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VIEWPOINT | Election of Donald Trump and migration | Philip L. Martin[±]

Abstract

Donald Trump campaigned on seven major issues, two of which involved migration, viz, have the US build and Mexico pay for a wall on the 2,000 mile Mexico-US border and deport the 11 million unauthorized foreigners in the US. Trump also promised to reverse President Obama's executive orders that provide temporary legal status to some unauthorized foreigners, and to "put American workers first" in migration policy making. After winning the November 2016 election, Trump modified some of his positions, announcing that deportation efforts would be focused on two million unauthorized foreigners that Trump says were convicted of US crimes.

Keywords: Donald Trump; migration; USA; foreigners; president elect.

Trump's Road to Victory

New York City developer Donald Trump launched his bid for the Republican presidential nomination in June 2015 by accusing unauthorized Mexicans of "bringing drugs. They are bringing crime. They're rapists... but some, I assume, are good people." (Rural Migration News, 2015). There was an immediate negative reaction. The television network NBC dropped the Miss USA and Miss Universe shows, which are joint ventures with Trump, and Macy's stopped carrying Trumpbranded clothes. In Mexico, piñata effigies of Trump that could be broken with sticks were hot sellers.

During the summer of 2015, Trump said that Mexico takes "advantage of the United States by using illegal immigration to export the crime and poverty." In order to pay for the wall, Trump proposed "impounding wages" earned by unauthorized foreigners that are remitted to Mexico, 1 and promised to deport the 11 million unauthorized foreigners in the US, over half Mexicans, within two years of being elected president.

¹ US remittances to Mexico were about \$25 billion in 2015, and many were sent via Western Union and MoneyGram, firms not required to follow the same customer-identification procedures as banks when they open accounts for new customers. If Mexico did not pay, Trump could ask Congress to amend the USA Patriot Act to reclassify all money transfers as "accounts" so that customers would have to provide identification and prove legal immigration status to remit money.



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During the campaign, Trump continued to focus on unauthorized foreigners, often leading "build the wall" chants at campaign rallies. He called for suspending immigration from "the most dangerous and volatile regions of the world" and requiring those who seek to immigrate to the US from such regions to undergo "extreme vetting" to ensure they are not threats to the US. Trump charged that Democrat Hillary Clinton aimed to be "America's Angela Merkel," a reference to the million migrants seeking asylum who arrived in Germany in 2015 (Martin, 2016).

After a short visit to Mexico, Trump outlined a 10-point immigration plan on August 31, 2016 that began with a wall on the Mexican border and ended in ambiguity about what would happen to unauthorized foreigners in the US. He said "No citizenship. They'll pay back taxes... There's no amnesty, but we will work with them." (Rural Migration News, 2016). Trump often linked immigration and terrorism, asserting that several terrorist attacks in the US were carried out "by immigrants, or the children of immigrants."

Trump was expected to lose to Clinton, who maintained a consistent lead in polls during the summer and fall of 2016. Given Trump's remarks about women and immigration, pundits predicted that there were not enough white working class men and older voters who supported Trump to overcome Clinton's lead among women and minorities. However, the number of white voters increased in 2016 compared with 2012 and the number of minority voters stabilized, enabling Trump to win six states carried by Obama in 2012 and to defeat Clinton by 306 to 232 electoral votes. Clinton won two million more popular votes, rolling up big margins in California, Massachusetts, and New York, but lost by 77,000 votes in Michigan, Pennsylvania and Wisconsin.

Trump's focus on migration during the campaign has had several effects that may prove long-lasting, including polarizing public opinion on how to manage immigration generally and unauthorized foreigners in particular. Migration may join abortion and guns as issues that deeply divide Americans.

Immigration and Unauthorized Foreigners

The 42 million foreign-born US residents in 2014 were almost a seventh of the 320 million Americans. The US had almost 20 percent of the world's 244 million international migrants in 2015, when over half of the international migrants in the US were Hispanic, including almost 30 percent who were born in Mexico and about five percent each born in China, India and the Philippines.² About a quarter of the residents of California and New York are migrants. In Miami, over half of the resident population is made up by migrants, and Los Angeles has 40 percent international migrants among its residents (Brown & Stepler, 2016).

 $^{^2}$ In 2014, there were 11.7 million US residents born in Mexico, 2.5 million born in China, 2.2 million born in India, and 1.9 million born in the Philippines (Brown and Stepler, 2016, Table 5).



