unassimilable. Nativist sentiments have long been an integral part of U.S. history, affecting both early and recent immigrants. Importantly, those feelings touched all American citizens, who were the descendants of immigrants.

According to James P. Smith and Barry Edmonston,

The idea of a common society in which all members are fully incorporated and socially equal has been more of an ideal than a reality in American history. America has always been characterized by variations in socioeconomic and cultural status associated with groups defined by national origin and color as well as by great variation even within national-origin groups (1997, p. 365).

The discrimination of "new" and "different" immigrant groups stemmed from a nativist feeling. A feeling that had a significant impact on the U.S. immigration policy. Nativism is

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

neither a new nor a disappeared sentiment. It existed as early as the 18th century with the first immigrant wave and persisted as long as new and different immigrants continued to arrive in the U.S.

3.1.The Rise of Nativism Within the American Society

During the 1840s and 1850s, Catholic and Irish immigrants experienced one of the most brutal nativist sentiments expressed by the Know-Nothing Party. The movement was led by anti-Catholic and anti-Irish groups of the working class. Similar to the present perception, party members portrayed Catholic and Irish aliens as unassimilable and called for their deportation (Boissoneault, 2017).

Except for immigrants from north-western Europe, all subsequent immigrant groups experienced the same exclusionary attitude. South-eastern European, Asian, Latin, Middle Eastern, and African immigrants were all perceived as inferior individuals unable to assimilate to the American old-established identity and values. Given their different racial composition, cultural aspects, and economic competition, immigrants were considered a social and economic menace to the Protestant white native-born population.

The root of nativism derived from a popular belief that new immigrants were unassimilable because of their different races, ethnicity, and culture. Other than that, nativism stemmed from an economic unacceptance among the white working-class, who considered immigrants as strong competitors for job opportunities and the main reason behind their low wages (Young, 2017).

Despite its collapse, the patterns of the Know-Nothing persisted and impacted each new wave of immigrants. Professor Christine Phillips presented three common patterns of any nativist sentiment, including the embrace of nationalism, religious discrimination, and a working-class identity (Boissoneault, 2017). Increased numbers of immigrants combined with negative political rhetoric directed by right-wing extremists resulted in inherent nativist patterns persisting throughout the U.S. past and present.

Those sentiments stood against the integration of several immigrant groups. Blamed for crime, insecurity, and labor conflict, immigrants faced discrimination and hostility from the native-born population. A thing that undermined their chance for educational, economic, and social adaptation. Both integration and nativism are generational processes, passing among immigrant descendants. The processes are influenced by two variables, changing immigration

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

patterns and regulatory immigrant policies. The more the U.S. received new immigrant groups, the more anti-immigration movements occurred, leading to an upsurge in nativist sentiments. Those sentiments culminated in the passage of restrictive immigration policies, undermining the chance of those recently arrived immigrants.

Hostility towards those immigrants extended to their descendants, who became naturalized or were born as U.S. citizens. As Peter Schrag explained:

the immigrants who were demeaned by one generation were the parents and grandparents of the successes of the next generation. Perhaps, not paradoxically, many of them, or their children and grandchildren, later joined those who attacked and disparaged the next arrivals, or would- be arrivals, with the same vehemence that had been leveled against them or their forebears (Schrag, 2010, p. 2).

Retrospectively, the ancestors of the present nativists experienced the same anti-immigrant movement. Though "the context is different, but the themes are consistent. The actors are still the same, but with different names" (Boissoneault, 2017). For instance, from being subject to native resentment, the Irish became a leading member of a nativist movement, known as the Workingmen's party. Led by the Irish-born Dennis Kearney, the party targeted Chinese immigrants calling for their total exclusion (Kraut, 1982).

