

Rethinking the Purposes of Immigration Policy

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EXECUTIVE SUMMARY

U.S. immigration policy, as set forth in law and regulation, has long lacked explicit and precisely stated goals. Immigration law, however, produces results. In the absence of explicit goals these results can be seen as the operative or "revealed goals" of policy.

Predominant among these revealed goals is that of family reunification—preferential admission of immediate and extended family members of citizens and legal residents. This goal has been an axiom of Congress in nearly four decades of immigration legislation (including the just-enacted Immigration Law of 1990), making kinship the determinant of the bulk of our immigrant selection.

Ranking second as a revealed objective is the admission of refugees. Underlying our generous refugee policy is an array of psychic motives: "affirmations" of American-ness, expressions of national generosity, acclamations of freedom, and votes of confidence in growth and change. These emotional underpinnings are expressed internationally as the need to vindicate particular foreign policies, to "embarrass" an adversary, or to celebrate America's status as the winning model of what a society should be.

A third revealed goal, distant in importance behind either family reunification or the admission of refugees, is to meet labor force needs. Although the 1990 Immigration Law more than doubles the numbers of skills-based immigrants, they will still constitute less than ten percent of the total.

Another unstated but important result of immigration policy is our long-standing acquiescence in large-scale illegal immigration, effectively an intent to fill the perceived needs of some employers for cheap and docile labor and to avoid offending neighboring countries or domestic ethnic constituencies.

Though the stated purposes of immigration policy are few and vague, taken together the revealed purposes are powerfully evident. One purpose since 1965, has been the alteration of our demographic future and the delay of population stability. Immigration, and the much higher fertility rates of immigrants, could produce a doubling of the population, to half a billion, by the year 2080. The demographic transformation of American society is occurring without the consultation or consent of the American electorate.

Historically, immigration policy was seen as part of "nation-building" — to populate a relatively empty land. Are large numbers of immigrants now needed for a land that is built, or even as many believe overbuilt? For some, "nation building," now implies the creation of a more "diverse" nation, energized by a greater mix of ethnic, racial, and national origins. For them, the U.S. constantly faces enervation and stagnation, saved only by steady enrichment of its population from abroad. The idea is odd in a multi-racial, multi-ethnic society of 250 million people.

If the achievement of the purpose of our refugee policy is measured in numbers, the policy has succeeded. We have boosted the total inflow by loosening the law's once rigorous test of individual persecution, expanding parole admissions and creating a new category of "temporary" admissions of those fleeing general social and environmental ills. Scores of millions now potentially qualify for some form of humanitarian admission.

The anachronistic and unintended purposes and goals of our policies demand a fundamental reassessment and reform. The guiding criteria in that renewal must be that immigration policy above all should do no harm: should not harm the conditions or opportunities of the U.S. labor force, should not confound sound national population objectives, should not burden social services, and should not exceed the assimilative capacities of American society.

If immigration policy is to contribute to the demographic future we want, the government must encourage national debate on demographic goals and then select them. Population stabilization, as stated by the 1972 Rockefeller Commission, remains the

most cogent and defensible objective, with immigration ultimately set to match emigration.

Current emphasis on immigration as an entitlement of kinship must be recognized as an historical aberration. Labor force needs should once again become the prime determinant of immigration policy, but balancing with greater rigor the desire of employers for cheap, flexible labor with the protection of conditions of U.S. domestic workers. Immigration policy should supplement the domestic labor market with well-targeted, short-term infusions of specialized labor, but without undermining the high standards or incentives that should inform the domestic labor market.

The U.S. can either evolve towards a high-technology economy with a labor force of constantly advancing productivity, wage levels, and skills, or it can drift towards a low technology, low-skill, and low-wage economy, marked by widespread job instability and growing income disparity. Immigration policy will be important to the outcome.

The overriding purpose of immigration policy in today's world must be the achievement of a globally competitive U.S. economy, a highly-skilled and socially mobile labor force and an involved, educated and participatory citizenry.

* * * * *

In its waning hours, the 101st Congress passed and on November 29 George Bush signed the first major revision of our laws on legal immigration since 1965. But like its predecessors, the new law, and the debate that accompanied it, failed to provide explicit and precise rationales for the large-scale immigration it will perpetuate. The legislative record and the text of this major overhaul of our legal immigration system leave unanswered the question: what are the goals of current U.S. immigration policy, and what ought they to be?

Answers to these straightforward questions are surprisingly elusive. Official policy goals are nowhere clearly stated, and though there has been an almost constant policy discussion on

aspects of the immigration issue, the nation's fundamental purposes with regard to immigration are rarely addressed.

The question of ultimate goals was not prominent in the lengthy discussion of illegal immigration which began in the early 1970s leading to enactment of the Immigration Reform and Control of 1986 (IRCA). That debate was over the means to a consensual end: the control of illegal entry. Yet with the passage of IRCA, and a new system of employer sanctions, amnesties and special farmworker programs set in place, attention turned to the need to rethink and reform our legal immigration system. The ensuing debate that culminated in the Immigration Act of 1990 has been rich in tactical initiatives from Congress and pressure groups, and thin in strategic thinking.

Reform of our immigration system occurs rarely, all the more reason that it should be guided by strategic rather than tactical thinking, and by a conception of the national interest rather than settled by the interplay of special groups demands. In the policy debates of the past decades, it has proven possible to avoid talking of ultimate goals. But it is not possible for goals to be absent altogether, even if they are not discussed. Policy produces results, whether or not stated as goals in advance. The Chinese have a proverb, If you do not change your direction, where you are going is where you will wind up.

This if true is not good news, for existing U.S. immigration policy goals, insofar as we may make them out, are indefensible.

