



Creating Cohesive, Coherent Immigration Policy¹

Pia M. Orrenius

Federal Reserve Bank of Dallas and Institute of Labor Economics

Madeline Zavodny

Agnes Scott College and Institute of Labor Economics

Executive Summary

US immigration policy has serious limitations, particularly when viewed from an economic perspective. Some shortcomings arise from faulty initial design, others from the inability of the system to adapt to changing circumstances. In either case, a reluctance to confront politically difficult decisions is often a contributing factor to the failure to craft laws that can stand the test of time. We argue that, as a result, some key aspects of US immigration policy are incoherent and mutually contradictory — new policies are often inconsistent with past policies and undermine their goals. Inconsistency makes policies less effective because participants in the immigration system realize that lawmakers face powerful incentives to revise policies at a later date. US policies regarding unauthorized immigration, temporary visas, and humanitarian migrants offer examples of incoherence and inconsistency. This article explores key features of an integrated, coherent immigration policy from an economic perspective and how policymakers could better attempt to achieve policy consistency across laws and over time.

I. Introduction

Although there is widespread consensus that US immigration policy is broken, there is little agreement on *how* it is broken. One view, for example, is that the United States is too tolerant of unauthorized immigration — it does not enforce its borders effectively or deport enough unauthorized immigrants. An opposing view is that the country should recognize unauthorized immigrants' contributions by enacting a widespread legalization program that includes a pathway to US citizenship. And while few people argue against enforcing the country's borders, researchers point to diminishing marginal returns to additional US border enforcement (Batalova and Terrazas 2012). Some economists even argue that the economic gains from having a flexible, low-cost unauthorized workforce may outweigh the costs associated with large-scale unauthorized immigration and hence, changing the current system would leave the country worse off (Hanson 2007).

¹ The views expressed here are those of the authors and do not reflect those of the Federal Reserve Bank of Dallas or the Federal Reserve System.

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Disagreements about US immigration policy extend to legal immigration as well. Points of contention include how many temporary foreign workers should be admitted and their required skill set, as well as the relative importance of skills and education versus family ties in awarding permanent resident visas. Whether to admit refugees from predominately Muslim countries emerged as another area of disagreement during the 2016 presidential campaign, culminating in two 2017 executive orders attempting to ban most migrants from several countries and causing widespread protests in reaction.

This article focuses on a more fundamental way in which US immigration policy is broken: Taken as a whole, it is not a cohesive, coherent set of laws and regulations. In some cases, individual policies and practices actually undermine each other. The 1965 amendments to the Immigration and Naturalization Act (INA), also called the Hart-Celler Act, set up a system of issuing permanent resident visas based primarily on family ties or employment. Most changes to US immigration policy since then have involved tinkering at the margins of this system, not enacting large-scale reforms that would overhaul it entirely. Decades of tinkering have resulted in an immigration policy akin to Johnny Cash's psychobilly Cadillac: the parts don't fit together quite right, and something is definitely wrong.

A key failure of US immigration policy is that it is not forward looking or flexible. It too often fails to look ahead and consider the ramifications of current laws and regulations. Addressing these future consequences may be politically challenging, giving policymakers an incentive to put off action, but the failure to enact coherent, consistent policies has resulted in large-scale unauthorized immigration, long backlogs for permanent resident visas, and widespread dissatisfaction with the nation's immigration policy. This dissatisfaction can lead to nativist backlashes, as has been the case in the United States since the late 2000s, in Europe as a result of the recent refugee influx, and in the United Kingdom leading up to the Brexit vote. The backlashes can result in abrupt overcorrections by policymakers, as demonstrated in both the United States and Europe. Ultimately, this dissatisfaction reduces public support for admitting immigrants and for helping them once they are in the country.

This article explores three major areas in which US immigration policy has been neither cohesive nor coherent. First, US policies towards unauthorized immigrants have been inconsistent in ways that have fueled additional unauthorized immigration or created perverse incentives to remain unauthorized. Second, US temporary visa programs are not aligned with permanent visa programs, creating additional inconsistencies. Finally, some US programs for humanitarian migrants also suffer from incoherence and inconsistency. This last problem is not unique to the United States. As this article discusses, the European response to humanitarian migrants has also been disjointed and confused. Europe's recent experience may offer lessons for US policymakers in what not to do, and vice versa. The article then explores the key elements of a cohesive, coherent immigration policy that is internally and temporally consistent. Policy inconsistency is far from the only problem with the current immigration system, but it is a topic that has received less attention than other, more concrete subjects, such as the number and types of visas available and how to address unauthorized immigration.