Although nativism contributed largely to reshaping the immigration policy, the U.S. government paid much attention to other variables, particularly its economic needs. During the 1890s, Mexican immigration to the U.S. increased heavily. Similar to their southern European and Asian counterparts, Mexicans were perceived as inferior and unassimilable. However, they were not subject to any restriction. That was because Mexican laborers filled many of the labor shortages occurring as a result of southern European and Asian exclusions. Despite nativist calls to prohibit Mexican immigration, significant pressure by agricultural and industrial lobbies on lawmakers exempted Mexicans from the immigration laws of the 1910s and 1920s (Young, 2017).

Julia G. Young stated that by 2015, the U.S. under the Trump administration witnessed "another great wave of nativism" (2017, p. 227). One that resembled largely the early anti-immigration movements. In the early 21st century, the U.S. witnessed an increase in nativist feelings. Besides the growing number of undocumented Mexican aliens, the September 11 terrorist attacks, and the 2008 economic recession fuelled the American public concern about the immigration population. Common political and media portrayals framing immigrants and

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

refugees as a threat to the U.S. national security and economic prosperity led to the resurgence of native resentment (Young, 2017). This time, however, the targets were Latin and Muslim immigrants.

While nativism had long raised considerable debate, Donald Kerwin argued that the fierce presidential campaign and anti-immigration policy of the Trump administration exacerbated the issue (2017). Trump derived his political values and positions from those of the Know-Nothing movement. He relied on nativist patterns to ignite public opinion against the immigrant population.

Similar to the old nativist proclaims the 45th U.S. President portrayed immigrants as inferior, unassimilable aliens posing an extreme threat to the U.S. national security and economic prosperity. Trump pointed out immigrants as criminals, causing extreme disorder to the U.S. safety. The same assumption was used against southern European immigrants, namely Italians and Greeks, who were accused of abduction and kidnapping (Kraut, 1982). Besides, similar to the early nativist assumptions claiming that Chinese and Japanese immigrants were stealing native-born jobs, Trump accused the undocumented Mexican population of undermining the native-born chance for employment. While the early nativists targeted Catholics, east and southern Europeans, and Asians, the 21st-century anti-immigration campaign singled out Latin and Muslim immigrants.

Even though most data did not support his allegations, U.S. President Donald Trump dispersed negative portrayals and immigrant stereotypes. Similar to their old nativist counterparts, Trump and his supporters relied heavily on the media to spread their native resentment. Media played a major role in spreading prejudices and stereotypes against ethnic minorities and immigrants.

Given its fast diffusion, media coverage impacted people's opinions, attitudes, and beliefs about immigrants (Allen, Blinder, & Mcneil, 2017). A factor that nativists relied on to publicize their hostility, which led to increased levels of antagonistic public attitudes towards immigration. Both past and present nativists used dehumanizing language and spread threatening images about immigrants on traditional and digital media, fostering anti-immigration sentiments.

Widespread native resentments were combined with the passage of immigration enforcement laws. Similar to the early discriminated immigrant groups, aliens from Latin America and majority-Muslim countries were subject to legislation installing specified quotas

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

that restricted immigration from these two regions. Besides, those already in the U.S. were targets of interior and worksite enforcement activities, leading to the detention and deportation of thousands of Muslim and Latin immigrants.

While sharing those patterns, early and present nativist movements differed in particular detail, that was their motives. Early nativists were concerned by the increased number of immigrants and were the ones calling for restrictive immigration policies. In contrast, the 21st-century nativist movement arose as a result of fierce and widespread stereotypes and prejudices guided by the head of state.

Unarguably, nativism was an integral part of the U.S.-immigration history. However, President Trump made an exception being the very first American President to attack and spread hate against immigrants so explicitly and aggressively, argued historians Julia G. Young and Tyler Anbinder. According to Young, "Today's nativists, however, have an outlet that earlier generations did not: a president who not only seems to agree with many of their arguments" (2017, p. 228). Anbinder added that: "Trump's nativism is especially striking for its comprehensiveness." Besides his aggressive tone, Trump mobilized all nativist charges against immigrants that had been levelled across centuries, including criminality, poverty, spreading disease, inability for assimilation, labor conflict, and insecurity (2019).