1. THE ELUSIVE GOALS OF U.S. IMMIGRATION POLICY

There is little in the way of clear goals for national immigration policy in the U.S. code where the basic statutes of modern policy are recorded -- the laws of 1921, 1924, 1952, 1965, 1986, and 1990.¹ These statutes begin simply with definitions of terms, usually in numbing detail, then set out their substantive changes in the law. In this respect the immigration laws are quite in the mainstream of U.S. lawmaking. One can find policy goals stated explicitly at the front of some major federal statutes, but most

often both the legislation and even the more voluminous rhetoric of the legislative history have little or nothing to say about precise policy goals. Public law generally begins with definitions of terms, sets out a series of complaints about the state of the union or some part of it, then outlines regulatory or programmatic initiatives.

A rare example of a statute which begins with reasonably explicit goals is the National Environmental Protection Act of 1969, which begins with a section entitled "Purpose" followed by a two-page Title I, "Policies and Goals."²

The absence of explicit goals from U.S. immigration statutes does not mean that our nation's immigration policy lacks goals.

Immigration laws, as administered by Federal bureaucracies and as interpreted by the courts, produce results. In the absence of explicit goals, these results may be taken as the operative goals of national policymakers. The economists have a useful term, when they speak of the "revealed preference" of buyers, as expressed in the goods and services actually purchased. Lacking explicit statements of national immigration policy goals, we have the revealed goals of policymakers -- the results their actions (and inactions) actually produced.

2. REVEALED GOALS OF CURRENT POLICY: FAMILY REUNIFICATION

What are the revealed goals of U.S. immigration policy, judging by results?

The answer is plain and inescapable, that a central intention of current policy is to confer a benefit upon a small number of citizens and permanent resident aliens within the U.S. -- the ability to bring family members abroad into residency and U.S. citizenship. In 1988, of the 643,000 legal immigrants admitted to the U.S., approximately 420,000 came in under the "family

reunification" provisions, permitting the immigration of spouses, parents, brothers and sisters, and adult children of citizens.

In recent years two thirds of the legal immigrants to the U.S. have consisted of relatives of a very small number of U.S. citizens and permanent resident aliens, a phenomenon some observers have correctly termed nepotism.

The goal of reunifying families separated when one or more members migrates to the U.S. and divides a formerly unified family is an objective frequently extolled in immigration policy discussions. Legislative history makes it abundantly clear that Congress believes that a policy which selects family members is a very good thing because it strengthens the family generally, a conviction so virtuous that the absence of supporting evidence has not been remarked, and that it brings in immigrants with a built-in support group and thereby enhances chances of success. A

necessary corollary to the stress upon family reunification is to make kinship determine most of our immigrant selection. In recent years, two-thirds of those allowed to immigrate annually were admitted by virtue of their relationship to a relatively small number of citizens and permanent resident aliens. Some observers have bluntly but correctly termed this nepotism, defined as a benefit linked to kinship.

3. A SECOND REVEALED GOAL: ADMIT REFUGEES

The second-ranked revealed goal, judging by the flow of legalized entrants, is to admit refugees. This is a more important goal in the U.S. than in any other nation, and by a wide margin. The U.S. has for many years admitted more refugees to permanent residency than has the rest of the world combined, and a measure of our unique attitude toward refugee admissions among all the nations is the fact that from 1975-85 the U.S. as a single country accepted half of the 10 million persons migrating (legally) internationally.³ In 1980, 207,000 persons entered the U.S. as refu-

gees; after this bulge the numbers fell back, then settled into a pattern of steady annual increases. In 1985, 68,000 were recorded, 64,000 in 1897, 75,000 in 1988, 116,000 in 1989, rising to a planned 131,000 in 1991. These numbers do not include 25,000 "humanitarian parolees" and 5,000 asylees.

Behind this revealed preference for refugees lies a jumble of motives. Policymakers repeatedly state that opening the door to refugees serves as a symbolic reaffirmation of national identity—endorsing freedom, choice, a confidence in growth and change.

Reaffirmations of national identity, especially those which are apparently inexpensive ones, are attractive policy goals. The government's reasons for admitting refugees do not include any calculation of what such people might do for the national welfare after their arrival, judging by the statutes and official rhetoric. Apparently, the benefits we seek are secured in the very act of

admitting them—an "affirmation" of American-ness, an expression of national generosity. Whatever the motive in conferring refugee status, any benefit gained is enjoyed by individual refugees; the costs of resettling refugees, now considerable (\$7,000 per refugee, by recent estimate), are borne by the nation.

Policymakers claim that admission of refugees reaffirms our national identity, is an endorsement of freedom, reflects confidence in growth and change, and is an expression of our national generosity.

In the late 1980s, another purpose behind our refugee admissions emerged. As the Soviet Union and its eastern bloc client states entered a period of internal upheaval and reform, in the late 1980s, and as it became popular to talk of the Cold War as having

been "won by the U.S.," refugee policy was seized upon by those in both parties eager to record the magnitude and savor the human dimensions of our victory over communist societies. In the words of Deputy Secretary of State Lawrence Eagleburger, refugee

admissions announce and become "a great success for our foreign policy."⁴ The chief goal of this aspect of immigration policy has apparently become a celebration of our international status as the winning model of what a society should be.

4. A DISTANT THIRD REVEALED GOAL: WORKERS

The last evident revealed goal of U.S. policy is to provide for the labor force needs of the national economy. Of the three major apparent purposes of our policy, this has been a distant third in its influence upon annual flows of legal immigrants, and between mid-century and 1990 it declined in importance. In 1986, for example, 3.8 percent of the total 601,708 legal immigrants were admitted on the basis of skills.⁵ Arguments for the 1990 law rested heavily on the need to increase entries of skilled immigrants needed by employers. Although the law more than doubled the intake of skilled workers, professionals and investors, those categories will still constitute less than 10 percent of total legal immigration.