Creating a cohesive, coherent immigration policy requires understanding the goals of an effective immigration system. For the United States, immigration policy goals currently — and historically — include enabling families to reunify, encouraging productive workers to

immigrate, and meeting humanitarian obligations. We agree that these are important goals, although as economists we would probably put more emphasis on the second one than many others might. Immigration policy can serve as a tool to advance national interests in domestic or foreign spheres, such as admitting investors with deep pockets or citizens of regimes that the US government opposes. Difficulties arise when these interests conflict. This is particularly likely to happen when the total number of immigrants admitted is capped, so more immigrants in one group means fewer in another. As this article argues, cohesive, coherent policies are likely to lead to more public support for immigration. This, in turn, would allow policymakers to ease limits on the total number of immigrants admitted and give lawmakers greater freedom to use immigration policy to pursue the nation's economic and political interests.

II. Unauthorized Immigration

More than 11 million unauthorized immigrants were living in the United States in 2014 (Passel and Cohn 2016). Although large, this is actually below the population's peak of over 12 million just before the start of the Great Recession in 2007. Perhaps one of the biggest takeaways from the last few decades of US immigration policy is that a severe economic downturn may be the fastest and most effective way to reverse unauthorized immigration. But of course no one would recommend the country endure a recession in order to reduce unauthorized immigration, so what measures do policymakers actually take?

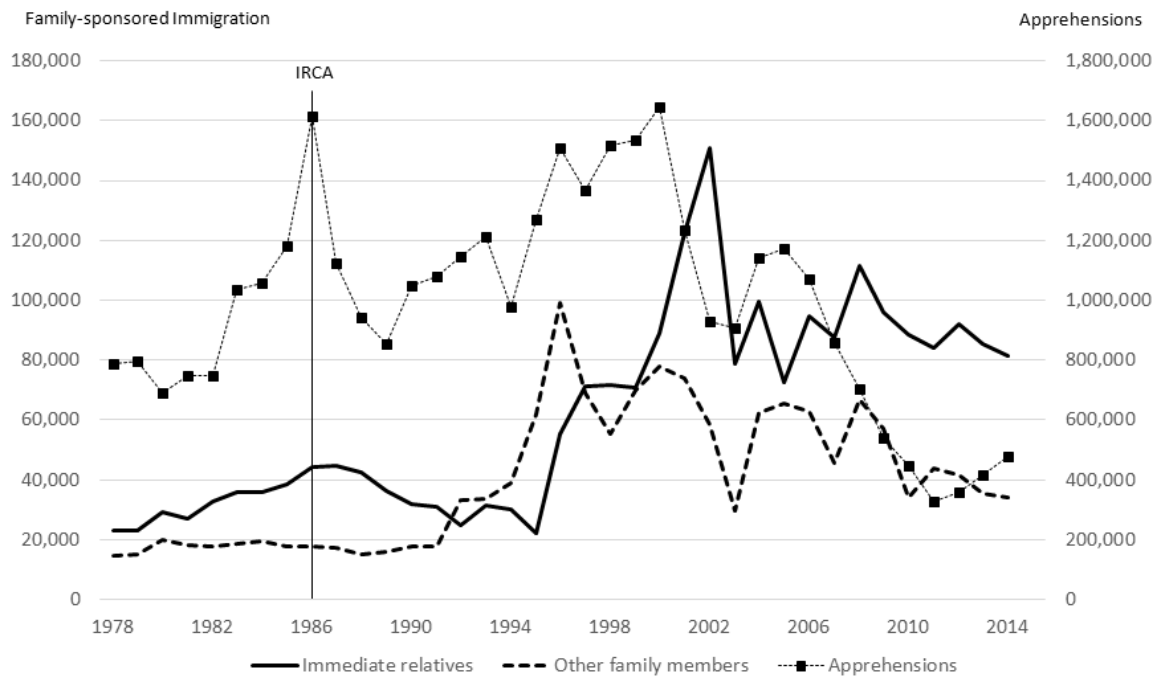
Policymakers typically enact tougher border enforcement measures in order to reduce the number of people entering the country illicitly and tougher interior enforcement measures in order to reduce the number of people living in the country illegally. Interior enforcement can involve involuntary removals — deportations — or making life so difficult for unauthorized immigrants that they choose to leave on their own, so-called “self-deportations.”

From the 1960s until the early 2000s, the United States emphasized border enforcement while largely neglecting interior enforcement. This was policy inconsistency: potential unauthorized immigrants outside the country faced far more barriers than unauthorized immigrants already in the country. Interior enforcement in the Hart-Celler era only began in earnest after 9/11, when the federal government enacted a number of measures aimed at bolstering national security that also made life more difficult for unauthorized immigrants (Orrenius and Zavodny 2009).² Before that, policy seemed almost Darwinian — border enforcement kept out the poorest, least-educated immigrants since they were the ones who could not afford to hire a smuggler or manage to get a tourist or temporary visa they could later overstay. Once someone made it in, they could largely live and work in the United States without fear of being deported, so many stayed. Lax interior enforcement undermined strict border enforcement. Another manifestation of policy inconsistency: Border enforcement tended to be counter-cyclical with regard to demand for unauthorized workers during this period, with authorities relaxing enforcement when sectors that use large numbers of unauthorized immigrant workers expanded (Hanson and Spilimbergo 2001).