Anti-immigration political rhetoric and enforcement policies were important contributory factors to the rise of nativism during the 21st century. Not just immigrants, but even their descendants suffered from extreme nativist attitudes. Despite their citizenship, a number of individuals belonging to certain racial/ethnic groups reported being subject to several hate crimes. Some were asked to leave their mother country; the U.S. Unfortunately, those discriminatory acts were made by individuals who had a similar history of nativist resentment. Most anti-immigrant advocates belonged to an early immigrant group that had been subject to the same animosities they used to attack the present immigrant population.

3.2. Anti-immigration Sentiments Leading to Division Within the American Society

The U.S. encountered several hurdles across its history. Bringing its diversified population under one flag, however, was the hardest. With his anti-immigration rhetoric and policies, Trump not only threatened the lives of the immigration community but put the whole American nation at risk. As Cassie Miller and Alexander Werner Winslow put it, Trump's use of racial statements opened "wounds of division" in the U.S. (2016, p. 5). The outcomes of his

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

anti-immigration rhetoric extended to other community members from different racial and ethnic backgrounds.

Apart from anti-immigration sentiment, discrimination and hostile incidents were motivated by anti-racial and anti-ethnic sentiments. The immigration status was not the only motive for hate crimes, even native-born Americans of particular non-white ethnic backgrounds and religious affiliations were targets of hostile treatment by white supremacist Americans, creating a wide gap among the U.S. society.

Besides the widespread arrests based on racial profiling, Trump's deportation plan was against American traditions of ethnic diversity, multiculturalism, and acceptance of immigration. In the words of Jorge Ramos: "There is nothing more American than incorporating and integrating those who come from outside the nation's borders, regardless of their accents or origins" (p. 99). Ramos argued that deporting aliens based on their race, religion, or nationality opposed the common perception of the U.S. as a melting pot nation. Those anti-racial anti-ethnic immigration enforcement activities expanded into an American-public exclusion, targeting not just immigrants but native-born Americans of some racial and ethnic origins.

Portraying Latin, non-white, and Muslim immigrants as exploiters, rapists, criminals, and terrorists, Trump put several individuals at extreme risks. Not just immigrants, but even the descendants of those early immigrant groups became targets of numerous discriminatory and hate crime incidents. By targeting those particular groups, Trump made it clear that his strategy to "Make America Great Again" was merely based on national, ethnic, and religious criteria (Young, 2017, p. 218).

Native resentment escalated among the white-native-born category against individuals belonging to those groups, regardless of their national status. While existing as early as the 1870s and continued to occur along with the U.S. history, discriminatory and hate crime incidents became more prevalent following the Trump election.

African Americans were among the racial groups that suffered from extreme levels of discrimination. They were stereotyped as unintelligent, violent, and dangerous criminals (Oliver, 2003). Besides oppression, discrimination, poverty, and social injustices, those stereotypes resulted in several human rights violations against the black community.

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

White racist attitude towards the black community stemmed its origins from the slavey years, during which whites imposed their sovereignty over a dehumanized black population. That discriminatory treatment was enforced by a set of political institutions and measures that installed a superiority-inferiority complex towards African Americans (BLEAUSA, 2014).

Although not completely disappeared, anti-blackness in the U.S. diminished. The 2008 presidential election marked a turning point in the United States, as a black candidate succeeded for the first time in U.S. history to run the presidential office. However, the Trump anti-immigration rhetoric based on anti-racial features fuelled again the stereotypes of African-Americans, leading to the surge of anti-black hate crime incidents.

By bringing back those stereotypes, Trump led to the re-emergence of hate crime incidents targeting the black population. About 180, or 23 percent, of hate crime incidents reported in the first ten days of Trump's success, were motivated by anti-black sentiment (Miller & Werner-Winslow, 2016). Anti-black incidents included verbal and physical abuse, targeting not just blacks but even whites with close contact with people of color.

