The State of U.S. Immigration Policy: The Quandary of Economic Methodology and the Relevance of Economic Research to Know

Vernon M. Briggs
Cornell University, vmb2@cornell.edu

Follow this and additional works at: https://digitalcommons.ilr.cornell.edu/articles

Part of the Labor Relations Commons, and the Public Policy Commons

Thank you for downloading an article from DigitalCommons@ILR.
Support this valuable resource today!

This Article is brought to you for free and open access by the ILR Collection at DigitalCommons@ILR. It has been accepted for inclusion in Articles and Chapters by an authorized administrator of DigitalCommons@ILR. For more information, please contact catherwood-dig@cornell.edu.

If you have a disability and are having trouble accessing information on this website or need materials in an alternate format, contact web-accessibility@cornell.edu for assistance.
The State of U.S. Immigration Policy: The Quandary of Economic Methodology and the Relevance of Economic Research to Know

Abstract

[Excerpt] As the 21st Century commences, immigration has once again become a major source of the nation's labor force growth. The public policies that enable mass immigration to occur do more than simply increase the size of the nation's labor force; they also affect such key compositional matters as its human capital, demographics, and geographic attributes. Immigration policy, however, has more than just immediate economic consequences; it also helps to mold the nation's future as long-term citizenship obligations are usually involved.

Keywords

immigration, public policy, Congress, legislation, migrant labor, labor market

Disciplines

Labor Relations | Public Policy

Comments

Suggested Citation


http://digitalcommons.ilr.cornell.edu/articles/256/

Required Publisher Statement


This article is available at DigitalCommons@ILR: https://digitalcommons.ilr.cornell.edu/articles/256
THE STATE OF U.S. IMMIGRATION POLICY:
THE QUANDARY OF ECONOMIC METHODOLOGY AND
THE RELEVANCE OF ECONOMIC RESEARCH TO KNOW

Vernon M. Briggs Jr.
THE STATE OF U.S. IMMIGRATION POLICY: THE QUANDARY OF ECONOMIC METHODOLOGY AND THE RELEVANCE OF ECONOMIC RESEARCH TO KNOW

Vernon M. Briggs Jr.

I. INTRODUCTION

Since 1965, the United States has been in the midst of the largest and most sustained period of mass immigration in its history.¹ In 1965, the foreign-born population of the United States numbered 8.5 million people (or 4.4% of the population—the lowest percentage in U.S. history). The number of immigrants had been declining as a percentage of the population since 1914 and in absolute numbers since 1930. For all intents and purposes, immigration had ceased to be an important labor market policy. But, in 1965, legislative changes were made to the immigration system as part of the broader civil rights movement of that era. These modifications were not intended to increase the level of immigration; they were intended to rid the admission system of its overtly discriminatory features that had been in place since 1924.² These compositional changes, however, had unexpected consequences. The lengthy decline of immigration was reversed, and it began to rise in the late 1960s and early 1970s. The phenomenon of mass immigration was revived from out of the nation’s distant past. Over the ensuing years, Congress’s political dickering and indifference to this inadvertent outcome perpetuated the process and allowed it to accelerate. Mass immigration will continue until public policy makers decide to bring it to a halt.

By 2006, the foreign-born population had soared to 37.2 million persons (or 12.6% of the total population). In addition to the “official” figures that come from survey data, there is an acknowledged statistical undercount due principally to the large number of illegal immigrants involved in this

² Id. at 124-30.
human resource inflow. Thus, the "official" figures must be viewed as the low boundary of the undoubtedly higher true level.

As the 21st Century commences, immigration has once again become a major source of the nation’s labor force growth. The public policies that enable mass immigration to occur do more than simply increase the size of the nation’s labor force; they also affect such key compositional matters as its human capital, demographics, and geographic attributes. Immigration policy, however, has more than just immediate economic consequences; it also helps to mold the nation’s future as long-term citizenship obligations are usually involved.

For economists, demographic variables (such as immigration flows) are transformed into economic variables pertaining to employment, earnings, and income largely through labor force participation. The importance of this linkage to the labor market was recognized a century ago by the nation’s foremost labor leader, Samuel Gompers, the founding and long-time president of the American Federation of Labor. In his autobiography, he wrote that “immigration is, in its most fundamental aspects, a labor problem.” Regardless of how or why people immigrate into the United States, most immigrants must work to survive, and, usually, their spouses and eventually, their children, must also work. As of 2006, over 23.1 million foreign-born workers were “officially” in the U.S. labor force (representing 15.3% of the civilian labor force). Between 2000 and 2006, foreign-born labor accounted for 47% of the overall growth of the labor force. It is estimated that 7.1 million members of the foreign-born work force in 2005 were illegal immigrants (about 30% of the total foreign-born workforce).