² A notable exception is Operation Wetback during the 1950s, which involved both intensified border enforcement and the mass deportation of Mexican immigrants (Ngai 2004).

The United States kicked off another round of inconsistent policy making when it granted legal status to 2.7 million unauthorized immigrants as part of the 1986 Immigration Reform and Control Act (IRCA). Many of the newly legalized immigrants set down roots in the United States and wanted family members and friends to join them. Legal immigration from Mexico rose after IRCA, particularly as immigrants became naturalized US citizens able to sponsor their spouses, parents, and unmarried dependent children for legal permanent resident visas — “green cards” — categories of immediate relatives that are not subject to numerical limits (figure 1).

Figure 1. Family-sponsored Immigration from Mexico and Apprehensions along US-Mexico Border, 1978-2014



Source: Data are from the US Department of Homeland Security (or Immigration and Naturalization Services) and are for fiscal years.³

However, not enough green cards were available to meet rising demand in numerically limited categories. By 1992, Mexican immigrants faced a backlog in every numerically limited category of family sponsored visas. Long wait times to enter legally led to a resurgence of illegal entries. As figure 1 shows, migrant apprehensions along the US-Mexico border soon resumed their pre-IRCA pace. The 1994-95 Mexican peso crisis further fueled unauthorized immigration and added to the demand for visas. Policymakers could not have anticipated the Mexican economy’s collapse, but they could and should have anticipated that demand for visas would rise after IRCA. The failure to couple the legalization program with an increase in visas undermined IRCA’s goals by contributing to

³ Data taken from the US Department of Homeland Security (DHS), Enforcement Case Tracking System (ENFORCE) and the Performance Analysis System (PAS). For years prior to 2005, data are from the Statistical Yearbook of the Immigration and Naturalization Service (various years). For 2005-2010, data are from Sapp (2011). FY 2011-2014 data from DHS (2014), table 35. FY 2015 data from DHS (2015).

unprecedented levels of unauthorized immigration. Tougher border enforcement combined with lax interior enforcement also led to increased length of stay in the United States among unauthorized immigrants (Angelucci 2012). What had largely been a pool of male workers who circulated back and forth between Mexico and the United States became a base of families settled in the United States (Massey and Riosmena 2010).

IRCA's failure to reduce unauthorized immigration contributed to the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996. Among other provisions, IIRIRA imposed three- and 10-year reentry bars for most people who had been in the United States illegally. This gave unauthorized immigrants additional incentive to remain in the United States illegally rather than return home to legalize their status since doing so would have triggered the reentry bar. Given that the new rules discouraged immigrants who were clearly eligible for green cards from getting them, policymakers quickly backtracked and twice extended or created provisions that allowed unauthorized immigrants to file to adjust status without leaving the country so they could avoid triggering the reentry bar.⁴ The IIRIRA is a prime illustration of an overcorrection by policymakers reacting to consequences that could have been foreseen and addressed when IRCA was crafted.

The growth in the unauthorized immigrant population has been unpopular with many Americans. Although many businesses and consumers benefit from having a large, low-wage labor force, there are concerns about possible adverse effects on competing American workers, the fiscal costs of unauthorized immigrants and their children, a breakdown of the rule of law, and the cultural impact of having a sizeable predominately non-English-speaking immigrant population. One of the more subtle downsides of having a large number of unauthorized immigrants is that the US public and media have focused on this group, which only comprises about one-quarter of all foreign-born living there. As a result, policymakers often focus on this group as well instead of addressing broader issues, including those regarding legal immigration such as temporary and permanent visas.

III. Temporary and Permanent Visas

The disconnect between the temporary and permanent visa systems is another major example of incoherent, inconsistent US immigration policy. A well-designed immigration system that includes both temporary and permanent employment-based visas should allow workers to readily adjust to permanent residence status when their temporary visa expires if their employer is willing to sponsor them. Current policy prevents experienced foreign workers whom employers want to keep from staying and instead obliges firms to bring in new, inexperienced temporary workers because of a mismatch between the number of permanent employment-based green cards and the number of temporary work visas. The

4 The 245(i) amendment to INA allowed unauthorized immigrants with approved green cards to adjust status without leaving the United States and becoming subject to the reentry bar. The 245(i) provision was in effect for eligible immigrants between 1994 and 1998 and for a four-month period in 2001. Today, only immigrants whose absence would cause extreme hardship to a US citizen may receive a waiver that allows them to adjust status under 245(i). The Obama administration also created a procedure to allow certain persons found to be statutorily eligible for an immigrant visa to apply for a waiver of the unlawful presence reentry bars, prior to leaving the United States for their consular interviews.

