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Out of the Country or Out of Society:
Immigration Policy in the United States
and Spain

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Out of the Country or Out of Society:
Immigration Policy in the United States and Spain

by Karla Gabriela Dominguez
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This thesis was prepared under the direction of the candidate's thesis advisor, Dr. Timothy Steigenga, and has been approved by the members of her supervisory committee. It was submitted to the faculty of The Honors College and was accepted in partial fulfillment of the requirements for the degree of Bachelor of Arts in Liberal Arts and Sciences.

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ABSTRACT

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Using the United States and Spain as case studies, this thesis argues that increasingly restrictive immigration policies instituted by receiving countries have little to no effect on the net inflow of immigration, nor do they promote a higher rate of assimilation for those immigrants already present within the host country. An analysis of the net inflow of immigrants, their social and economic status, and their rate of assimilation in the U.S. and Spain suggests that restrictive policies only further the social and economic exclusion of immigrants from the host society. Restrictive immigration policies are more effective at keeping immigrants outside of the host country's society than its borders.

To Papy, Mamy, and Chuckie

Table of Contents

Introduction	1
Creating the Identity of the United States.....	5
National Origin as a Source of Immigration Restriction.....	6
From National Origin Quotas to Uniform Quotas.....	8
The Problem of illegal Immigration.....	9
“Save Our State”.....	11
The Spanish Identity.....	13
Spanish Immigration Law.....	14
Ley de Extranjería.....	15
Administrative Regulations.....	16
Plan Greco.....	19
Clashing World Views.....	20
Pro-restrictions.....	20
Fewer Restrictions.....	22
Analysis.....	24
Volume of Immigration – United States.....	25
Volume of Immigration – Spain.....	29
Education.....	32
Work.....	37
Conclusions.....	42

Introduction

The total volume of international migration has risen dramatically. In the 1990s the number of individuals living outside their country of birth or nationality increased from 154 million to 175 million people.¹ This migration has helped to reshape countries' population structure, societies, and economies. Thus, the immigration policy of receiving countries has attempted to control the influx of immigrants entering through their borders. The varying policies enacted by the host countries have great effects on immigrants within their borders and thus affect the country as a whole.

The history of the United States of America and Spain diverge with regards to their contact with immigration. The United States, beginning at its roots, is a nation of immigrants. When the country was established immigration was encouraged in order to fill the constantly expanding frontier. The idea of "manifest destiny" encouraged this increase in immigration in order to fulfill the vision. Spain, on the other hand, is a long established nation with a relatively recent encounter with immigration. It was not until relatively recently, after the fall of Franco, that Spain turned from a country of emigration to one of immigration. Also, it was not until Spain's entrance into the European Community that a "problem" with immigration began. By enacting the first immigration law, the phenomenon of "illegal immigration" was created. These divergent immigration

¹ Wayne A. Cornelius and Takeyuki Tsuda. "Controlling Immigration: The Limits of Government Intervention," in *Controlling Immigration: A Global Perspective*, 2nd ed., eds. Wayne A. Cornelius, Takeyuki Tsuda, Philip L. Martin, and James F. Hollifield (Stanford: Stanford University Press, 2004), 3-48.

histories mold popular attitudes toward migration and ethnic heterogeneity, and effect the institutionalization of migration policy and politics.²

It is my hypothesis that increasingly restrictive policies instituted by receiving countries have unintended outcomes. I argue that the host country's efforts to sway immigration are unsuccessful in controlling the size of the influx of immigrants or its composition. It is my contention that social and economic exclusion from society is not produced by cultural differences between the host country natives and the incoming immigrants, but rather it is produced by increasingly restrictive policies that are more effective at keeping immigrants outside of the host country's society than its borders. Within both the United States and Spain I will examine how immigration policies affect: 1) immigration numbers; 2) the social and economic status of immigrants within the country; and, 3) the assimilation of immigrant groups within each country.

Migration for the United States was critical to its founding and development. Many Americans proudly proclaim their immigrant origins, even if that migration was forced.³ This concept of a "nation of immigrants" tends to suggest that the United States is an inclusive country beckoning to the world to come to her with open arms, but much has changed since first settlers of the "New World" arrived. The immigration motif is more subtle in its effects, creating questions of "belonging," and consequently who should be welcomed and to whom the door should be shut.⁴

Once the border limits were reached a trend of increasing limitations on immigration was set in progress. In the mid-nineteenth century a list of so-called

² David Jacobson, The Immigration Reader: America in a Multidisciplinary Perspective (Malden: Blackwell Publishers Ltd, 1998), 2.