The US has been debating the fate of 11 million unauthorized foreigners for the past decade, including 5.9 million Mexicans. The number of unauthorized foreigners rose rapidly in the late 1990s and again after recovery from the 2000-01 recession, and peaked at over 12 million in 2007 before declining during and after the 2008-09 recession (Passel and Cohn, 2016a).

Figure 1. Unauthorized Foreigners in the US, 1990-2014

Source: Krogstad, Passel, Cohn (2016); DHS (2013); Pew (2016).

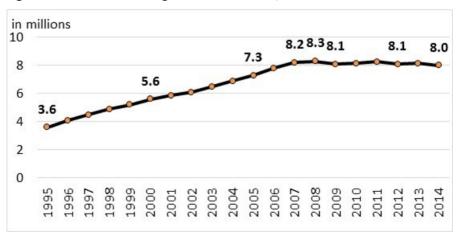


Figure 2. Unauthorized Foreign Workers in the US, 1990-2014

Source: Pew Research Center (2016).

Some eight million unauthorized foreigners are in the US labor force, comprising five percent of the 160 million-strong workforce that also includes 20 million lawful foreign-born workers (Passel and Cohn, 2016b). The number of unauthorized workers has been more stable than the number of unauthorized residents.

Unauthorized workers were 10 percent of Nevada's labor force in 2014, nine percent in California, and eight percent in Texas.

Workers can be categorized by industry or occupation. About 17 percent of those employed in the industry agriculture were unauthorized in 2014, followed by 13 percent in construction and nine percent in hospitality. By occupation, 26 percent of those with farming occupations were unauthorized, followed by 15 percent in construction and nine percent each in production and services. Dependence on unauthorized workers is higher in particular areas, such as over 50 percent among fruit pickers in California and over a third among residential construction workers in Nevada.

Enforcement-Only versus Comprehensive Reform

There are two major policy approaches to deal with unauthorized migrants, enforcement-only and comprehensive immigration reforms that involve enforcement, legalization, and guest workers. Both have been debated over the past decade, but none of the proposals has become law.

The House of Representatives by a 239 to 182 vote in December 2005 approved an enforcement-only bill, HR 4437, that would have required all employers to check the legal status of newly hired workers against a government database within a week and to check the legal status of current workers within six years. Under HR 4437, employers would have informed workers who appear to be unauthorized, and these suspect workers would have been required to contact the government to correct their records or be fired.

This so-called Sensenbrenner bill would have made "illegal presence" in the US a felony, so that unauthorized foreigners would find it difficult to become legal guest workers and immigrants. HR 4437 would have introduced penalties on those who supported or shielded unauthorized foreigners, eliminated the visa lottery program, and added 700 miles of fencing along the Mexico-US border. Despite pressure from farmers and other employers who hire large numbers of unauthorized workers, HR 4437 did not include new or expanded guest worker programs to provide legal workers after new enforcement measures made it more difficult to hire unauthorized workers.

Mexico reacted harshly to the House's approval of HR 4437. Foreign Secretary Luis Ernesto Derbez said: "Mexico is not going to bear, it is not going to permit, and it will not allow, a stupid thing like this wall." (Migration News, 2006a). There were protests against HR 4437 in many US cities on May 1, 2006, billed as "A Day Without Immigrants," as up to a million foreign-born workers and their supporters protested instead of going to work or school.

The Senate by a 62-36 vote in May 2006 approved a comprehensive immigration reform bill, S 2611, with enforcement, legalization, and guest worker elements. Like HR 4437, the Senate's S 2611 would have added Border Patrol agents and fencing on the Mexico-US border and required employers to check the legal status

of new hires. S 2611 would have also introduced a system of appeals and reimbursement if the government made a mistake and informed an employer that a worker was unauthorized when she was in fact authorized to work.

S 2611 divided unauthorized foreigners into three groups based on their length of time in the US. The estimated seven million unauthorized foreigners in the US at least five years could have become "probationary immigrants" by proving they had worked in the US, paid any back taxes owed and a \$1,000 fee, and passed English and background tests. At the end of six more years of US work and tax payments, they could apply for regular immigrant visas (Migration News, 2006b).

The estimated three million unauthorized foreigners who had been in the US for two to five years could have received a three-year temporary status that allowed them to work lawfully, but they would have had to return to their countries of origin within three years and re-enter the US legally to become immigrants, the so-called touchback requirement. The two million unauthorized in the US less than two years were expected to leave the US.