The aggregate population and labor force indicators can be reliably used to confirm the approximate order of magnitude (which is large) and the general trend (which is increasing) of the current immigration phenomenon. Accordingly, there is no doubt that immigration policy exerts a powerful influence on the nation’s contemporary labor force. Methodology and data limitations, however, greatly impair the ability of researchers to interpret how immigration policy exerts its influences, to decipher its positive and negative effects, and to assure that its component parts are individually and collectively congruent with the national interests that change overtime. However, answers to these concerns are what the public in general and policy makers in particular need when immigration reform is under discussion.

II. THE ISSUE OF PERSPECTIVE

For perspective purposes, the aggregate data reliably show that the foreign-born population and labor force are not randomly distributed across

---

3 SAMUEL GOMPERS, SEVENTY YEARS OF LIFE AND LABOR 157 (1925).

---
the nation geographically. They are disproportionately concentrated in the urban centers of six large states (California, New York, Texas, New Jersey, Illinois, and Florida) which contain over two-thirds of the entire foreign-born population and labor force.\textsuperscript{4} Thus, the impact of immigration is geographically specific to certain local labor markets.

Moreover, the same aggregate data show that among the adult foreign-born population, paucity of human capital exists at a time when all of the nation’s labor market trends are emphasizing the need for higher levels of skill and education. The 2000 Census reported that almost 57% of the adult foreign-born population had attained the equivalent of only a high school diploma or less. Data based on samples of the population since 2000 have confirmed that this was still the case as late as 2006.\textsuperscript{5} Thus, the labor force impact of this mass inflow has been disproportionately felt by the 48 million workers in the low skilled sector of the American economy. The disproportionate infusion of unskilled and poorly educated workers (many of whom are illegally employed as well) tends to cause low wages for all similar workers; consequently, low wages contribute to the spread of poverty, and mounting poverty creates widening income inequality within society. These associations are also related to increases in such other social maladies as infant mortality, child poverty, adult illiteracy, welfare dependency, school drop-out rates, unvaccinated children, persons lacking health insurance, crime, the resurgence of street gangs, and declining union membership—to mention a few. No discussion of any of these vital public issues can be taken seriously unless mention is made of the influences of prevailing immigration policy. As the late economist John K. Galbraith once observed, “issues are made not by parties and politicians but by circumstance.”\textsuperscript{6}

Mass immigration has been a distinguishing feature of the post-1965 American economy. Immigration, as previously mentioned, had been in a state of decline during the preceding forty years of the nation’s economic development. Its resurgence since the late 1960s represents a major change in “circumstance.”

III. THE PRIMACY OF PUBLIC POLICY

Just as public policy brought a close to the earlier era of mass immigration in the 1920s, it has also provided the springboard for its revival since the 1960s. In the modern world, every inch of the Earth’s surface is


\textsuperscript{5} Id. at 22-24.

\textsuperscript{6} John Kenneth Galbraith, Power and the Useful Economist, 63 AM. ECON. REV. 1, 10 (1973).
claimed by individual nation states. In this setting, no person who is a citizen of one nation state has the legal right to enter, to work, to visit, to study, to seek refuge, or to travel in the land space of another nation without the expressed permission of that nation's government. The exercise of such physical control of the movement of people goes to the very essence of the metaphysical concept of "national sovereignty" that defines the existence of a nation state itself. Given the tragic terrorist events that have marked the beginning of the 21st Century, the control of the movement of people across borders has become an even more urgent concern of national governments—especially in the United States. National security considerations alone are a powerful justification for the regulation of the flow of people across national borders regardless of economic considerations.

Thus, despite the parallel policy trend over this post-1965 era toward trade globalization which has enhanced world interdependency, the re-emergence of immigration issues only re-emphasizes the fact, long recognized before, that the reciprocal of free trade policies is not free labor mobility. As Henry Simons, one of the intellectual founders of the famed "Chicago-School" of free market economics, explained:

"Wholly free immigration, however, is neither attainable nor desirable. To insist that a free trade program is logically or practically incomplete without free migration is either disingenuous or stupid. Free trade may and should raise living standards everywhere . . . Free immigration would level standards, perhaps without raising them anywhere." 