Referred to as 'Niggers', black people were victims of several hostile treatments in different U.S. states in public and even educational institutions. Blacks were often subjected to the use of lethal force by Law Enforcement (LE) agents. From 2009 to 2012, the fatality rate caused by LE agents among blacks was 2.8 times higher than that of whites (DeGue, Fowler, & Calkins, 2016). White people had also their share of harassment. A white couple with 11 adopted black children received a letter reading, "You and yours need to stay separate — NOT EQUAL" (Miller & Werner-Winslow, 2016, p. 9).

Anti-black incidents did not except the former U.S. President Barack Obama who was of black origins. A man with black friends in Natick, Massachusetts received a letter complaining, "We have just cleared the white house of niggers! Do not bring niggers in our neighbourhood... We will kill them". And of course, most incidents featured Trump and his campaign, as one letter read, "We have reclaimed our country back by selecting Trump" (Miller & Werner-Winslow, 2016, p. 9).

The U.S. anti-immigration policy raised several concerns among black civil rights advocates. They argued that those laws resembled the old anti-black attitudes and led to the re-emergence of anti-black sentiments. Those sentiments led to a number of human rights violations against the black community. Besides hate crime incidents, blacks were concerned about the abuse of power by police officers.

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

According to members of Blacks in Law Enforcement of America (BLEUSA), U.S. law enforcement targeted mainly the people of color. Take as an example the Stop N Frisk policy and Section 287 (g). While comparing the legislations, BLEUSA argued that both concepts were sisters and were originated from the enforcement of the 'Slave Codes'. The main aim of those practices was to maintain white supremacy and privilege, portraying blacks and non-white immigrants as criminals. Both legislations shared the same practices, providing police officers with the power to stop, question, and detain individuals without probable cause (BLEUSA, 2014).

Pointing to the non-white population, Trump's often repeated rhetoric about protecting the U.S. safety from non-white criminals resulted in a number of racial profiling arrests. Police did not target only immigrants, but also blacks. Immigration law enforcement officers brought racial disproportionality across the American society, leading to escalated fears among the black population.

Unfortunately, those fears turned true. The Trump racist ideology led to the resurgence of violent white supremacy, bringing back the anti-black movement to the U.S. society. Emboldened by Trump's loud racism, police brutality against the black community occurred in different parts of the country. On May 25, 2020, the U.S. state of Minnesota, precisely in Minneapolis, witnessed the killing of George Floyd, a 46-year-old African American man, by a white police officer, Derek Michael Chauvin (Barrie, 2020). Provoked by the death of Floyd, demonstrators spread in different states. Tensions escalated as protests turned violent (Deliso, 2021).

But this incident was not the first. The United States had previously witnessed brutal police treatment of blacks, leading to the death of many Afro-descendants, including Michael Brown, Eric Garner, Tamir Rice, Alton Sterling, Philando Castile, Terence Crutcher, and others (Inter-American Commission on Human Rights (IACHR), 2018). Aimed at confronting racial injustice and police brutality, black advocates founded the Black Lives Matter (BLM) Movement.

From a hashtag, BLM transformed into a social movement encompassing the black struggle for freedom, justice, and equality. The movement emerged in 2012 after the shooting of Trayvon Martin, a 17-year-old African American, by George Zimmerman (Clayton D. M., 2018). The same year, another incident occurred, which led to the death of Michael Brown, an 18-year-old African American, by a white police officer named Darren Wilson. Those

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

incidents, and many others, led to the rebirth of BLM against the deep and persistent patterns of racism and systemic oppression (Clayton D. M., 2018).

With the aid of social media, the movement gained widespread publicity, leading to numerous protests. But what began as a peaceful protest turned into dreadful confrontations between protesters and police officers. More intensity occurred in several U.S. states, including New York and California, as grand juries rejected to indict police officers, Daniel Pantaleo and Darren Wilson, responsible for the death of African Americans Eric Garner and Michael Brown (Goodman & Al Baker, 2014).