The third prong of the comprehensive reform bill was a new large-scale H-2C guest worker program. Employers in any US industry could "attest" that they need to hire migrants and that the employment of H-2C guest workers "will not adversely affect the wages and working conditions of workers in the United States similarly employed" and not lead to the termination of US workers 90 days before and after the H-2C migrants are employed. Foreigners outside the US with job offers from such US employers could have paid \$500 and obtained six-year work permits, and H-2C guest workers could have changed employers if they received a job offer from another US employer who completed the attestation process.

President George W. Bush supported S 2611, saying "A person ought to be allowed to . . . pay a penalty for being here illegally, commit him or herself to learn English, which is part of the American system, and get in the back of the line for citizenship." (Migration News, 2006b). However, House Republicans would not support legalization, and Congress did not enact a bill. In 2007, the Senate considered a similar comprehensive bill, S 1348, but it failed to win Senate approval despite the addition of triggers, meaning that stepped-up enforcement would have to be deemed effective before new guest worker or legalization programs could begin.

From Obama to Trump

Both candidates for president in 2008, Senators John McCain (R-AZ) and Barack Obama (D-IL), supported comprehensive immigration reforms, although McCain emphasized enforcement and Obama legalization. Obama was elected, and immediately stopped the workplace raids that had been conducted to identify and remove unauthorized workers. Obama said that immigration was not a first-term issue, and instead tackled the economic recession in 2009 and health care in 2010.

President Obama met with migrant rights groups frequently and urged them to persuade Congress to act on comprehensive immigration reforms. Meeting with

the Mexican and Canadian presidents on August 10, 2009, Obama said that the US "can create a system in which you have strong border security, we have an orderly process for people to come in, but we're also giving an opportunity for those who are already in the United States to be able to achieve a pathway to citizenship so that they don't have to live in the shadows, and their children and their grandchildren can have full participation in the United States." (Migration News, October 2009).

President Obama mentioned immigration reform in his January 27, 2010 State of the Union speech, saying: "we should continue the work of fixing our broken immigration system - to secure our borders, enforce our laws, and ensure that everyone who plays by the rules can contribute to our economy and enrich our nation." (Migration News, 2010a). Obama waited for Congress to act, and the House waited for the Senate to act first. Interest groups mobilized to support and oppose comprehensive immigration reforms that included the three elements of more enforcement, legalization for unauthorized foreigners, and new guest worker programs.

Midterm elections in November 2010 switched control of the House to Republicans and reduced the Democratic majority in the Senate. The increased clout of Republicans in Congress changed the conversation from comprehensive to piecemeal immigration reform, meaning efforts to enact measures with bipartisan support, such as the Development, Relief and Education for Alien Minors (DREAM) Act to provide a path to citizenship for unauthorized foreigners brought to the US as children and the Agricultural Job Opportunity Benefits and Security Act (AgJOBS) to legalize unauthorized farm workers and make it easier to hire guest workers. DREAM and AgJOBS had been blocked in the Democrat-controlled Congress by proponents of comprehensive immigration reform who feared that dealing with the "easy" aspects of immigration reform would become a substitute for comprehensive action.

With action in Congress stalled, immigration lawmaking switched to states and cities. Beginning with Arizona's SB 1070 in April 2010, some states and cities experiencing an upsurge in immigration enacted laws to make life more difficult for unauthorized foreigners. For example, Arizona made it a state crime for unauthorized foreigners to be in the state, and required police officers who stop, detain or arrest a person for a suspected violation of law to determine that person's immigration status if they have "reasonable suspicion" to believe the person is unauthorized (Migration News, 2010b). A half dozen other states passed similar laws, but some of their provisions were declared unconstitutional by federal and state courts.

Campaigning for re-election in June 2012, President Obama created by executive order the Deferred Action for Childhood Arrivals (DACA) program,³ which has so far

 $^{^3\,}www.usc is.gov/human itarian/consideration-deferred-action-childhood-arrivals-daca$



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granted two-year work and residence permits to 741,000 unauthorized foreigners who arrived in the US before age 16, are between the ages of 16 and 30 and lived illegally in the US at least five years, and have a high school diploma or are honorably discharged veterans. Obama said that he was exercising prosecutorial discretion, protecting some unauthorized foreigners and targeting limited enforcement resources on criminal aliens. However, some Republicans charged that DACA was unlawful presidential overreach.