Immigration Act of 1990 allocated 140,000 green cards annually across five employment-based categories and 65,000 H-1B temporary visas for skilled foreign workers. The former number has remained fixed since then while the number of H-1B visas issued has more than tripled.⁵ The fact that accompanying dependents are counted towards the green card cap but not the H-1B cap further exacerbates the imbalance.

The most obvious result of the imbalance is long wait times for temporary foreign workers trying to adjust to permanent residence. Table 1 shows the average wait time in five-year intervals for “EB-3” green cards for skilled workers and professionals.⁶ During fiscal years 2012-16, immigrants receiving EB-3 green cards had applied for them an average of 36 months prior. The wait is even longer for immigrants from major source countries (China, India, and the Philippines) because of country caps.⁷ Some immigrants who want to adjust to permanent resident status go to extraordinary lengths to do so, such as marrying a US citizen in order to get a green card.

Table 1. Average Wait Time in Months of Third Preference Employment-based Immigrants

Time Period	China	India	Philippines	Rest of World
1992-1996	9	4	26	0
1997-2001	24	28	1	0
2002-2006	16	19	16	12
2007-2011	74	89	61	61
2012-2016	62	127	75	36

Source: US Department of State’s Visa Bulletin. Data are averages by fiscal year.

Less obvious results of the imbalance include discouraging skilled workers from remaining in the United States while waiting for a green card and encouraging high-tech companies that rely on the H-1B program to hire large numbers of workers to instead open up facilities in source countries or in countries with less-restrictive immigration policies, such as Canada. The shortage of visas down the line also dissuades some highly skilled people from accepting a temporary foreign worker visa or even a student visa.⁸

5 The American Competitiveness in the 21st Century Act expanded the number of H-1B visas without increasing the number of employment-based green cards. The Act expanded the H-1B program in four main ways: it increased the number of H-1B visas available from 65,000 to up to 195,000 for three fiscal years; it exempted employees of higher educational institutions and nonprofit and government research organizations from the cap; it exempted 20,000 recipients of a US master’s degree or higher from the cap; and it exempted H-1B renewals from counting towards the cap.

6 EB-3 is the largest category of employment-based green cards, accounting for almost 60,000 visas in a typical year, or about 40 percent of the employment-based total.

7 The INA limits the number of preference-based green cards issued to any single country to 7 percent of the total each fiscal year. Hence, countries as large as China, with 1.4 billion people, can receive at most the same number of such green cards — 25,620 — as countries as small as Luxembourg, with half a million inhabitants.

8 Shih (2016) shows that the reduction in the H-1B cap in 2004 reduced enrollment of international students at US colleges and universities by about 10 percent. Kato and Sparber (2013) show that it particularly discouraged high-ability foreign students from attending college in the United States.

A final example of disjointed policy related to temporary and permanent employment-based visas is the inconsistent conditions for receiving the two types of visas. In order to hire a worker with an H-1B visa, most employers must simply attest that they will pay that worker at least as much as similar workers or the prevailing wage in the occupation and area, and that the employment conditions of similar workers will not be adversely affected.⁹ In order to sponsor a worker for an EB-2 or EB-3 visa, employers must demonstrate that they have made a good-faith effort to recruit a US worker and that no qualified US worker is willing and able to do the job at a comparable wage. In effect, employers must meet a higher legal standard to sponsor a worker for a permanent visa than for a temporary one. Moreover, an employer who hires a worker on an H-1B visa is far from guaranteed that the worker can eventually qualify for a green card. Having the same legal threshold for both visas as well as more permanent visas allotted to temporary workers who want to remain would help lead to a more coherent, consistent immigration system.

IV. Humanitarian Migrants

How countries should address humanitarian migrant streams has become a pressing issue as millions of Syrians have fled their country, hundreds of thousands of Africans have crossed the Mediterranean into Europe, and tens of thousands of unaccompanied minors have streamed north from Central America during the last few years. The United States — and many European Union countries — has often reacted in incoherent, inconsistent ways to these and other streams of humanitarian migrants.

The United States has an annual quota on refugee admissions but not on asylum seekers. The refugee quota is set by the president in consultation with Congress and was 70,000 per year in recent years but was raised to 85,000 in fiscal year 2016 and to 110,000 in fiscal year 2017 in response to ongoing humanitarian crises. President Trump reduced it to 50,000 within a week of taking office and implemented a 120-day moratorium on all refugee admissions. The quota is divided across major regions of origin, including Near East/South Asia, Africa, East Asia, Europe/Central Asia, and Latin America/Caribbean. This fixed regional quota system means that an unexpected humanitarian crisis in one country reduces the likelihood that other humanitarian migrants from the same region will receive refuge in the United States. It also gives humanitarian migrants an incentive to try to enter the United States illicitly in order to apply for asylum.