Congressional debates leading to the 1990 revisions of legal immigration made explicit a fourth and brand new goal, "diversity."

It was an odd application of this recently over-worked term, which on university campuses and elsewhere means the pursuit of a larger proportion of women and "people of color" and, necessarily, fewer "Europeans" and men. But "diversity" to the immigration policymakers of 1990 meant a sort of "reverse diversification"

favoring immigrants from the nations of Europe and Africa who had originally populated the U.S. but since the 1965 law had been squeezed out by Hispanics and Asians with better claims under the preference system established at that time. Thus this fourth goal for immigration should not be called "diversity" so much as a politically desirable ethnic and racial flow, an ideal last influential in immigration policy circles when the now ill-reputed 1921-24 laws were crafted.

Lastly, a revealed policy goal is our continued acquiescence in substantial illegal immigration to fill the labor force needs of some employers for a cheap and docile low skilled labor force.

Judging by analysis of who is actually admitted, then, the four evident goals of current immigration law are family reunification, refugee sheltering, the labor force needs of the economy, and "reversediversification" of the sources of immigration.

Illegal immigration, however, should also be viewed as an expression of a broader American immigration policy, since our acquiescence over nearly four decades in a sizable illegal flow of foreign workers and their families also reveals a preference. This unstated policy of backdoor recruitment of less-skilled labor has amounted to acquiescence in the perceived needs of some employers for a labor force cheaper and more docile than the American citizens who are available for work. The current porous border policy of the U.S. government has far greater labor market consequences than do the modest numbers of workers recruited legally under the labor preferences of the basic Immigration and Nationality Act. Illegal immigration thus expresses a revealed policy preference that implies a higher priority for labor considerations than the legal system demonstrates.

5. THE LARGER RESULT-GOAL: THE DEMOGRAPHIC TRANSFORMATION OF AMERICA

Taken together, the apparent, revealed goals of U.S. immigration policy—reunify families, admit refugees, meet labor force needs in a minor way, and satisfy domestic ethnic demands—translate into a larger result. Our immigration policy has had the effective purpose, since 1965, of altering the nation's demographic future in several important ways.

First, immigration prevents domestic fertility rates (along with death and emigration) from accomplishing what their trajec-

tory currently implies, a stabilization and subsequent slow decline of population size. Instead of stabilizing at 250–260 million, as it would absent immigration (assuming current death and fertility rates), our population will continue to expand. The current upward drift in domestic fertility rates (driven upward to some extent, as it happens, by immigration), which stood at 2.0 in early 1990, could well reach 2.2 fertility. At that level, according to one of the Census Bureau's recent scenarios, combined with continuing immigration of 800,000 a year ("not too far from current levels," in demographer Leon Bouvier's estimate), it will put the U.S. population on a trajectory which will approach the half-billion mark (471 million) by 2080.⁶ The difference in the two Americas a century away, one a population about the size of today, the other nearly twice that size, is arranged chiefly by immigra-

tion.

Since 1965 our immigration policy has altered our demographic future. Instead of stabilizing at 250–260 million, as it would absent immigration, our population will continue to expand and, with legal immigration of some 800,000 a year, will approach the half billion population mark by the year 2080. Continued current immigration flows and higher immigrant fertility will also transform

a predominantly European U.S. into a nation where persons of European descent constitute a

minority.

Another little-discussed result of current immigration policy, given current domestic fertility rates among various elements of the population, is to accelerate—even with the 1990 "diversity" provisions—the reduction of the proportion of Americans whose national and ethnic origins stem from Western and Central Europe and the British Isles, while expanding the proportion who

originate from Asia and Latin America. Of all legal immigrants, 85 percent now come from Latin America, Asia and Africa, with that proportion increasing. In time, and if unaltered, these immigration flows, combined with below-replacement levels of domestic fertility, again if unaltered, will transform the continental United States from a predominately European nation to one in which no racial/ethnic strain—White, Asian, Black or Hispanic—has a majority.

6. IMMIGRATION GOALS: WHO DECIDES?

Standing back from this complex and uncertain picture, we can detect a central theme—that immigration policy's effective

goals, however one characterizes or ranks them, are to a remarkable degree established by decisions of private persons rather than elected/appointed officials. Because of the heavy emphasis on family reunification, the government's decisions have been devoted to private individuals. The vast majority of them either foreign-born citizens or permanent-resident aliens. Judging from patterns of administrative rulemaking and judicial case law, immigration policy is not primarily about national purposes or national anything. It is about the rights of immigrating peoples and their sponsors in the U.S.

This tilt of policy toward immigrants' rights rather than national interests is relatively recent, and has been reflected since 1940 in the delegation of most immigration functions to the Department of Justice. Before then, immigration policy adminis-

tration was centered in the Departments of Treasury or Labor, reflecting the assumption that national revenue or labor force considerations should have a central place in immigration decisions.

7. EXISTING PURPOSES RECONSIDERED

The current revealed goals, in the light of changing circum-

stances, seem difficult to defend. Does Congress, and the Executive Branch, really intend to explicitly choose as the overall and enduring goal of a powerful aspect of national policy that we tilt the nation's demographic future toward a sharply different ethnic and racial mix, and away from population stabilization toward an extended future of continued population growth? Does Congress, and the Executive Branch, really intend that the selection of most of the aliens admitted for citizenship be made by the affected individuals and their sponsors, and on the grounds of kinship, rather than of explicit national needs?