Furious at the non-condemnation, Ismaaiyl Brinsley, an African American, killed two police officers in New York City (Clayton, 2018, p. 7). In response, a white movement named "all lives matter" or "blue lives matter" emerged (Riley, 2020, p. 497). As deaths occurred on both sides, defensive movements emerged that jeopardized American political and social stability. The long and fierce conflict between the black and white communities was more likely to threaten the unity of the country that had already caused thousands of deaths among both sides.

U.S. President Donald Trump's continuous use of racist discourse fuelled a more racist campaign against the black community. His anti-blackness attitude existed as early as the 1970s during which his real estate company was accused of racial discrimination against African Americans (Clayton, Moore, & Jones-Eversley, 2019). Trump went as far as questioning whether President Obama was born in the U.S. and challenged him to release his birth certificate (Abramson, 2016).

Once in office, Trump's anti-African American sentiments grew up. On several occasions, President Trump attacked high-profile African American women, including Representative Ilhan Omar¹⁹. In July 2019, Trump tweeted, "So interesting to see 'Progressive' Democrat Congresswomen, who originally came from countries whose governments are a complete and total catastrophe . . . Why don't they go back and help fix the totally broken and crime infested places from which they came" (Morin, 2019). Besides questioning their patriotism, Trump accused blacks of criminality.

Due to the excessive and exonerated use of power by Law Enforcement agents, the rate of racial profiling incidents increased during the Trump presidency. Though killings among

¹⁹ Ilhan Abdullahi Omar is a Somali American Muslim who is Black. She was born in Somali, but fled her country at the age of eight.

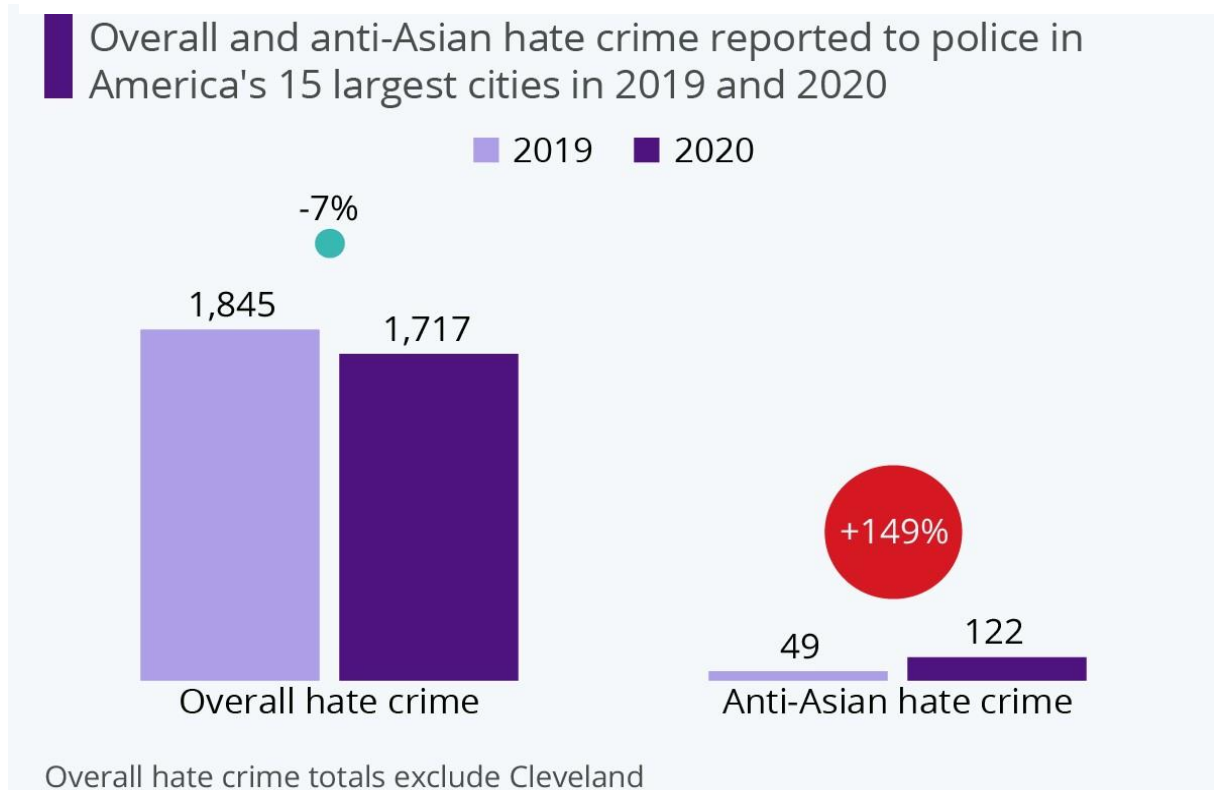
Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