For this reason, he concluded that "as regards immigration policy, the less said the better."

Immigration policy cannot be ignored. To the contrary, it must be recognized as the most fundamental—and, in many ways, the most important—labor market policy. In broad terms, it establishes who is eligible to be in the nation's labor force. Some restrictions may be made that limit the ability of citizens to work in certain jobs at certain times, but citizens cannot be kept out of the labor force entirely. Non-citizens, on the other hand, can be and most are. Melvin Reder, a pioneer labor economist in the study of the economics of immigration, provided this economic rationale:

"[T]he economic consequences of increased immigration, provided this economic rationale:

7 HENRY C. SIMONS, ECONOMIC POLICY FOR A FREE SOCIETY 251 (1948).
8 Id.
9 Melvin W. Reder, The Economic Consequences of Increased Immigration, 45 REV. ECON. & STAT. 221, 230 (1963)."
In short, immigration policy ensures that the belief in a free market economy is not absolute. It has efficiency limits. Internal equity considerations among the work force are also essential to a nation’s economic well-being and its political stability, which also justify the implementation of policy restrictions.

Since the existence of national borders is a parameter of the world today, understanding the policies that permit and regulate immigration flows is essential for assessing prevailing labor market conditions. As economic circumstances in a nation state change over time so should its immigration policies. To know what public policy changes are in order, however, it is necessary to know the statutory laws, administrative regulations, enforcement practices, and court decisions that constitute the nation’s existing immigration system and to understand the evolutionary process of how these policies developed. Invisible market forces do not govern the movement of people across borders of the United States; man-made public policy does by what it permits, limits, and tolerates as abuse of its provisions.

Immigration policy is unique in the panoply of public policy measures that are intended to affect the size, composition, and wellbeing of the labor force of the United States. This power is reserved exclusively to the federal government. Despite the importance of immigration to the history of the United States, the word “immigration” does not appear anywhere in the U.S. Constitution. Accordingly, there is no mention of any expressed power given to any governmental authority to regulate the inflow and outflow of people across the nation’s boundaries. Although immigration has been a contentious issue from the earliest days of the Republic, it was not until the late 19th Century that a series of Supreme Court cases established the principle that the federal government had the exclusive authority to regulate all aspects of the nation’s immigration system. Since then, state and local governments and their associated communities must absorb the economic, political, and social consequences of federal immigration policies over which they have no power to design and little power to enforce.

Immigration policy is a plenary power of the government of the United States. Literally, immigration policy can be anything Congress wants it to be: there are no constitutionally imposed requirements. Over the years, Congress has imposed some restrictions as have certain international treaties with which federal courts can require compliance. Nevertheless, Congress could change all of these restrictions with further action. Essentially, immigration policy is a form of administrative civil law—albeit one with enormous economic consequences for both the individuals involved and the nation as a whole.

10 See Eisner v. United States, 142 U.S. 651 (1892); Henderson v. Mayor of New York, 92 U.S. 259 (1876); Lung v. Freeman, 92 U.S. 275 (1876). All state laws and regulations pertaining to the regulation of immigration were invalidated by these decisions.
The only way to understand the economic significance of the nation's immigration policies, then, is to study their evolution and their associated enforcement practices. Rightly or wrongly, prevailing policies are a response to past experiences. They have determined the existing level and composition of the immigration experience. Policy making, however, does not happen in a vacuum. A host of special interests seek to influence the outcome. Once made, the extant immigration policy is the appropriate focal point for analysis of what transpires. Man-made actions by policy makers are what counts in this realm. Deductive theoretical approaches about market forces shaping outcomes and preconceived notions about the alleged merits of unrestricted labor mobility, such as those embodied in mainstream neoclassical economic theory, have little practical relevance. Indeed, neoclassical economics views the "economic benefits" of immigration as being a means to lower wages or temper wage increases (i.e., as a means to suppress wage increase pressures of workers by bolstering the supply of labor)—a motivation that is hardly in the best interest of real working people who are citizens (native-born or naturalized).\(^\text{11}\)

Moreover, as circumstances change, immigration policy will change as well. There is no ideal policy for any nation to pursue at all times under all circumstances. Like all economic policies, immigration policy is time sensitive. What makes sense at one period in a nation’s history may be inappropriate for another. There is no universal immigration policy applicable for all countries or for any one country to pursue at all times.