Refugees apply for admission from outside of the country, whereas asylum seekers are already in the country or at the border when they ask for protection. One reason this distinction is important is that US immigration policy does not cap the number of people

⁹ H-1B dependent employers — firms with H-1B workers comprising 15 percent or more of their total workforce — must also attest that they will not displace any similarly employed US worker for 90 days and that they took good faith steps to recruit US workers and first offered the job to any equally or better qualified US worker. There are exemptions if the H-1B worker earns at least \$60,000 or has a master's degree or higher.

who can be granted asylum.¹⁰ As a result, humanitarian migrants may undertake dangerous journeys to the United States in hopes of receiving asylum once they reach its borders instead of waiting abroad to be admitted as a refugee.

The Central American Minors (CAM) program is an example of how well-intentioned policies regarding humanitarian migrants can nevertheless be incoherent. Created in 2014, the program allows certain legally present parents in the United States (“qualifying parents”) to initiate an application for refugee status or parole for their “qualifying” minor children in El Salvador, Guatemala, or Honduras, as well as for certain other family members.¹¹ The goal was to reduce the number of children undertaking perilous journeys north — an important goal. But children can qualify for the program only if they have a parent lawfully present in the United States. This dramatically limits the program’s applicability since many of the children traveling north either do not have a parent there or are trying to reunite with a parent who lacks legal status. In addition, the program only grants lawful status in the United States for two years, not permanent residence; this short timeframe essentially kicks the can down the road. Participation in the program has been modest so far, although it is growing. As of February 2017, the program had approved around 11,000 applications, but fewer than 2,400 approved children had actually entered the United States. This compares with more than 40,000 unaccompanied children apprehended along the US-Mexico border in fiscal year 2015 and almost 60,000 in fiscal year 2016.¹²

The limited timeframe of the residence permits issued under the CAM program illustrates a credibility problem in several US programs for humanitarian migrants. Despite announcing *temporary* protective measures, policymakers are typically very reluctant to enforce the limited timeframe. Temporary protected status (TPS) is a case in point (Bergeron 2014). Since 1990, the United States has tended to grant TPS to unauthorized or temporary migrants already present in the country when a natural disaster or other crisis occurs in their home country. TPS is valid for six to 18 months, but policymakers can opt to extend it. Such extensions have become commonplace — Honduran and Nicaraguan beneficiaries have had TPS since early 1999, and Salvadorans since 2001. The temporary aspect of TPS seems to have fallen by the wayside. And after more than 15 years in the United States, it seems unlikely many of those beneficiaries would leave if their protected status was not renewed yet again. Further, their continued lawful presence in the United States may have led to additional unauthorized immigration as they are joined by family members and may have sowed confusion abroad about perceived amnesties. President Obama’s executive actions that aimed to grant deferred deportation to qualifying unauthorized immigrants — the Deferred Action for Childhood Arrivals (DACA) program in 2012 and

10 The number of people who receive asylum has averaged around 25,000 per year in recent years. One aspect of time-inconsistent immigration policy with respect to humanitarian migrants is no longer in place: Until 2005, the number of successful asylum seekers who could adjust to legal permanent resident status after one year of US residence was capped at 10,000 per year, while the number of people who could be granted asylum was unlimited. Removing the cap on permanent resident visas was a step toward coherent, time-consistent policy.

11 In November 2016, this program was expanded to allow for the admission of the qualifying US parent’s children who are married and/or over age 21, as well as the qualifying child’s biological parent and his or her caregiver in certain circumstances.

12 Statistics on CAM program participants are from Robles and Semple (2017); statistics on apprehensions of unaccompanied children are from US Customs and Border Protection (2016).

the Deferred Action for Parents of Americans program in 2014, the latter of which has been permanently enjoined — may have added to this confusion. DACA is also another example of a temporary program that has already been renewed once.

The United States is not the only country with difficulty creating coherent, temporally consistent policies regarding humanitarian migrants. In recent years, European countries have responded to the inflow of humanitarian migrants from Syria, Afghanistan, and other non-EU countries in a chaotic, disjointed manner. Under the Dublin Regulation, EU members had a key common policy regarding asylum seekers: Their claims would be processed in the first EU country they reached. This cooperation was intended to eliminate asylum seekers' incentive to travel to northern European countries with friendlier policies, stronger economies, and more generous welfare benefits. A combination of massive inflows in recent years, continued economic weakness in major countries of entry (Greece, Italy, and Spain), lack of cost-sharing, and unwillingness to more evenly allocate humanitarian migrants across countries all contributed to a breakdown of that cooperation.