8. RETHINKING OUR GOALS IN A NEW ERA: STILL NATION BUILDING?

If the existing goals—the actual results—of current U.S. immigration policy are so clearly the inheritance of earlier eras, a combination of the anachronistic and the unintended, what reconsidered purposes should we pursue in the area of immigration policy? Is there guidance, to begin with, in our past?

Looking back, it was deliberate national policy on immigration matters, from the origins of the Republic until the late 19th century, to use immigration for the single-minded pursuit of "nation building." This meant settlers for a continent formerly populated by Indian nations, and in need of Europeans (Africans). The fledgling Republic, so recently a colony and through at least half the 19th century menaced by the territorial ambitions of European powers, assumed itself to require a larger population in order to insure basic survival and then to realize its national ambitions. There was virtual unanimity that immigration should serve the national goals of displacing the native Americans,

settling the continent, constructing a strong economy, and when necessary defending the homeland.

These were 18th and 19th century imperatives. Does our nation still require immigration for such "nation building" as lies ahead?

No nation is ever finished or finally built, but if "nation building" implies an effort to achieve a desired population size,

there is good reason to believe that the U.S. is built, even overbuilt, in that it contains enough or more than enough human beings to achieve all its other goals. The National Commission on Population Growth and the American Future concluded in 1972 that there was no national need for further population growth, and that we should welcome and work toward a stabilization of our population size. Seventeen years later and with population more than 30 million larger, the Sierra Club has concluded that, in view of its citizens' ecology-destroying lifestyle, the U.S. "is the most over-populated nation on earth."⁷

9. "DIVERSIFICATION"

WITHOUT A RATIONALE

For those led to conclude that the task of "nation building" no longer requires population expansion, an alternative role for immigration has gained prominence. Nation building is now often described as the task of producing a more "diverse" nation, as to ethnic, racial and national origins.

"Diversity" is a fuzzy idea whose repetition has not clarified its meaning. Whatever the arguments for and against diversity—and the discussion of it has not been vigorous or wide-ranging—it is not clear that the U.S. today needs more of it, however "more" and "diversity" are defined. Ours is already a remarkably diverse society, formed out of major streams of immigration from every part of the globe. We have been taught by recent events in

Lebanon, Quebec, Israel, the Soviet Union and elsewhere, as well

as by daily experience at home, that there are social costs that come with ethnic and racial divisions. These costs must be balanced against whatever gains are claimed for immigration patterns which radically alter the ethnic mix in parts or all of the nation. And the gains claimed for more diversity through immigration are not always national ones, upon inspection, but are expected to

accrue primarily to the particular group asking for more people of that sort, in the evident hope of augmented political and social influence.

'Diversity' is a fuzzy idea....Ours is already a remarkably diverse society....We have been taught by recent events in Lebanon, Quebec, Israel, the Soviet Union...that there are social costs that come with ethnic and racial diversity.

Some appear to believe that the U.S. and its national culture is perpetually on the brink of enervation and stagnation, and cannot persist without constant enrichment or revitalization from abroad.⁸ This seems an odd idea for a multi-racial, multi-ethnic society of more than 250 million people, especially when it is remembered that our principal economic competitor is an Asian island society with little cultural or ethnic diversity but quite abundant vitality and inventiveness.

10. STILL THE WORLD'S HAVEN?

Another inheritance from the past is the idea that a leading, if not the chief, purpose of national immigration policy is inscribed in the form of an Emma Lazarus poem upon the Statue of Liberty. Our chief objective in immigration decisions, according to this view, has been—and, presumably, should continue to be—to provide a haven for the world's "tired, poor, huddled masses, yearning to breathe free."

This language is of course found not in any immigration statute enacted by the U.S. Congress but on the pedestal of a statue in New York harbor. Indeed, it is not clear when it can be said to have become one of the nation's official goals to provide a haven for the world's huddled masses. Of all categories of immigrants, our refugee program especially seems to have its roots in this vague commitment to foreigners in economic or political distress. The category "refugees" was for the first half of the 20th century ill-defined, and only infrequently made operational for groups wishing to immigrate, as European Jews were to learn as the Hitlerian regime began to implement its Final Solution. When a definition of refugees finally emerged after World War II, it defined the potential population not in terms of economic hardship ("poor . . . huddled masses"), an impossibly large pool of

immigrants, but as those (up to a limit of 17,500) who were fleeing communist persecution. The Refugee Act of 1980 changed this

definition to those of "special humanitarian concern" (with a prescribed "normal flow" of 50,000 a year) outside the country of their nationality or residence and who could not return "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."⁹

Experience has shown this definition to be a thicket of ambiguities, and however one interprets it, the numbers of such persons wishing to come to the U.S., even before the tumultuous 1980s, has always been so huge as to require painful policy choices to restrict the flow. There is little guidance for the future in that history, which is a series of shifting expedients through the Cold War years, becoming a general shambles in the vast global rearrangements of the 1980s. Through the 1950s, 1960s and 1970s it can be said that U.S. refugee policy was essentially a part of our foreign policy, and the definition of a refugee and the administration of their settlement were assigned to the Department of State. In the setting of the Cold War with the Soviet Union, the State Department and the White House, often responding to intense political pressure from vocal emigre groups, used refugee policy to embarrass communist regimes abroad by triumphantly admitting their fleeing citizens, in numbers usually much exceeding the statutory limits of 17,500 (1952-1980) and later a "normal flow" of 50,000 (1980) annually. There was also thought to be a benefit to our international position that non-aligned nations could observe our national generosity.

The number of foreigners who could qualify as potential U.S. "refugees" is estimated at between 15 to 21 million, and is rapidly growing.