The purpose of this paper, however, is not to discuss the current state of immigration policy in the United States \textit{per se}. Rather, the purpose is to discuss the inability of economic research and methodology to assist policy makers in analyzing current trends, assessing policy outcomes, and formulating policy alternatives at any given time.

IV. THE NECESSITY OF AN INSTITUTIONAL APPROACH

Contrary to the conventional wisdom of contemporary academia that favors econometric manipulation of numbers to understand and evaluate the current trends, this approach is grossly inadequate when it comes to immigration. The only way to meaningfully understand the contemporary immigration experience is to adhere to an inductive methodology that focuses on a description of the development, implementation, and enforcement practices associated with the separate policy components of the nation's collective immigration system. The reasons are threefold: (1) the available data

are inadequate for policy determination and evaluation; (2) it is necessary to master relevant legal definitions; and (3) understanding how history has influenced policy evolution is mandatory.

A. The Available Data are Inadequate for Policy Determination and Evaluation

The nation’s immigration data are grossly inadequate for informative use by existing econometric techniques. Though the political, academic, and media circles demand numbers as a predicate to action, no matter how advanced these techniques are or how dedicated the researchers are to impartial findings, the prevailing data sources cannot be tortured enough to confess information they do not possess. Statistics never speak on their own. Data, after all, provide information, not knowledge. Except as a measure of magnitude, a means of determining the direction of trends, and a way to describe general demographic characteristics of a population, the available data are poorly suited for meaningful research on policy design or assessing policy outcomes—especially with respect to the key issue of influence on the labor market.

A special panel created in 1985 by the National Research Council (NRC) to study the efficacy of the nation’s immigration statistics called them the "Cinderella of the federal statistical system." In other words, they are the neglected step-child of the nation’s data collection system. Little has changed over the intervening years to improve this state of affairs. In 1994, as part of its six-year study of the nation’s immigration system, the U.S. Commission on Immigration Reform concluded: "We have found it difficult to assess the effects of immigration policy and of immigration itself because of inadequacies in the data."

In addition, the data problem concerns more than the mere quality of data. There are fundamental barriers associated with how the relevant data are classified. Unless one works with the data, it is very easy to be deceived by what is published. This problem arises because the federal government uses two distinctly different definitions of the basic word “immigrant” in its published reports: one by the U.S. Department of Commerce Bureau of the Census (BC) and the other by the Department of Homeland Security Office of Immigration Statistics (DHS).

The BC collects and publishes data on the “foreign-born population” as part of its decennial “Census” population count and, since 1994, its “Current Population Survey” (CPS), which provides such data annually (usually

12 PANEL ON IMMIGRATION STATISTICS, NAT’L RESEARCH COUNCIL, IMMIGRATION STATISTICS: A STORY OF NEGLECT 3 (Daniel B. Levine et al. eds., 1985).
13 U.S. COMM’N ON IMMIGRATION REFORM, IMMIGRATION POLICY: RESTORING CREDIBILITY, Executive Summary at xxxi (1994).
collected in March of each year). Typically, most researchers use these data as the basis for their work on the subject. The term “foreign-born population” is used as a synonym for “immigrants.” They, in turn, use this term to compare the economic and social characteristics of the foreign-born population with those persons born in the United States (who are described as “native-born”). The general assumption, as noted by Douglas Massey and Katherine Bartley, is that these “immigrants” are all residing permanently in the United States, have the same legal rights and privileges, and are striving to improve their wellbeing by working.\textsuperscript{14} Nothing could be further from the truth. In fact, as Massey and Bartley conclude, such an assumption is “untenable.”\textsuperscript{15} As it turns out, the term “foreign-born population” is comprised of four distinctly different subgroups of persons. The first group includes foreign-born persons who have become naturalized U.S. citizens and have virtually the same rights as native-born citizens (except they may not be President of the United States since the Constitution limits the office to native-born citizens). The second group includes foreign-born persons who have been admitted as permanent, legal residents but are not U.S. citizens (they are still considered foreign nationals). They are permitted to work in certain occupations (e.g., some states do not permit them to teach or to be “peace officers,” and the Federal government restricts them from certain jobs under Executive Order 11935) but are subject to a number of restrictions including the denial of the right to vote. Furthermore, their immigration status may be revoked if they do certain things (e.g., commit certain felony offenses, serve as a strikebreaker, become a “public charge,” or even remain unemployed for more than 6 months). The third group is made of foreign-born persons who have been legally admitted as “non-immigrants,” which means they may live temporarily in the country, but they do not have the right to remain or participate in the political process. Also, only a small minority of these non-immigrants may work temporarily under restrictive circumstances (e.g., workers in “specialty occupations,” exchange students, foreign students, foreign diplomats, members of the foreign news media, and political asylum seekers whose status is pending). The fourth and final group includes foreign-born persons who have illegally entered the country or who have violated a restrictive provision of an otherwise legally issued non-immigrant visa, all of whom have no political rights, limited civil rights, and are supposedly subject to deportation if their presence is detected.