³ Ibid., 2.

⁴ Ibid., 3.

“undesirables” including prostitutes, convicts, Chinese, and the insane were restricted by law from entering the United States.⁵ These restrictions set the precedent for future limitations based on the white-Anglo image the United States wished to put forth. Other restrictions based on quotas limiting the amount of legal immigrants allowed into the United States fluctuated depending on census information beginning in 1924 until the Immigration Act of 1965.

Illegal immigration, after the Immigration Act of 1965, became a primary issue for the people and the government of the United States. For the first time, under this act, a cap was placed on immigration from the Western Hemisphere and thus this led to increased illegal entries from our southern border. This led to the introduction of the Immigration Reform and Control Act of 1986 (IRCA), which sought to reduce the amount of illegal immigration received by the U.S. Through these regulations the path was paved for further laws restricting essential benefits or public services, for example Proposition 187 in the State of California. This law was enacted as a measure to impede illegal immigrants from utilizing public services such as healthcare and schools within the state of California, because of the belief that California could not afford the cost of serving the large and growing illegal population. In 1996, President Clinton signed a sweeping new welfare reform bill that cut many social programs for both citizens and immigrants. This legislation makes illegal immigrants ineligible for most of the federal and state benefits except emergency medical care, immunization programs, and disaster

⁵ Close Up Foundation, “Overview of U.S. Immigration Policy,” *Close Up Foundation* [home page online]; available from <http://www.closeup.org/immigrat.htm>; Internet; accessed 11 November 2004.

relief. It also denies current legal immigrants food stamps and Supplemental Security Income, a program for blind, disabled, and elderly people.⁶

The continuous trend of increasingly restrictive policies is acknowledged by Samuel P. Huntington. With the inflow of the recent wave of primarily Mexican immigrants into the United States, Huntington supports the trend of increasing restrictions. He argues that if the new wave of immigration into the United States is not controlled then the country will inevitably break into two opposing cultures, languages, and people. Huntington states that if restrictions are not actively pursued, then the host country's identity will change.

Much like in the United States, there is a contradiction present in Spain with regards to immigration law. On one hand, there is the immigration politics stressing integration, while on the other, there is the reality of marginalization and exclusion. Spain, having undergone enormous political and economic change in a relatively short period, clearly presents this contradiction.⁷ As Antonio Izquierdo states, "[t]he immigration of workers and their families from the 'third world' is ... the social-demographic phenomenon that most clearly reveals the contradictions, internal and international, of Spanish society in the last years of the twentieth century."⁸

As the Spanish economy took off in the 1980s and joined the European Community, it became the weak southern gate to the "European Fortress".⁹ Therefore, Spain, under the influence of its neighboring European countries, increased restrictive

⁶ Ibid.

⁷ Kitty Calavita, "Immigration, Law, and Marginalization in the Global Economy: Notes from Spain," *Law & Society Review* 32 (1998): 530.

⁸ Antonio Izquierdo, *La Inmigración Inesperada* (Madrid: Editorial Trotta, 1996), 133.

⁹ Laura Huntoon, "Immigration to Spain: Implications for a Unified European Union Immigration Policy," *International Migration Review* 32 (1998): 433.

immigration policies as a method to protect the community, with a series of contradictory laws as a consequence.¹⁰ The stated purpose of Spain's 1985 law was to guarantee immigrants' rights and assure their integration in the host society. However, the effects of the law do exactly the opposite, marginalizing immigrants and restricting their rights.¹¹ The 1985 law and its successors were put in place, much like the increasingly restrictive laws of the United States, as a means to control the borders while guaranteeing immigrants' rights and aiding to integrate them into the host society. I will argue that these laws, rather than controlling the number of immigrants entering the host country, tend to marginalize immigrants from the host society. This leads to the realization of fears held by the proponents of increased immigration restriction, such as the fear of a cultural division within the United States. Therefore, by increasing restrictions over immigration, these policies exacerbate the social, cultural and economic differences between natives and immigrants thereby countering their goals.