Tumultuous events have changed all the realities of the international movement of persons, exposing U.S. refugee policy as intellectually bankrupt. This was abundantly evident during the

"Mariel Boatlift" of 1980 when Cuban dictator Fidel Castro emptied his jails and unleashed a flood of refugees upon Florida, initially assisted by the Carter Administration in the assumption that it was winning some sort of international victory. Through the 1980s, with world population surging past five billion toward an eventual estimated 11 to 14 billion people, the potential number of the world's refugees has mounted irresistibly as civil wars, repressive regimes and environmental disasters filled the American newspapers with stories of poor, huddled, and repressed masses.

A refugee establishment of considerable political influence has taken form -- a coalition of religious, ethnic and emigre organizations nourished by government funding of refugee services, and pressing for expanded refugee admissions with moralistic rhetoric. Congressmen learned that ardent support for expansive refugee admissions, especially in times when a crisis

overseas was much in the news, created political capital with

specific ethnic or national groups and seemed to cost nothing with the general public.

Refugees, formerly individual people with specific histories of political or religious persecution, have come more and more in the media and political discussion to be the inhabitants of entire societies -- South Vietnam and Cambodia in the late 1970s, Haiti, El Salvador and Nicaragua in the early and middle 1980s, and China and the Soviet Union, which entered periods of internal turmoil at the decade's end. The number of foreigners who could be classified as potential refugees at the end of the 1980s was variously estimated from 15 to 21 millions, numbers which have surged upward as millions in Eastern Europe and the Former Soviet Union seek a way out.¹⁰ At the end of 1989, President Bush broadened the definition of asylum by extending it to those seeking to escape strict birth-control policies such as mandatory abortion and sterilization, opening the possibility that every Chinese woman of child-bearing age is a potential refugee. The 1990 reforms further loosen the criteria, creating "temporary protected status" for aliens from nations determined to be in the grip of generalized violence, economic malaise or environmental

disaster.

Plainly, there is not much guidance for future immigration policy in the actual record of this historic and always limited refugee commitment. If U.S. immigration policy is to continue its limited goals of providing a "haven" for the burgeoning popula-

tion of the world's politically oppressed masses, the limits and relative priority to be placed on the refugee commitment have never been more in need of clarification.

11. THE DISARRAY OF CURRENT POLICY

The basic rationale for current U.S. immigration policy was established in the 19th century, a time far different from our own—an era when the nation faced an unsettled continent of boundless resources, the task of industrial and urban development still ahead. The law of 1965 brought a radical redirection of U.S. policy and in the flow of immigrants, establishing sharply changed purposes at a time when the American economy was unchallenged and no one imagined the international economic transformation into which we now move. As we begin our third century, in vastly altered circumstances, historic and inherited purposes deserve an honorable place in the history books, but not mindless imitation.

With older goals patently obsolete, it is time for fundamental policy reassessment and reform. It is doubly time for policy reassessment when it becomes clear that the process of goal setting in immigration policy has passed essentially into private hands, with national labor-market considerations holding only a minor place. Decisions that should be made by national policymakers, in the national interest, have increasingly been shifted to the volition of immigrants, their U.S. relatives and sponsors, the immigration bar, and the courts. The urgency of policy reform is reinforced by the realization that the flows of immigrants continues to mount. The 1990 liberalization of legal immigration, higher refugee numbers, and resurgent illegal immigration are expected to raise overall inflow by a third by 1995, exceeding the peak years of immigration prior to World War I.¹¹

12. NEW IMMIGRATION POLICY GOALS FOR TODAY'S WORLD

In this policy area, as in all others, our guides should be the one stated in the title of the report of the Select Commission on

Immigration and Refugee Policy (1981), *U.S. Immigration Policy and the National Interest*. We may as a nation wish to take into account the individual desires of foreigners, seconded by their American relatives, to live here rather than where they were born, but such desires should not serve as the principal guide to policy. Consciously defined national interests should determine immi-

gration numbers and the principles of selection among the many applicants.

This primary consideration was well expressed by President Lyndon Johnson when in his 1964 State of the Union address he adopted the memorable phrasing of John F. Kennedy, and suggested that we should be less concerned in setting immigration policy with what country a person comes from, and ask instead what the potential immigrant can do for our country.

Beginning there, we can surely agree that great care should be

taken that immigration first do no harm, in the physicians' phrase. Immigration should not reduce the welfare of or inflict injury upon any part of the nation. It should not injure the well-being of the domestic labor force, especially the most vulnerable elements of it, should not burden social services, should not be at cross-purposes with sound national population objectives, nor exceed the assimilative or absorptive capacities of American society, nor drain away the scarce intellectual talents of other, needier nations. Most emphatically, it should not discriminate, in the words of Michael Teitelbaum, "openly, as did the National Origins Quota system that was finally eliminated by the 1965 reform, and . . . not discriminate clandestinely with preference schemes carefully

tailored to discriminate in favor of one or another group" as under the current system.¹²

Immigration should not cause harm to the U.S., should not adversely affect the well-being of the labor force, should not burden our social services,

and should not be beyond our capacity to absorb or assimilate the immigrants.

Implementing that policy—the process of selecting the individuals for admission—should not remain primarily in private hands. Criteria for selection should primarily reflect consciously chosen and periodically reviewed national needs, not

family and kinship relations.

Given these fundamental principles, what should the nation want from immigration? And what potential negative impacts are to be avoided as these positive goals are pursued?

13. IMMIGRATION'S FIRST PURPOSE: THE DEMOGRAPHIC FUTURE WE WANT

The greatest influence exerted by immigration is demographic. Contributing now almost half of the nation's annual population increase, immigration adds people to the American landmass, enlarging our current and future population size, altering the age structure, rearranging racial and ethnic makeup. Through these impacts on national demography immigration exerts a vast influence on economy, politics and culture. This being so, the first question we should ask is whether existing immigration policy moves us toward, or away from, national demographic goals.