Some countries — most notably Germany and Sweden — threw open their doors to humanitarian migrants and then faced public backlash as hundreds of thousands of migrants rushed in. Swedish policymakers responded to that backlash by largely slamming the door shut, whereas German policymakers have largely continued to welcome asylum seekers but pressured neighboring countries to stem the flow while redistributing asylum seekers within the country's own borders. Meanwhile, some other EU member states made few, if any, changes to their policies or tightened their immigration policies. The United Kingdom's Brexit vote was in part a backlash against EU migration as well as the European Union's handling of the refugee crisis. The United Kingdom is a popular migrant destination since it has both a relatively strong economy and the benefit of the English language, which many migrants already speak and understand. The Brexit vote dictated that the United Kingdom exit the European Union and recover control over its borders.

There are several reasons why EU coordination on immigration policy is inherently unstable and policies are inconsistent (Orrenius and Zavodny 2016). First, immigration-related costs tend to be concentrated among particular member states. Nations along the EU periphery face high costs of enforcing their borders and processing humanitarian migrants, and they have strong incentives to simply let migrants continue northward. The fact that there is little internal border enforcement under the Schengen Agreement enables this; it also makes the European Union a more attractive destination to migrants. There is also relatively little external border enforcement, although it bears noting that both internal and external enforcement have increased in the wake of the recent refugee influx.

Second, the EU countries differ markedly in their attractiveness to migrants and their capacity or willingness to absorb them. Migrants, both those already in the European Union and those arriving from the rest of the world, strongly prefer countries with large migrant networks, growing economies, and generous social safety nets. Myriad cross-country differences make it more difficult for member states to agree on immigration policies or on sufficient cost-sharing. These issues point to several potential lessons for US policymakers, as discussed below.

V. What Would Cohesive, Coherent Immigration Policy Encompass?

Immigration policymakers who aim to create a cohesive, coherent system should keep several key factors in mind. First is the interconnected nature of many migrant streams. Policymakers should consider the likely effects of an immigration policy on future flows. If a policy will induce sizable inflows, as the 1986 legalization program did in the United States, policymakers should ensure that legal channels can accommodate those inflows. If they cannot, unauthorized immigration will rise.

Policymakers aiming to stem unauthorized immigration should recognize that tougher border enforcement can help keep unauthorized immigration in check but is costly and has far-reaching unintended consequences. At this point in the United States, where the southwest border is very heavily enforced, tougher interior enforcement measures would be more effective than building a wall or other forms of additional border enforcement. Interior enforcement can better address the root cause for many migration streams, namely employment opportunities. Requiring all employers to use E-Verify for new hires, for example, would help remove the jobs magnet that attracts many unauthorized immigrants.¹³ Tightening interior enforcement would also be cohesive with maintaining current levels of border enforcement, reinforcing existing policies instead of undermining them. Creating more legal channels for less-educated immigrants to enter the country would also help reduce unauthorized immigration.

Policymakers also need to decide how to best deal with unauthorized immigrants already present in the country. Decades of inconsistent policies have created a situation in which the United States has no easy choices. It can crack down on unauthorized immigrants who have been living and working in the United States, either by deporting them or by making things so bad that they leave. Either one would be bad not only for those unauthorized immigrants but also for any US citizen children they have (Warren and Kerwin 2017). In addition, it would create sizable disruptions in some labor and product markets in the short to medium run. Alternatively, the United States can enact a legalization program and couple it with measures aimed at keeping future unauthorized immigration at a minimum. A major concern here is that a legalization program may result in yet more illegal inflows or visa overstays in hopes of another amnesty, undermining the goal of less unauthorized immigration. The Bush and Obama administrations made a third choice: They turned a blind eye toward most unauthorized immigrants once they were established in the country. While perhaps understandable in the short run, this policy inconsistency has only worsened the problem in the long run.

Second, policymakers need to build more flexibility into the immigration system. 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. The cap on refugees means humanitarian migrants may have to choose between living

¹³ A national E-Verify mandate would likely be very detrimental to unauthorized immigrant workers and their families. It therefore should be implemented as part of broader reforms that grant some form of legal status to unauthorized immigrant workers who have been living in the United States for a long time.

in deplorable conditions in a third country and risking a dangerous journey to the United States in order to apply for asylum. Quotas should rise and fall in response to changes in origin-country economic, political, and social conditions and, in the case of employment-based visas, to changes in US economic conditions.

Such flexibility could be built in via automatic adjustment mechanisms, such as a formula that increases the number of temporary and permanent employment-based visas when the unemployment rate is low and falling and GDP growth is rising and reduces it when the opposite occurs. If a formula is too rigid for policymakers, they could instead use market-based mechanisms to allocate employment visas, such as auctioning off permits to hire temporary foreign workers (Orrenius and Zavodny 2010). Automatically creating more family-based visas for migrants from a given country in response to larger legal inflows from that country might also make sense, although a simpler solution is to just remove the country cap on permanent visas. Alternatively, the United States could create an independent commission, like the United Kingdom's Migrant Advisory Committee, that regularly advises on the number of visas or even sets quotas.