black people existed before the Trump administration, a study by advocacy group Mapping Police Violence found that between 2014 and 2019, almost 99 percent of police killings went uncharged (*Mapping police violence*). The Trump administration abandoned several programs set during the Obama-era that aimed to review and address racial tensions, implicit bias, and other problems between police and citizens (Clayton, Moore, & Jones-Eversley, 2019).

Despite their overall educational, economic, and social integration, native-born Americans of Asian origins were also subject to different acts of bigotry. White discrimination against Asians existed as early as the 19th century, such as the killing of 21 Chinese immigrants in San Francisco in 1871, and setting 25 Chinese laundries on fire in 1877 (Kraut, 1982). But the difference between that time and the present was that early acts of violence had been directed towards immigrants, whereas current incidents targeted American citizens.

Asians in the United States had a long-standing history of stigmatization. They were subjected to racial prejudice, including harassment, racial slurs, and physical and verbal abuse. During the 21st century, anti-Asian hate incidents were associated with miscellaneous events. Other than the September 11 terrorist attacks, the election of Donald J. Trump and the COVID-19 pandemic resulted in a remarkable spike in the rate of anti-Asian hate incidents (Asian American Bar Association of New York, 2021).

President Trump with his racist comments put the Asian community in extreme danger, referring to the COVID-19 pandemic as the "Chinese virus" and stressing that "it comes from China" (BBC News, 2020). Asian American civil rights groups reported that within only two weeks of Trump's use of the label, racist acts targeting Asian people reached more than 1,100 incidents (Man, 2020, p. 25). Hate incidents included physical and verbal abuse, racial slurs, and harassment. Asians were accused of bringing the disease and were asked to "Go back to China!" (Tracy, 2020). Between 2019 and 2020, the number of anti-Asian hate incidents in 15 of the American largest states increased from 49 to 122 incidents, a 149-percentage point (See Figure 36).

Figure 36: Anti-Asian Hate Crime in the U.S. Rises During Pandemic Year

Source: Centre for the Study of Hate and Extremism (California State University). Retrieved from Buchholz, K. (2021, March 17). *Anti-Asian Hate Crime in U.S. Rises During Pandemic Year*.

Apart from the disease itself, "actions taken by public figures- including elected officials within the government- and misinformation and poor portrayal by the media can amplify disease-based stigma against Asian Americans, and further normalize and fuel racism" (Asian American Bar Association of New York, 2021, pp. 7-8). Given his important position as the head of the country, President Trump with his nativist attitude fueled animosity against Asians.

The COVID-19 pandemic was not the first disease attributed to Asians, particularly Chinese. In the early 20th century, Chinese immigrants in the U.S. were singled out and blamed on the ground that they brought about infection diseases, such as the bubonic plague (*Five views: An ETHNIC Historic site survey for CALIFORNIA (Chinese Americans)*). Trump's racial behavior reverted the United States to a period during which white supremacy and racial discrimination were the dominating patterns.