Here we are at an impasse. The nation has no demographic goals with which to guide this enormous demographic influence. Two U.S. presidents, Lyndon Johnson and Richard Nixon, urged a national population policy and the 1972 National Commission on Population and the American Future concluded that in view of

environmental, resource and space constraints the nation should "welcome and plan for" a stable population size.¹³ Despite continuing Congressional interest in the subject, such a goal is still pending.

The nation has no demographic goals.... At present we have a disguised population policy called immigration policy bringing about a demographic future that neither the voters nor Congress consciously selected and almost certainly would not.

It is not unprecedented to find the nation's government without any sense of direction in important matters. From the beginning of the republic the government consciously formulated foreign policy, Indian policy, tariff policy, while other areas of the national life received fitful or unfocussed attention. Only in the

late 19th century was there agricultural policy. Science and technology policy waited until World War II, and environmental policy was belatedly raised to visibility only in 1969. Some would say that, to this day, there is no energy policy worthy of the name.

Population size seems an important matter to still be left in similar limbo, but so long as this is the case immigration policy, the nation's surrogate population policy, remains without guidance as to what the national interest requires. The result is a disguised population policy called immigration policy, bringing about a demographic future that neither the voters nor Congress consciously selected and almost certainly would not.

Hypocrisy in large matters such as this, the government enacting and maintaining a policy to indefinitely enlarge the nation's population and fundamentally alter its ethnic and racial mix while officially refusing to legislate in such areas, is a dangerous governing habit in a democracy. There are two solutions. The government should encourage a national and intra-governmental debate on demographic goals and then select them, conforming immigration policy to these larger purposes insofar as possible. Or, lacking the stomach for making such decisions

explicitly, it should get out of the business of surreptitiously legislating on population size and ethnic/racial makeup. I prefer the former, and would offer the 1972 Commission's counsel that the government aim at early stabilization of numbers as the simplest and most defensible objective in this difficult area. But the latter course has the merit of honesty and is not so difficult in concept as might be thought.

In a time of national uncertainty about novel policy dilemmas Congress could hold immigration harmless, or, neutral in the realm of demographic impacts, an innocent bystander to the national future. If immigration were held to the levels of emigration, (for which, unfortunately, there are currently no reliable estimates), and designed to match emigration roughly both as to numbers and as to age and gender, natural increase and death rates

would set national demographic directions.¹⁴

14. AFTER OUR DEMOGRAPHIC FUTURE, WHAT OTHER GOALS FOR IMMIGRA- TION POLICY?

Even if America's policymakers were to reach a decision on the nation's desired population size, and immigration policy were aligned so as to reflect that emphasis, important choices would

remain. *Whom Do We Welcome?*—this title of a landmark (1952) study of immigration policy is still the right question. What sorts of persons does the nation need, within the annual number which is consistent with our population size?

While the current system is built around the assumption that the nation's manpower needs rank far behind the rights conferred by kinship, this has not been our main tradition. Today's dominance of the goal of family reunification, followed by refugee admissions, is an historical aberration. A much longer tradition derives from our enduring commitment to economic development, leading us to see immigration as a source of labor --

beneficial manpower most of the time, though in the view of domestic labor not always so. This was our perspective on immigration and its purposes throughout the colonial period, and for the first century and a half of national development. Reflecting this centrality of labor concerns, immigration policy as the 20th century began was administratively housed in the Department of Labor.

World War II, ending in decisive victories over Japan and our chief European industrial rival, Germany, ushered in a period of economic expansion, affluence, and almost effortless world economic dominance. Economic development seemingly could take care of itself, and the nation's internal energies shifted toward

other important goals, including attending to egregious inequities in the area of civil rights. Immigration policy very quickly came to be seen as primarily an area of civil rights concerns and foreign

policy potential, its administration (after 1940) in the hands of lawyers, and the Department of Justice.

Today's emphasis on family reunification, or immigration to the U.S. by right of kinship, rather than because of possession of needed skills required in the U.S. labor force, is an historical aberration. By the 1980s, 95 percent of legal immigrants were being admitted without any regard whatsoever for their impact upon the U.S. labor market.

One result was the dramatic reduction in the number of entering immigrants covered by labor certification procedures to guard against domestic labor displacement. As the 1980s came to a close, labor certification covered only five to six percent of incoming legal immigrants. And few of the nearly 200,000 "non-immigrant" workers given temporary visas every year for periods of up to six years are labor certified. These, combined with the over 600,000 legal immigrants admitted in 1988, combined also with the unknown number of illegals, are admitted without regard to labor market impacts. This unmonitored mass of entering

workers has a high labor force participation rate, and exerts a large influence on labor supply, on wages and working conditions of American workers, and on the labor market.

Thus policy in the 1970s and 1980s veered sharply away from labor force considerations, even as America's economic dominance began to slip away. Across the decade of the 1980s international competitors penetrated the U.S. domestic marketplace on a vast scale, accelerating a transformation of our economic prospects. In this new competitive setting there is much reason to remember that immigration policy was for centuries integrated with our economic development aspirations. International competition now exposes the American economy to challenges neither felt nor imagined during the affluent 1950s and 1960s when Japan and most of Europe were devastated and rebuilding. Economic development becomes once again a vital part of the American agenda, bringing the labor force impacts of

immigration once again to the foreground.

15. NATIONAL LABOR NEEDS: FIRST, A DEFINITION

When we speak of labor considerations, it is important to clarify terminology. Those who cite the "labor force needs" of the

U.S. economy use a term of restricted meaning—the manpower requirements of U.S. employers as they see them at any given moment. These can be estimated with deceptive ease. Employers know their needs for workers, and anyone can begin learning what those needs are by turning to the classified ad sections of the newspaper, as Ronald Reagan was known to do. Each job is a combination of things—a function, the wage offered, and the conditions of work.