Many hoped that Obama's re-election in 2012 would encourage Congress to approve comprehensive immigration reform. A bipartisan group of eight senators introduced S 744, an immigration reform bill that increased border and interior enforcement, created a 13-year path to US citizenship for most unauthorized foreigners, and revised existing and created new guest worker programs. The Senate approved S 744 by a 68-32 vote in June 2013, but House leaders said they preferred an incremental or piecemeal approach to immigration policy making, and did not act on S 744 (Migration News, 2013).

By 2014, it was clear that there were three major migration interest groups. Restrictionists wanted more enforcement to prevent illegal migration and remove unauthorized foreigners, admissionists wanted an easy path to legal status for unauthorized foreigners, and business groups wanted new guest worker programs. However, no enforcement, legalization, and guest worker package attracted majority support in Congress, prompting President Obama after the November 2014 elections to expand DACA and propose the Deferred Action for Parental Accountability (DAPA) program, which would have given temporary legal status to unauthorized parents of legal US children. Half of the states sued to block DAPA, and it was not implemented (Rural Migration News, 2016).

What's Next?

The US has a stable and increasingly settled population of over 11 million unauthorized foreigners, including over half born in Mexico. Pew estimated that half of the unauthorized adults had been in the US at least 14 years by 2014, meaning that they arrived in 2000 or earlier (Passel & Cohn, 2016a). The number of unauthorized US residents who were born in Mexico fell by a million between 2007 and 2014, from seven million to six million. New unauthorized foreigners increasingly enter the US legally and overstay visas, as with the estimated 500,000 unauthorized Indians.

The US remains unique among industrial countries in having a quarter of its foreignborn residents unauthorized. Among the 44 million foreign-born residents, 19 million are naturalized US citizens, 12 million are lawful immigrants, almost two

⁴ Obama issued the DACA executive order on June 15, 2012, the 30th anniversary of Plyler v. Doe, the US Supreme Court decision that held that states cannot deny K-12 education to unauthorized foreigners.

million are lawful temporary visitors such as students and guest workers, and 11 million are unauthorized (Passel & Cohn, 2016a).

Trump pledged to deport unauthorized foreigners, so a President Trump can be expected to step up enforcement at the border and move aggressively to remove foreigners convicted of US crimes. What is not yet clear is how fast stepped-up border and interior enforcement could be implemented. For example, Congress may have to appropriate funds for more border fencing and agents if Trump directs the Department of Homeland Security to increase efforts to police the border and target unauthorized foreigners for removal.

Much of the debate about more interior enforcement is likely to involve relationships between federal, state, and local governments to identify unauthorized foreigners. Under the Secure Communities that began in 2008, state and local police shared the fingerprints of all persons arrested with the FBI and DHS. If suspected unauthorized foreigners were detected, DHS could ask state and local police to hold the person until they arrived.

Secure Communities was ended in 2014 by the Obama Administration amidst complaints from migrant communities that "innocent activities," such as being stopped at a DUI checkpoint while driving to shop, could result in deportation. Many states and cities went further, declaring themselves to be "sanctuaries" and ordering their law enforcement agencies not to cooperate with DHS.⁵

San Francisco is a sanctuary city. On July 1, 2015. the sheriff released from jail an unauthorized Mexican, Juan Francisco Lopez-Sanchez, who had seven felony convictions in the US and had been deported five times, and Lopez-Sanchez killed Kate Steinle on the day he was released. Steinle's murder prompted Trump to promise to withhold federal funds from sanctuary states and cities, saying in August 2016 that "cities that refuse to cooperate with federal [immigration] authorities will not receive taxpayer dollars." Nonetheless, some cities including San Francisco have approved resolutions since Trump was elected pledging not to cooperate with DHS enforcement efforts even if the result is less federal money.

Cooperation between DHS and states and cities is likely to be a process marked by debates and law suits, but Trump can act quickly to admit fewer Muslim refugees. The President in consultation with Congress determines the number of refugees resettled in the US each year, and admitted 85,000 in FY16 (Connor, 2016). Obama

⁶ Christina Littlefield, Sanctuary cities: How Kathryn Steinle's death intensified the immigration debate, Los Angeles Times, July 24, 2015. http://touch.latimes.com/#section/-1/article/p2p-84061341/



⁵ Sanctuaries are states, counties, and cities that limit their cooperation with the Immigration and Customs Enforcement (ICE) agency of the Department of Homeland Security. In 2015, there were four states, 326 counties, and 32 cities that had declared themselves to be sanctuaries for unauthorized foreigners (www.americanimmigrationcouncil.org/research/sanctuary-cities-trust-acts-and-community-policing-explained).

proposed to admit 110,000 refugees in FY17, but Trump could reduce or stop refugee admissions.