Thus, the BC definition of foreign-born persons is not a homogeneous group. The four component categories vary widely in terms of their rights, privileges, and entitlements.\textsuperscript{16} Changes in public policy can and often do have significant effects on the nation’s immigrant policies. On the other hand, the relevant “immigrant” data tabulation is generally less precise than it was a year ago. Unfortunately, the descriptive foreign-born population evidence that there is a number of reasons that there is an underestimate of lawful permanent residents, the relevant “immigrant” number of 14 million in 2004.\textsuperscript{18} Immigr on January 1, 2003) (Technically became part of


\textsuperscript{15} Id.

\textsuperscript{16} Id. at 481-83.
have significant impacts that differentially affect both the size and composition of each of these component groups.

On the other hand, the DHS, acting in its capacity as administrator of the nation’s immigration laws, has an entirely different set of definitions for the relevant admission and enforcement terminology. Its definition for "immigrant" is restricted to "an alien admitted to the United States as a lawful permanent resident." This grouping, therefore, includes only one of the four groups contained in the BC data series mentioned above (the second group). Moreover, DHS even acknowledges that its definition does not comport with the strict legal definition that an immigrant is an alien in the United States except one who is legally admitted as a non-immigrant. In other words, the legal definition of "immigrants" includes "illegal immigrants," but the data category used by DHS does not.

The DHS also publishes separate data for those admitted as refugees, asylum seekers, non-immigrants, and the number of apprehensions of illegal immigrants made each year (but this latter series does not represent the number of individuals involved as some persons are caught more than once). However, many—if not most—illegal immigrants are not apprehended, so obviously, they do not appear in any of the official apprehension data tabulated by DHS. These phantom workers nevertheless influence labor market conditions despite not being adequately tabulated.

Because immigration policy embraces a number of distinctly different policies, only DHS data can be used to garner information about the separate entry categories that comprise the overall immigration system. Unfortunately, these admission category data cannot be related to most of the descriptive economic and social characteristics found in the CB data on foreign-born persons mentioned above. However, DHS data can provide evidence (that the CB data cannot isolate) of categorical trends in specific policies that may need attention.

Periodically, DHS does prepare an independent estimate of the total number of illegal immigrants in the country. In 2003, the DHS estimated that there were 7 million illegal immigrants in the U.S. population in 2000. Seeking to update this figure, the Pew Hispanic Center—using an estimation process that is essentially the same as that used by the BC (except it added an estimate of those undercounted to the official data)—calculated that the illegal immigrant population was between 11.5 and 12

---

19 OFFICE OF POL’Y & PLAN. U.S. IMMIGRATION & NATURALIZATION SERVICE, ESTIMATES OF THE UNAUTHORIZED IMMIGRANT POPULATION RESIDING IN THE UNITED STATES: 1900-2000, at 1 (Jan. 2003) (Technically, the INS was in the U.S. Department of Justice at the time this report was issued. It became part of the DHS in March 2003).
million persons in 2005 and was increasing by 500,000 a year.20 Some researchers believe that most illegal immigrants were included in the CB data, but estimate that about 1.1 million were not.21 Illegal immigrants are not omitted from official data, but as discussed, it is acknowledged that they are undercounted.