Creating the Identity of the United States

The fact that the United States was defined by its moral mission establishes a bar for measuring its immigration policy. From the beginning the ideals of the new nation were marked with questions and biases regarding who should or should not belong within the country's borders, and between proclaimed ideals and actual practices. Although it was declared as the moral mission of the United States to allow people to seek social and economic betterment, the reality was that early immigration laws aimed to preserve the racial, religious, and ethnic composition of the United States, which was then largely

¹⁰ Calavita, 530.

¹¹ Ibid., 530.

European. In 1875 the exclusion of convicts, prostitutes, and Chinese contract laborers was put into law.¹² This action set the precedent for further immigration restrictions of “undesirables” on the basis that these people presented a threat to the “American Dream”.

The Immigration Acts of 1882 and 1885 placed more stringent limitations on immigration. They excluded ex-convicts, lunatics, idiots, and those unable to take care of themselves, as well as prohibited trade in contract labor.¹³ In 1891, the Office of Immigration, which would later become the Immigration and Naturalization Service, was established in addition to the exclusion of yet another list of individuals including: paupers, polygamists, the insane, etc.¹⁴ This was only the beginning of further restrictions created on the basis of biased ethnic, political, and economic standards.

National Origin as a Source of Immigration Restriction

In 1921 national quotas were put into place setting a cap on the total number of immigrants allowed into the United States. Intended as a temporary measure to curb immigration flows, the Quota Act placed a ceiling of 350,000. Each country was limited to 3 percent of its nationality’s representation in the 1910 census data.¹⁵ However, no limitations were placed on immigration from the Western Hemisphere. The quota system’s explicit purpose had been to reproduce the ethnoracial features of the American populace, allotting immigrant visas to nationals proportional to their nationality’s representation in the U.S. populace. This led to gross inequities of national quotas,

¹² Close Up Foundation.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Christian Joppke, *Immigration and the Nation-State: the United States, Germany, and Great Britain* (Oxford: Oxford University Press, 1999), 23.

favoring countries with a sizeable immigrant population, and discrepancies between countries with huge backlogs and countries that did not use up their quotas.¹⁶

The Immigration Act of 1924 moved a step further. It reduced the national quota allotted to each country by using the 1890 census and reducing the allotment from 3 percent to 2 percent of each nationality's representation.¹⁷ The ceiling was further reduced in 1927 to only 150,000 admissions annually. The National Origins Act of 1929 allotted a mere 30 percent of 150,000 admissions to those coming from Southern and Eastern Europe, while the remaining 70 percent of admissions would be allotted to those entering from Northern and Western Europe.¹⁸

With the onset of World War II the United States addressed the pressing issue of refugees through the Displaced Persons Act of 1948. The refugees allowed to enter the United States excluded some 100,000 people, mainly Jews, who had entered displaced persons camps after December 22, 1945.¹⁹ President Truman pushed for their inclusion and in 1950 he signed into law a revision of the 1948 Act with liberalized provisions both for Jews and for East European Germans. Altogether some 410,000 persons were admitted to the United States under the 1948 act and its 1950 revision.²⁰ The Displaced Persons Act expired at the close of 1951, but in 1953 the Refugee Relief Act, which ended in 1956, resulted in the allotment of 209,000 visas for various classes of refugees.²¹

Prior to the enactment of the 1953 Refugee Relief Act, President Truman in 1952 signed the McCarran-Walter Act, which revised the National Origins Act. Under this law

¹⁶ Ibid., 26.

¹⁷ Close Up Foundation.

¹⁸ Ibid.

¹⁹ David Heer, *Immigration in America's Future: Social Science Findings and the Policy Debates* (Boulder: Westview Press, 1996), 51.

²⁰ Ibid., 51

²¹ Heer, 53.

people of all backgrounds would now be eligible for immigration into the United States.²²

However, ideology became an important criterion for admissions, as well as another discriminatory factor. Much like citizens under the “Red Scare”, immigrants were questioned with regards to their backgrounds, ideals, and beliefs.²³ President John F. Kennedy and his successor President Lyndon Johnson supported the abolishment of the national origins quotas.²⁴ As a result the Immigration Act of 1965 was enacted, which represented a radical change in immigration policy.

From National Origins Quotas to Uniform Quotas

The Immigration Act of 1965, otherwise known as the Hart-Celler Act, had several provisions including the abolishment of the National Origins quotas in favor of uniform quotas. A uniform quota of 20,000 immigrants for each nation in the Eastern Hemisphere totaling 170,000 admissions annually was put into effect.²⁵ There were some who opposed the uniform quotas in favor of the national origins, The American Coalition of Patriotic Societies stated, “The national-origins system is like a mirror held up before the American people and reflecting the proportions of their various foreign national origins.”²⁶ Thus, the Hart-Celler Act was moderated by many, much like the American Coalition, who supported the ethnic discriminatory system put in place by the National Origins Act.