Labor force vacancies calculated by employers are an important component of the nation's manpower requirements, but not the equivalent of them. There is a larger national interest which should take precedence over employers' needs, where and when they conflict. Southern plantation employers were reminded of

this when the employment of African slaves was prohibited. Some employers had a similar experience when it was made illegal to employ children under specified ages. Employers are entitled to state their perceived labor force needs, an important consideration for policy. But other and overriding public priorities have been and will continue to be asserted. In determining whether the labor force needs of employers should be supplied by immigration, American lawmakers have long recognized the important stake of the nation's domestic workers in protection against the importation of cheap foreign labor, with consequent deterioration of domestic wages and working conditions.

These two perspectives—of employers, of domestic workers—are not the only interests to be considered. Predictably, employers desire cheap and thus often immigrant labor; domestic

workers tend to desire to restrict that supply. It is important that we understand that the national interest is not simply arrived at by a continuous political tradeoff between those two perspectives. The public—and, in the long run, capital and labor also—has a stake in a smoothly functioning labor market, a system in which domestic labor is matched with jobs at wage rates consistent with economic efficiency, growth, and high standards of living.

U.S. domestic workers usually desire protection against the importation of cheap foreign labor A central purpose of immigration policy should be that immigration should supplement, and not undermine, the domestic labor market.

Labor must be mobile in a dynamic economy, but mobility is not only geographical. A healthy labor market translates into people in motion in another sense, as individuals make efforts to secure training or re-training to fit them for desired and emergent opportunities in the economy. Foreign labor has an historically demonstrated power to obstruct the workings of this vital institution, the domestic labor market. It is more than just the job openings found in the morning newspapers, but instead a web of institutions constantly working to match labor to jobs. The labor

market extends from the offices and factories where people work to the educational institutions within which they are originally and subsequently trained. The incentives to retrain and relocate, along with the institutional channels through which domestic labor adapts to new opportunities, are disrupted and short-circuited by major infusions of foreign labor.

When the nation's labor market is understood in this way, we see that immigration policy has the potential to supplement the domestic labor market with well-targeted, short-term infusions of specialized labor, or, to seriously weaken it. A central purpose of immigration should be to supplement where necessary, and never to undermine, the workings of the domestic labor market. Immigration policy should strike an appropriate balance between the legitimate desires of employers for an inexpensive and mobile labor supply, of workers for protection from foreign labor competition, and—larger even than these two group interests—the public's interest in a labor market which moves American workers, both geographically and through a continuous upgrading of skills, into roles in an economy which is dynamic and internationally competitive.

16. THE NEW ECONOMIC SETTING FOR IMMIGRATION DECISIONS

In a world economy becoming internationalized at an accelerating pace, the U.S. is at a crossroads. We can evolve toward a higher value-added mix of manufacturing and services, with a labor force of constantly advancing skills, productivity—and,

wage levels. The other path is to drift toward a structure composed increasingly of low-technology, labor-intensive and low-wage industries. Even our better-paid workers are assembling the cars and VCRs whose design and components come from Japan. We were on the first path throughout our national development, at least until the 1970s; now, we may be veering toward the second.

Many factors will govern the economy's direction. Immigration is one of those factors, a potent one, and it currently pushes us toward the second path. Economist George Borjas presents formidable evidence that in recent decades "the skill composition

of the immigration flow entering the United States has deteriorated significantly, "with one result being a long-run reduction in national income."¹⁵

Our immigration flows now make us poorer in another way not mentioned by Borjas, in that they prevent the labor shortages needed to drive the industrial structure in progressive directions. A leading international economy, the one we wish for America, will be one whose labor market, assisted by public policy, constantly moves its labor force toward higher value-added activities requiring higher skills and substantial labor participation in what are too often considered only managerial decisions.

In the nature of things, labor markets work more slowly than both capital and labor – and policymakers – often like. The labor market sends signals to workers or potential workers in declining industries, in the form of lowered wages and layoffs; it offers jobs at rising pay in growth sectors; when the market reports labor shortages it reinforces for investors and managers the imperative of productivity-enhancing innovation. In a major comparative study covering ten countries, Harvard's Michael Porter has found that such shortages are a beneficial deficit forcing management toward innovation.¹⁶

Of course, labor force and managerial adaptation to shortages takes time. During the interlude between structural change and adaptation, where employers perceive a labor shortage, many appeal for government help. Education and retraining is useful government help; arranging or condoning the importation of foreign labor, the quicker fix, is not.

17. "LABOR SHORTAGE" – AN OPPORTUNITY FOR FOREIGNERS, OR FOR AMERICANS, ESPECIALLY MINORITIES?

That is our situation as the American economy enters the 1990s. The market for labor is in rapid transition, offering opportunities that forge ahead of the skills of the labor force. "The world of work is changing right under our feet," in Labor Secretary William Brock's phrase, changing faster than the skills of work-

ers, intensifying the mismatch of labor force and work opportunities.¹⁷ Technology shrinks distances and meshes national economies, even as political change opens formerly closed societies and creates new markets overnight. These new markets dictate the expanding industries of the future, and with manufacturing an important, but no longer a net job-producing sector, the new jobs are in services. The best of these are in occupations requiring a high level of skills—abilities that are mental, social, linguistic and communicative. Since the economy's needs change faster than the matching skills of the labor force, there are labor shortages.