B. There is a Necessity to Master Relevant Legal Definitions

An institutional approach to policy analysis requires mastery of the details of the subject matter. Immigration policy in the United States is highly legalistic in its terminology. Useful analysis requires an understanding of key concepts that are unique to the immigration system and that often defy logical understanding if taken out of context. The following examples illustrate the importance of mastering the relevant legal definitions:

Example A:

A non-immigrant is not a U.S. citizen despite what linguistic logic might suggest. Rather, as previously noted, a non-immigrant is a foreign national who is allowed to reside only temporarily in the United States. Of the 810,000 non-immigrants who enter the United States each day on average, very few are permitted to be employed legally but under very restrictive terms. Some do work illegally; in fact, about 40% of the illegal immigrant population is believed to be "visa abusers." By far, however, most non-immigrants are admitted as visitors or for the purpose of conducting business. As of 2007, there were at least 54 different non-immigrant visa categories, and this number tends to increase with every session of Congress. Each category has its own special provisions and permissions. Some visa categories are capped with a fixed ceiling but most are not.

Example B:

A permanent resident alien is often referred to as a "greencarder"—the original color of the identity card they are required to carry was green when it was first issued in 1940. Over the years, however, the color of the card has changed. It is now pinkish-blue with a silver hologram on its face. It

21 Camarota, supra note 4, 44.
Example C:

Under the employment-based admission categories of the legal immigration system, there are separate definitions and numerical ceilings for workers "of extraordinary abilities," workers "of exceptional abilities," and "skilled workers, professionals and other workers." Basic knowledge of the English language suggests that these phrases describe the same class of worker. Under immigration law, however, they are not the same thing. Additionally, the term "other workers" under the current law is a euphemism for "unskilled workers."

Example D:

Each year since 1991, the legal immigration system has permitted about 50,000 visas to be issued on the submission of postcards that are then chosen by a random lottery for an admission category known as "diversity immigrants." The term "diversity," however, carries a meaning that is virtually the exact opposite of its contemporary meaning on most college campuses and in most business enterprises. The category was introduced because one of the many unexpected consequences of the post-1965 reforms was that, on average, over 85% of the legal admissions each year were people of either Asian or Hispanic heritages. Consequently, persons of either African or European heritage (who are associated with the founding of the country and the building of its major institutions) were largely cut off from legal entry. To reverse this unintended consequence, the new category of "diversity" was introduced to exclude persons from countries of recent high levels of immigration—mostly persons from Asian or Hispanic origin countries. Only persons from countries with low levels of immigration in the preceding five years are eligible to be included in the "diversity" selection pool. Ironically, the addition of this category in 1991 represents the return to a form of ethnic and geographic discrimination that reformers had sought to purge from the nation's immigration policy in 1965.

Example E:

The political rhetoric that surrounded the passage of the Immigration Act of 1990, on the last day of the 101st Congress, introduced the term "pierceable cap." The legislation passed behind the smokescreen of a budget battle with President George H. W. Bush that had raged for almost a month and had led to the shutdown of various parts of the federal govern-
ment for short intervals. Proponents claimed that the new legislation would finally establish an annual cap on the number of legal immigrants who could be admitted each year. One key component of the new admission system, however, could not be determined in advance—the number of unrestricted immediate relatives (i.e., spouses, minor children, and adult parents) who can accompany an admitted adult legal immigrant. Hence, the heralded “cap” has to be flexible to allow for a larger number of immediate relatives who must be admitted in any given year. In the process, a new oxymoron was born.

Example F:

It is also necessary to know that the immigration system contains various language tricks used by legislators to mask public recognition of what they are trying to accomplish for political purposes. These language tricks have had significant consequences on specific groups and, thus, have affected overall policy outcomes. For example, who would know that the Immigration Act of 1924 completely excluded persons of Japanese origin (no matter what their citizenship) from entering the United States for the following 28 years when the word “Japan” does not appear anywhere in the statute? Or who would know that the Immigration Act of 1990 contained an Irish preference that enabled 16,000 immigrants from Ireland per year for three years to adjust their status to become permanent resident aliens when the word “Ireland” does not appear anywhere in the legislation? Or who would know that since 1994 there is a “wet foot, dry foot” policy that allows persons from Cuba to be admitted automatically to the United States as refugees if they are able to set foot on any land surface of the country but are denied such status and returned to their homeland if they are intercepted at sea? Or who would know that 100,000 Mexican nationals who hold U.S. permanent resident alien cards (requiring that their “permanent homes” be in the U.S.) commute on a daily basis from their permanent homes in Mexico to jobs in the United States under a court ruling that says that “employment equals residence” while acknowledging that, in fact, this is all “amiable fiction?”