The EU experience dealing with sudden increases in migration and unprecedented numbers of humanitarian migrants offers several lessons for designing coherent policies. Sudden surges and historically large flows of migrants can result in public backlash against political parties, government institutions, and migrants themselves. In a spring 2016 Pew Research Center survey, 88 percent of the Swedish, 70 percent of the British, and 67 percent of Germans disapproved of the European Union's handling of the refugee issue (Connor 2016). Long-standing policies may be overturned and replaced with counterproductive measures; disapproval may spill over into support for anti-immigrant political parties. To the extent possible, lawmakers have a responsibility to prevent migration surges, keep migration legal, and maintain effective border controls. This requires recognizing that migration is endogenous; it is influenced by the policies in the receiving countries. Well-meaning policies may backfire if migrants who utilize them are later victimized through discrimination or other means or if public backlash reduces support for immigration and immigrant integration policies.

The EU experience also demonstrates the need for burden- or cost-sharing across regions, particularly when poorer areas receive the lion's share of migrants because of their location. In the United States, such cost-sharing should occur across levels of government. Estimates of the fiscal effects of immigration suggest state and local governments bear the fiscal costs of low-skilled immigration while the federal government benefits (National Academies of Sciences 2016). There should be a mechanism for federal government transfers to state and local governments to offset the costs of mandatory services to immigrants, such as public education and emergency healthcare.

Finally, policymakers should try to make commitments that remove the possibility of temporally inconsistent policies or that widen the gap between policy and practice. For example, instead of repeatedly extending temporary programs like TPS, why not grant permanent residence to program beneficiaries after one extension? The 1997 Nicaraguan Adjustment and Central American Relief Act offers a good example of a cohesive policy. Instead of continuing to extend TPS year after year to qualified migrants, the program granted permanent residence to migrants from certain countries with open asylum claims.

The program also was extended in 2000 to qualified family members. With regard to employment-based migrants, a consistent policy would readily grant permanent resident visas to temporary foreign workers who meet the qualifications for permanent visas when their temporary visas expire, not require them to meet a higher standard and then wait for years for a visa to become available. And removing the ability of a new administration to easily reverse course and renege on commitments to admit certain refugees or other immigrants seems like a must for temporally consistent policy.

VI. Conclusion

Policy inconsistency in the US immigration system came to the forefront in the Obama administration, which may have desired to implement permanent improvements but ended up resorting to temporary piecemeal fixes. Among other measures, it issued executive actions to shield some unauthorized immigrants from deportation and allow them to work legally; eased rules that made it difficult for H-1B visa holders to switch jobs while waiting for a green card to become available and that prevented their spouses from working unless they also had a temporary foreign worker visa; extended the time that international students can work in the country after graduating from a US college or university with a STEM (science, technology, engineering, and math) degree before they must transition to a temporary foreign worker or permanent visa; and proposed the Immigrant Entrepreneur Rule, which would grant parolee status to qualifying immigrant entrepreneurs.

The fundamental problem with these programs and proposals is that they are executive actions — they are discretionary, piecemeal changes that can be readily reversed by future administrations. Indeed, the Trump administration quickly began the process of reversing some Obama-era immigration policies, again via executive order. Neither administration's executive orders are the major overhaul of immigration policy that the United States desperately needs. The big, bold actions that the country needs to fix its dysfunctional policy cannot — and should not — be accomplished via administrative fiat but instead via legislation duly deliberated and passed by Congress and signed into law by the president.

The outcome of the 2016 presidential race indicated that many Americans want a new, tougher immigration system. Globally, migration flows are rising, particularly of humanitarian migrants, and climate change seems likely to further exacerbate migration pressures. Policymakers who want to maintain the pre-2017 status quo or have even more generous policies, such as a large-scale legalization program, need to convince the American public of the desirability of such policies. Policies that aim to boost the economic benefits of immigration while also demonstrating the government's ability to manage migration would help build public support for immigration.

Inconsistency is one of many serious limitations of current US immigration policy. Other major concerns from an economic perspective include the inefficient random allocation of H-1B visas via a lottery in years when those visas are oversubscribed; limited fiscal cost-sharing between the federal government, states, and localities, and the concentration of adverse fiscal consequences in states and localities with large numbers of low-skilled immigrants; the rigid nature of immigration quotas by category and country of origin; and policies that tie temporary foreign workers to an employer and make those workers

vulnerable to exploitation. Such policies reduce the economic gains from immigration. The humanitarian costs of current refugee policies are even greater still. It is time for a more cohesive, coherent immigration system, not just on economic grounds but on humanitarian ones as well.