Besides anti-immigrant, anti-racial, and anti-ethnic sentiments, Trump's negative rhetoric brought a new concept of resentment directed towards Democrats, creating an anti-Democratic sentiment. As of June 19, 2018, President Trump stated that: "Democrats are the

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

problem. They don't care about crime and want illegal immigrants, no matter how bad they may be, to pour into and infest our Country, like MS-13. They can't win on their terrible policies, so they view them as potential voters!" (FitzGerald, López, & McClean, *Mexican Immigrants Face Threats to Civil Rights and Increased Social Hostility*, 2019, p. 15).

In his war against immigrants, Trump threatened not just the lives of immigrants, but the U.S. entire social unity and political stability, widening the gap between Republicans and Democrats. Though known for their long competition for U.S. presidency, resentment between both parties and their proponents escalated as the 2016 U.S. President blamed Democrats for the increasing number of crimes. Claiming that illegal immigrants were the primary responsible for crimes in the U.S., Trump accused Democrats of helping in pouring further criminal aliens into the U.S. Besides worsening the image of immigrants, Trump portrayed Democrats as conspirators assisting the "Others" in invading the U.S. and killing its citizens.

Despite his claims not to be of white nationalist, Trump demonstrated on several occasions his racist stance. Not only blacks, Latins, Asians Muslims, and even white Americans who stood by them were vulnerable to his hostility. As the Washington Post editor Simone Sebastian argued: "Whether in the 1960s or the 2010s, the aggressive disruption of American race relations has caused the same anger and fear—from Northerners and Southerners, from blacks and whites, from liberal 'allies' and racist adversaries" (Sebastian, 2015).

Inevitably, increased levels of racial resentment put the U.S. democratic principles of equality, human rights, and freedom under scrutiny. This brought the country back to a fierce racial struggle. As long as the U.S. still has political figures and media spreading stereotypes on certain segments, division among its residents would be looming over, putting American solidarity and stability under threat.

Conclusion

The negative portrayal by important political figures and the media undermined the significant efforts of immigrant groups. Regardless of their racial/ethnic identity or economic status, immigrants contributed largely to U.S. development. They enhanced the country's educational and economic sectors. Besides, they helped the U.S. recover from several crises. Yet, the government continued to pass legislation that not only undermined its chance of receiving beneficial individuals, but most importantly threatened the lives of millions of immigrants and minorities. Immigration enforcement policy proved to be a multi-faceted issue, encompassing legal, security, employer, and social issues. The issue affected not just

Chapter Four: Repercussions of Presidents Obama and Trump's Immigration Policies

immigrants, but even American citizens. About immigrants, among the most devastating consequences of the U.S. border patrol and interior enforcement activities were family separation and violations of human and civil rights. Apart from being the most sensitive member of the family, children are the key-component to educational, social, and economic developments. However, the U.S. exposed this category to immense harm putting the country's future at risk. Moreover, the government's anti-immigration policy resulted in the re-emergence of anti-ethnic and anti-racial sentiments against various segments of the native-born population and empowered the white supremacists. Regardless of citizenship or residence status, racial/ethnic communities were subjected to racist and xenophobic attacks, threatening American unity and its long-standing values of equality, freedom, and justice.

General Conclusion

General Conclusion

Despite their changing patterns, all immigrant groups to the U.S. shared the same motives that prompted them to leave their home countries and head to what they considered the best shelter. Fascinated by the American dream, immigrants pursued freedom, equality, and justice. However, the growing number of immigrants with different racial and ethnic compositions placed heavy burdens on their integration process. The very early established immigrant wave, composed mainly of the white race from Europe, generated a long-standing anti-immigration movement based on nativist sentiments. Each new immigrant group to the United States was exposed to those nativist sentiments, which led to the change of the U.S. inclusive immigration policy to a restrictive one.