Intimate familiarity with the definitions of the immigration laws as well as the practices of the agency that administers the immigration system is the only way that one could understand the results of these policy actions. No manipulation of the data itself would ever explain the results of such common political maneuvers.
C. Understanding How History Has Influenced Policy Evolution is Mandatory

It is an axiom of public policymaking that "policy is not made, it emerges." Policy evolves over time in response to changing circumstances and influences. Such insight is an absolute truth when it comes to formulation of immigration policy. The details of policy evolution can be found elsewhere, but it is sufficient to say that, historically, immigration policy has been linked to the accomplishment of a multitude of completely different national objectives. Among these have been changes in the racial, ethnic, and religious composition of the population; development of an urban industrial labor force; a surplus of labor in the agricultural sector of the economy; accommodation of foreign policy objectives; opportunities for family reunification; protection of certain perceived moral values in society; defense of public health; minimization of welfare dependency; prevention of the spread of certain political ideologies deemed harmful to society; pursuit of specific humanitarian goals; a ban on tax evaders; and assurances of national security measures.

Given the many implications inherent in immigration policy, it is no surprise that numerous special interest groups have had a significant impact on the formulation of these policies—an influence that remains in the current immigration debate. However, the highly politicized environment resulting from that influence has obscured Gomper's essential observation that immigration has significant economic effects on labor markets. The outcome of policy debates is too often determined by the extensive use of lobbying and the exercise of raw political power. In such a contentious environment, political considerations usually trump basic economic concerns pertaining to job displacement, wage depression, income disparity, union suppression, and poverty inducement.

Unfortunately, most economic studies do not account for the ability of "power" to influence outcomes. Galbraith long assailed this omission as a central weakness of most economic studies:

"... [By so doing,] ... economics is relegating its players to the social sidelines where they either call no plays or urge the wrong ones."\(^22\)

With regard to immigration policy, recognizing the extent to which special interest groups influence policy outcomes is the difference between research relevance and research nonsense in discussing the state of national policy and efforts to change it. The use of power to affect outcomes means

---

\(^{22}\) Galbraith, supra note 6, 2.
that politics—not economic research—has become the central force determining policy. This political influence means that emotional appeals and pejorative charges frequently engulf the debate over policy options. As former Senator Alan Simpson (R-WY) once lamented, "there is no way 'to de-fang' the discussion when immigration reform is on the table."

In assessing the debacle of the immigration reform movement in the mid-1990s and following the U.S. Commission on Immigration Reform's comprehensive recommendations for changes, political scientists James Gimpel and James Edwards wrote, "[t]he voice of the people has had little impact on the tone or direction of the immigration debate in Washington."23 They point out that despite extensive research findings demonstrating the need for significant legislative changes and public opinion polls consistently showing that the citizenry wants these changes to take place, neither factor has mattered to professional politicians. Instead, immigration policy has been captured by an unholy alliance that links the private agendas of various religious organizations, ethnic groups, human rights advocates, libertarian economists, and the powerful American Immigration Lawyers Association (all of whom have individual and financial interests in maintaining the status quo of mass immigration) with corporate America and agri-business who have vested interests in the pursuit of cheap labor policies. Under these circumstances, it is no small wonder that immigration policy has always been controversial.

The upshot is that, as the nation enters the 21st century, U.S. immigration policy is a hodge-podge product of years of dubious political compromises that desperately needs a complete overhaul. Two national commissions created by Congress over the past 30 years have recognized the imperative of major immigration reform. In 1981, the Select Commission on Immigration and Refugee Policy found that immigration was "out of control," while in 1997, the U.S. Commission on Immigration Reform concluded that immigration policy was in need of "a significant redefinition of priorities and reallocation of existing admission numbers."24 Both stressed the imperative of enhanced enforcement of immigration laws.