REFERENCES

- Angelucci, Manuela. 2012. "US Border Enforcement and the Net Flow of Mexican Illegal Migration." *Economic Development and Cultural Change* 60(2): 311-57. <https://doi.org/10.1086/662575>.
- Batalova, Jeanne, and Aaron Terrazas. 2012. "The Long View: The Past, Present, and Future of U.S. Immigration." In *U.S. Immigration and Education: Cultural and Policy Issues Across the Lifespan*, edited by Elena L. Grigorenko, 17-40. New York: Springer.
- Bergeron, Claire. 2014. "Temporary Protected Status after 25 Years: Addressing the Challenge of Long-Term 'Temporary' Residents and Strengthening a Centerpiece of US Humanitarian Protection." *Journal on Migration and Human Security* 2(1): 22-43. <https://doi.org/10.14240/jmhs.v2i1.23>.
- CBP (US Customs and Border Protection). 2016. "United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016." <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016>.
- Connor, Phillip. 2016. "Number of Refugees to Europe Surges to Record 1.3 Million in 2015." Washington, DC: Pew Research Center. <http://www.pewglobal.org/2016/08/02/number-of-refugees-to-europe-surges-to-record-1-3-million-in-2015/#europeans-disapprove-of-how-the-eu-has-handled-the-refugee-issue>.
- DHS (US Department of Homeland Security). 2014. "Yearbook of Immigration Statistics 2014." Washington, DC: DHS. <https://www.dhs.gov/yearbook-immigration-statistics-2014-enforcement-actions>.
- . 2015. "Yearbook of Immigration Statistics 2015." Washington, DC: DHS. https://www.dhs.gov/sites/default/files/publications/CBP%20FY15%20Border%20Security%20Report_12-21_0.pdf.
- Hanson, Gordon H. 2007. "The Economic Logic of Illegal Immigration." New York: Council on Foreign Relations.
- Hanson, Gordon H., and Antonio Spilimbergo. 2001. "Political Economy, Sectoral Shocks, and Border Enforcement." *Canadian Journal of Economics/Revue Canadienne d'Economique* 34(3): 612-38. <https://doi.org/10.1111/0008-4085.00091>.

- Kato, Takao, and Chad Sparber. 2013. "Quotas and Quality: The Effect of H-1B Visa Restrictions on the Pool of Prospective Undergraduate Students from Abroad." *Review of Economics and Statistics* 95(1): 109-26. https://doi.org/10.1162/REST_a_00245.
- Massey, Douglas S., and Fernando Riosmena. 2010. "Undocumented Migration from Latin America in an Era of Rising U.S. Enforcement." *The Annals of the American Academy of Political and Social Sciences* 630(1): 294-321. <https://doi.org/10.1177/0002716210368114>.
- National Academies of Sciences. 2016. *The Economic and Fiscal Consequences of Immigration*. Washington, DC: The National Academies Press.
- Ngai, Mae M. 2004. *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Princeton: Princeton University Press.
- Orrenius, Pia M., and Madeline Zavodny. 2009. "The Effects of Tougher Enforcement on the Job Prospects of Recent Latin American Immigrants." *Journal of Policy Analysis and Management* 28(2): 239-57. <https://doi.org/10.1002/pam.20425>.
- . 2010. *Beside the Golden Door: U.S. Immigration Reform in a New Era of Globalization*. Washington, DC: American Enterprise Institute Press.
- . 2016. "Irregular Immigration in the European Union." Stockholm, Sweden: Swedish Institute for European Policy Studies.
- Passel, Jeffrey S., and D'Vera Cohn. 2016. "Overall Number of U.S. Unauthorized Immigrants Holds Steady Since 2009." Washington, DC: Pew Research Center.
- Robles, Frances, and Kirk Semple. "Trump's New Ban Leaves Few Spots for Refugees, Even the Hunted." *New York Times*, March 7. <https://www.nytimes.com/2017/03/07/world/americas/trump-refugee-ban-children-central-america.html>.
- Sapp, Lesley. 2011. "Apprehensions by the U.S. Border Patrol: 2005-2010." Washington, DC: DHS. <http://www.dhs.gov/xlibrary/assets/statistics/publications/ois-apprehensions-fs-2005-2010.pdf>.
- Shih, Kevin. 2016. "Labor Market Openness, H-1B Visa Policy, and the Scale of International Student Enrollment in the United States." *Economic Inquiry* 54(1): 121-38. <https://doi.org/10.1111/ecin.12250>.
- Warren, Robert, and Donald Kerwin. 2017. "Mass Deportations Would Impoverish US Families and Create Immense Social Costs." *Journal on Migration and Human Security* 5(1): 1-8. <https://doi.org/10.14240/jmhs.v5i1.71>.