The immigrant population shifted from the old immigrant stock of the white European population to multiple ethnic groups, including blacks, Asians, Hispanics, and Muslims. Intensified nativist feelings resulted in a growing scale of anti-immigration movements that culminated in numerous immigration enforcement laws.

White supremacists generated for each immigrant group a particular reason to justify their nativism. Due to several events, mainly the September 11 terrorist attacks and the 2008 global economic recession, those anti-immigration sentiments deepened, calling for more restrictive immigration measures. Immigrants were considered a threat to the U.S. national security and long-established values and principles. Besides stealing their jobs, the white working-class accused immigrants of undermining the U.S. economic prosperity.

Other than limiting their integration process, restrictive legislation resulted in many detentions and deportations based on racial profiling. Immigrants, and even some American citizens of different ethnic backgrounds, were victims of human and civil rights violations. They were subjected to exceptional enforcement measures that denied them basic human and civil rights, including the right to access to bond hearings, legal assistance, fair trial, freedom of expression, family unity, and dignity. Importantly, they suffered from several violations, mainly discrimination, ethnic profiling, arbitrary and inhuman conditions of detention, limited, or no, communication with their attorneys and families, verbal and physical abuse, deprivation of liberty, and unfair deportation. Besides, despite their positive economic and social contribution, immigrants were discriminated against in the labor market and even at educational institutions.

General Conclusion

Immigration became one of the controversial subject matters, raising political debate and public concerns. Neglecting that the U.S. was founded as a nation of immigrants, anti-immigration advocates called for the exclusion of immigrant groups. In contrast, proponents considered immigration valuable to U.S. development.

Being the cornerstone of the country since its inception and throughout its history, immigration played a disproportionate role in American development. Anti-immigration movements harmed not only the immigrant community but the whole American society. Economically, immigrants contributed largely to the U.S. labor market and income. Besides their positive educational performance, immigrants enhanced the country's innovation rates. Thus, the suspension of some immigrant groups caused considerable loss to the country's GDP.

Despite his support for immigration, President Barack Obama combined his comprehensive immigration reform with a set of immigration restrictive measures, stressing the importance of full compliance with U.S. law. The most impacted groups included Muslims and Hispanics. Obama frustrated the immigrant community following the passage of several immigration enforcement measures. His silent raids led to the firing of thousands of immigrant workers, not to mention the number of deaths caused by border patrol. However, he issued an exemption program known as DACA. Issued under prosecutorial discretion, the program benefited an important share of undocumented immigrant youths, granting them temporary relief.

The effects left by his subsequent rival, President Donald J. Trump, however, were irreparable. Republican President Donald J. Trump followed a 100 percent immigration enforcement strategy, seeking mass deportation and a fence along the U.S.-Mexico border. Other than that, the Trump administration conducted thousands of detention and deportation operations, causing immense harm to immigrant families. Moreover, the 45th U.S. President issued executive orders banning the entry of aliens from predominantly Muslim countries. Based on its harsh and cruel strategy, the administration received several reports on racial profiling, child abuse, and deaths among the immigrant community. Besides, Trump promised to rescind DACA, a program he considered unfair to the American working class. Even more contentious was the use of hate speech that led to increased hate crime incidents, even among children.

The massive number of human and civil violations toward the immigrant community drove many to question the existence of the American dream. With his nativist and racist

General Conclusion

features, President Trump brought back several nativist slogans, including "Make America Great Again" and "America First" to the American political conversation, spreading a racist connotation among the society. Consequently, immigration re-emerged as a central issue among Americans, calling for the suspension of several immigrant groups. Importantly, those anti-immigrant sentiments turned into nativist feelings among some of the white segment, putting not just immigrants but American citizens under the threat of racism and exclusion. The 2016 Republican President endangered the country's harmony, a unity that was the price of a long and fierce struggle in which thousands of Americans died.

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