Indeed, at the end of the 20th Century, the Brookings Institution examined all of the major federal statutes enacted during the preceding 50 years and ranked them in terms of their perceived effectiveness. "Controlling


25 Paul C. Reform Watch 2000/11 gobierno
orce deter-
rent in the
Reform's
ists James
had little
hington."23
Crating the
ills consis-
ice, neither
ation policy
agendas of
advocates,
Lawyers
in main-
merica and
labor poli-
immigration
5. immigra-
tional compro-
ized the im-
mission on
out of con-
form con-
flation of
h constituency
exam-
50 years
Controlling

immigration" ranked 49th on a list of 50 policies and was deemed to be one of the federal government's "greatest failures."25

V. CONCLUSION

As the United States enters the 21st Century, its immigration policy is functioning as a rogue labor market policy. If immigration flows were small, the vast incongruity would not matter. However, the sheer scale of contemporary immigration means that the nation can ill afford the luxury of having an immigration policy that functions without respect to its economic consequences. The national interest, as clearly stated by the national commissions mentioned above, is to move as much as possible away from the admission of unskilled workers toward the admission of high skilled workers and to curb illegal immigration. The question, then, is how immigration policy can accomplish these feats.

The research barrier to reform efforts rests with the fact that immigration policy consists of a host of separate components, each of which requires specific attention. Most data-based research on immigration and its economic impacts is based on the manipulation of the aggregate data describing the foreign-born population. All are treated as being immigrants, regardless of how they were admitted. No distinction is made between legal immigrants, illegal immigrants, refugees, asylum seekers, border commuters, non-immigrants who can legally work in certain instances, and non-immigrants who cannot legally work under any circumstance. The human capital attributes that immigrants bring to the labor market vary significantly when it comes to which admission policy they used to enter.

Moreover, no distinction is provided as to the legal status of such persons in local labor markets. Are they naturalized citizens, permanent resident aliens, illegal immigrants, border commuters, non-immigrants, who can work, or non-immigrants who cannot legally work? These distinctions make a big difference when it comes to employment rights and government entitlements.

Accordingly, different local labor markets and different labor force segments may be affected in ways that are totally ignored in analyses based solely on aggregate foreign-born data. The negative effects of certain policies can easily cancel out the positive benefits of other policies. Thus, the aggregation of data on the collective foreign-born population produces an average picture of a conjectural reality that does not actually exist. From that vantage point, one could easily conclude that no policy changes (or only minor tinkering) would be needed when, in fact, considerable im-

provements could be achieved from expanding one policy component and contracting another. Without research that can discern the effects of the different policy components on labor markets and knowledge of the differential legal status of the immigrant labor force in these markets, it is difficult for policymakers to design remedies that will serve the national interest rather than merely placate the pleadings of special interest groups.

In any event, the fact remains that most of the available data relating to the current wave of mass immigration are insufficient bases for or guides to policy formulation. This insufficiency does not mean, however, that no legislative action is needed. To the contrary, economic research is desperately needed to identify policy strengths and deficiencies. However, this research needs to focus on the separate experiences of those immigrants who enter the country by different routes and who occupy different legal statuses as each separate grouping will tend to have a different influence on the labor market. Furthermore, it is important to remember that the multiple components of the immigration system, when aggregated, can also raise a separate set of accommodation concerns for communities other than those that pertain solely to the labor market (e.g., stress on housing, transportation, and educational capacities).

With respect to methodological approaches, it makes little sense to use the rigorous tenets of neo-classical labor market theory, which favors the merits of unrestricted labor mobility in the abstract, to assess the impact of mass immigration on the present-day labor market. The very existence of immigration policy means that the national interest dictates that international labor flows are to be regulated. Under these circumstances, a more nuanced methodology that encourages an understanding of historical experiences, an awareness of changing domestic economic conditions, and an appreciation of the evolutionary development of the component policies that comprise immigration policy would be a preferred option.

When it comes to economists addressing "real world" policy issues, the words of R. A. Gordon, the former president of the American Economic Association, seem most appropriate: "I ask only that our credo be: 'relevance with as much rigor as possible,' and not 'rigor regardless of relevance.' And let us not be afraid to ask—and try to answer—the really big questions." He urged economists to pay more attention to "the changing institutional environment" and to study how those changes, including mass immigration, affect society.

The study of immigration and its policy manifestations in the United States raises truly "big questions" about the proper role of a completely discretionary element of federal government labor market policy in a climate of vast economic transformation. The economy has only recently

---

27 Id. at 1.
shifted from being a predominately goods-producing to a predominately service-producing economy. In the process, it is sustaining both rapid technological change and attempting to absorb the effects of enhanced international trade due to unprecedented globalization pressures. Immigration policy must be part of the adjustment process and cease being part of the adjustment problems confronting the nation’s labor force.