There are many other migration issues that Trump could tackle administratively. For example, Trump could order DHS to resume the workplace raids in meatpacking and other sectors thought to employ large numbers of unauthorized foreigners, or increase the number of audits of the I-9 forms completed by employers and newly hired workers. The Center for Immigration Studies (CIS) laid out 79 actions that the president could take administratively, including closer examination of those seeking student, investor, and guest worker visas (CIS, 2016).

Some administrative actions that a President Trump could take are likely to be controversial. Trump promised to rescind "illegal executive orders" issued by Obama, including the one that created DACA. Many have called on Trump to abstain from fulfilling this pledge, emphasizing that the 741,000 DACA youth have been screened and many are now working lawfully. Trump may allow current temporary DACA status to expire rather than to use the information provided by DACA recipients to target them for removal.

Trump's migration agenda is likely to interact with other agendas, including trade. The number-one source of migrants, Mexico, is also the third largest US trade partner, with two-way trade totaling \$584 billion in 2015.⁷

One reason for the upsurge in Mexico-US trade is the North American Free Trade Agreement, a trade agreement that Trump has pledged to re-negotiate. Mexico's oil monopoly PEMEX faces declining production and is seeking foreign partners to invest in new oil fields. Since Trump wants to increase fossil fuel production, there could be a complex negotiation with Mexico involving migration, trade, and energy. Similarly, with China the number-two source of migrants and also a target of Trump's ire for running a trade surplus with the US, there could be negotiations with China that link migration and economic issues.

During the campaign, Trump attacked unauthorized foreigners, the Washington establishment, and China and other countries that "take advantage" of the US. Implementing campaign promises will be done through specific actions taken by federal agencies managed by Trump appointees. It may take time to have Trump's appointees vetted and confirmed, and some of the actions they want to take may require Congressional action to enact new laws, appropriate money, or both. Implementing Trump's migration agenda may be slow, especially if lawsuits lead to intervention by the courts.

⁸ The US has run a deficit with Mexico in trade since NAFTA went into effect in 1994, and Trump talked of imposing tariffs on goods imported from Mexico to reduce this trade deficit. Trump could withdraw the US from NAFTA by giving six months notice. William Mauldin and David Luhnow, Donald Trump Poised to Pressure Mexico on Trade, Wall Street Journal, November 22, 2016. http://www.wsj.com/articles/donald-trump-poised-to-put-pressure-on-nafta-1479746005

⁷ U.S.-Mexico Trade Facts. https://ustr.gov/countries-regions/americas/mexico

Immigrant America

The US is a nation of immigrants, as expressed in e pluribus unum, from many, one. Most Americans support the admission of immigrants who find the opportunity they seek and enrich America as well, believing that large numbers of immigrants serve the national interest (Martin and Midgley, 2010; Martin, 2010).⁹

Perennial immigration issues include basic questions: how many, from where, and in what status should newcomers arrive. Over the past half century, the US has had a family unification migration system that gave preference to foreigners with US relatives, resulting in chain or network migration so that ten countries account for two-thirds of immigrants. Most unauthorized foreigners are from these same countries, as are many of the temporary visitors such as students and guest workers.

During the past decade, the policy debate was largely over how to fit together the pieces of the enforcement, legalization, and guest workers puzzle to enact comprehensive immigration reforms. This effort failed, in part because the Immigration Reform and Control Act of 1986, which also had enforcement and legalization components, failed to decrease illegal migration, making some in Congress unwilling to embrace another legalization program. An enforcement-oriented Trump Administration combined with a Republican Congress is likely to target illegal migration, but this effort may become bogged down by Democratic opposition in Congress, states and cities, and migrant communities.

Trump's election was a surprise, and there may be similar surprises about Trump's migration policies. Trump's campaign rhetoric changed the vocabulary of politics in many areas, including migration, but it is not yet clear if this changed rhetoric will also change migration policy. The US is likely to remain the world's major country of immigration, but the fate of the 11 million unauthorized foreigners is uncertain. The extremes of removing most of them at one end, and putting most on a path to US citizenship at the other, are less likely than an in-between solution that gives most of the unauthorized some type of temporary legal status.

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⁹ Susan Martin (2010) outlines the three major models of colonial migration, viz, Virginia's policy of seeking workers with restricted rights, the Massachusetts colony's application of religious tests, and the Pennsylvania colony's pluralist approach to accepting newcomers with diverse languages, cultures, and religions. Martin finds the Pennsylvania model to be the best.



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