Here the immigration card is played. Employers (and others with political agendas) welcome immigration as a quick fix for a symptom they wrongly define as the problem—labor shortages. But a labor shortage should not be seen simply as a problem to be solved in any way possible. It is instead an opportunity for the domestic labor market to work. We want labor to adapt—by changing its skills, its place of work, or both. We want capital to adapt—by changing its production processes, its product lines. Thus a free economy uses labor shortages to impel workers to retrain and relocate, employers to share retraining efforts and redesign production processes to increase productivity. Public policy can assist in this upgrading of labor force capacities, with relocation allowances and retraining assistance, but the primary motivation must be the lure of improved wages and conditions. A dynamic labor market is unsettling. Employers do not like labor shortages, and workers do not like declining industries. But adjustment is the system's goal, with rising productivity and national strength the result.

Large-scale immigration of foreign labor, since it now brings to America chiefly people with low skills in the agricultural and service economies, distorts investment decisions as well as impeding those labor market adjustments that would be forced upon both management and labor in the absence of immigration. Immigration may, in specific cases and sparingly, supply short-term skilled labor where there are bottlenecks, but it is addictive, and impairs the vital labor market mechanisms which can supply all the economy's labor needs if allowed to work.

The major purpose of the nation's immigration policy in this

era of international competition and the restructuring of the U.S. economy should therefore be to help achieve, and certainly not to prevent, the goal of a globally strong economy. We do not have a choice whether immigration policy should serve as a vital part of our international economic strategy. It already *is* a part of that strategy, bringing us low-skilled residents and imposing economic, not to mention environmental, costs. The question is whether immigration will continue to be an unhelpful element of our international economic strategy because we design it almost exclusively to achieve other ends—family reunification and refugee admissions—or whether it will be designed to be a useful part of that strategy. The alternative, to redesign immigration policy to be a useful part of that strategy, requires a restoration of labor market concerns to first influence.¹⁸

18. IMMIGRATION POLICY GOALS: POLITICAL EXPEDIENCY OR STRATEGIC CHOICE?

The 1990 revision of immigration law marks little change in either the process or substance of the way we Americans make immigration law. After rhetorical salutes to economic skills, 90 percent of admissions remain decided by kinship or non-economic factors, the refugee system became an even more porous sieve with less logic, and the expansion of already large total numbers was legislated without any strategic intentions at all and in ignorance of its multiple effects. Apparently moved more by the need to affirm the benevolent contours of our national identity and by the desire not to offend any ethnic lobby, policymakers see immigration law-making as a set of political transactions of a uniquely costless variety. When they think beyond immediate to ultimate ends at all, they fall back on older assumptions that immigration's purposes in this changing world should still be to admit relatives of recent arrivals or to shelter some of the world's people from poverty or harsh governments.

But other goals are also being realized -- the demographic transformation of the United States in ways the voters have not

authorized, and the alteration of the very structure of our economy through the distortion of the functioning of the domestic labor market and the supplying of chiefly low-skilled labor. When this is realized, along with the high environmental costs which future generations will pay for our failure to associate immigration with a burgeoning population, we will be intellectually prepared to complement the 1986 decision to begin curbing illegal entry with a reform of immigration law and administration based upon current realities and strategic intentions rather than the well-meaning impulses of a radically different past.

NOTES

1. See Immigration Act of 1921 (42 Stat 24), Immigration Act of 1924 (43 Stat 153; 8 USC 201), Immigration and Nationality Act of 1952 (66 Stat 163; 8 USC 1101), Public Law 89-236 of 1965 (79 Stat 911), Public Law 99-603, and Public Law 101-649.

An exception among basic immigration statutes is the Refugee Act of 1980 (94 Stat 102), which opened with a Title on Purposes, albeit three sentences in length. Understandably, the relatively explicit goal of that special statute is to shelter refugees, 50,000 of them annually.

2. Public Law 91-190 (1 January, 1970), (83 Stat 852).

3. Michael S. Teitelbaum, "Intersections: Immigration and Demographic Change and Their Impact on the United States," in Jane Menken, ed., *World Population and United States Policy* (New York: W.W. Norton, 1986), 137.

Due to the unprecedented events of 1989-1990, the Federal Republic of Germany may have briefly eclipsed the United States as the nation receiving more new entrants from abroad for permanent settlement, as a ratio of domestic population if not in absolute numbers. A large share of these have been entrants from East Germany and ethnic Germans returning from Eastern Europe and the USSR, whom technically the FRG regards as citizens rather than foreign nationals.

4. Masha Hamilton, "New Rules Make Soviet Immigration More Difficult," *Los Angeles Times* (28 September, 1989): 12.

5. Barry R. Chiswick, "Legal Aliens: Toward a Positive Immigration Policy," *Regulation* 1 (1988): 18.

6. Leon F. Bouvier, "U.S. Population in the 21st Century: Which Scenario is Reasonable?" *Population and Environment* 11 (Spring 1990): 197-99. See also Population Crisis Committee, *Population Pressures Abroad and Immigration Pressures at Home* (Washington, 1989).

7. FAIR *Immigration Report* (October 1989): 2.

8. A classic statement of this odd theory that America will stagnate and grow old without infusions of energy from abroad came from the decidedly unstagnant Senator Hubert Humphrey in 1965: "So when you want to put a little more zest into America, add a little more flavor to the great Republic, give it a little more drive, just let there be a little infusion of new blood, the immigrant." Speech of March 4, 1965 at the Annual Conference of the American Immigration and Citizenship Conference (AICC), quoted in *AICC News* 24, no. 1 (23 January, 1978): 1.

9. Public Law 96-212 (8 USC 1101 (a) (42) (A)).

10. Don Podesta, "Europe's Immigrants Swell Refugee Wave," *Washington Post* (6 October, 1989): A41; "Pressure on U.S. Refugee Programs Requires Better Solutions," *FAIR Issue Brief* (21 September, 1989).