²² Close Up Foundation

²³ The McCarran-Walter Act was overturned in 1990 when Congress made it illegal for the United States government to deny people entry because of their beliefs, statements, or associations.

²⁴ Close Up Foundation

²⁵ Ibid., 27.

²⁶ Joppke, 26.

Also, under the provisions of the Immigration Act of 1965 a ceiling of 120,000 was established for the Western Hemisphere beginning in 1968. However, there were no separate quotas for individual nations within the Western Hemisphere. Prospective immigrants from the Western Hemisphere were allowed to enter the U.S. on a first-come, first-served basis.²⁷ The establishment of source-country universalism in the admission of immigrants opened the door for the large-scale immigration from Asia and Latin America, which is dramatically changing the texture of American society by continuing to expand. Furthermore, this aspect of the bill had far-reaching implications in that it literally created the phenomenon of illegal immigration over the open Mexican-U.S. border due to the increase in immigration restrictions that reduced the possibility for immigrants from the Western Hemisphere to enter legally.²⁸

The Problem of Illegal Immigration

In 1986, legislators began to address the increasing problem of preventing illegal entry into the United States. At this time, past legislation began to look ineffective at controlling migration, thus President Reagan signed the Immigration Reform and Control Act of 1986 (IRCA) into law. The main provision of the legislation included: 1) sanctions for the knowing employment of undocumented workers, with evidence to be based on existing documents; 2) a legislation program for many of the undocumented; 3) a limited program of guest workers for agriculture; 4) a provision that warrants be obtained from a judge before INS officials could make raids in open agricultural fields; 5)

²⁷ Heer, 55.

²⁸ Ibid., 25.

authorization for increased funding of the border patrol.²⁹ Although the legislation contains several provisions, its main objective was to reduce illegal immigration.

The restriction of illegal immigration through IRCA was expected to be accomplished in two ways: first, by legalizing illegal immigrants already in the country; and, second, by reducing future flows into the U.S. through the imposition of penalties on employers who hire illegal workers.³⁰ The 1986 law allowed the legalization of three classes of undocumented immigrants. The first class included those people who had resided within the United States since January 1, 1972. They were allowed to immediately change their status to permanent legal residents.³¹

Much like the first class, the second class included people who had illegally resided within the U.S. before January 1, 1982. They were given the opportunity of changing their status to temporary residents *if* these persons paid the required fee, \$185 per individual and no more than \$420 per family, during the period extending from May 5, 1987 to May 5, 1988. Once a temporary resident, after one and a half years the individual could apply for permanent status, then only after 5 years of permanent residency could the individual be eligible to obtain federally-funded, means-tested entitlement programs.³²

The third class consisted of special agricultural workers who had worked for at least 90 days in agriculture within the United States during the year that ended in May 1, 1986, or worked 90 days during each of the three years prior to May 1, 1986. Under the

²⁹ Heer, 60.

³⁰ Frank D. Bean and others, eds., *Undocumented Migration to the United States: IRCA and the Experience of the 1980s* (Washington: The Urban Institute, 1990), 2.

³¹ Heer, 60.

³² *Ibid.*, 60.

program that was known as special agricultural workers (SAW), immigrants were given an eighteen month window in which to legalize their status in the same manner as class 2 individuals.³³ As a result of IRCA, by September 1992 some 2.71 million people had achieved legal residence within the United States. However, immigrants who did not meet the requirements set by IRCA remained under an “illegal” status within the country, while countless others continued to enter the United States unauthorized.

“Save Our State”

The notion that illegal immigrants are taking advantage of the government as well as the citizens of the United States by utilizing services that many people view was not for them is the basis for this bill. The state of California in the 1994 general elections presented the public with Proposition 187, the Save Our State initiative, which passed with 59% of the votes.³⁴ The stated purpose of the legislation is to provide for cooperation between state and local government agencies, to establish a system of required notification by and between such agencies all with the intent to verify the legal status of those seeking to receive benefits or public services in the State of California. If put into practice the initiative would render illegal aliens ineligible for, among other things, public education and health care.³⁵

Proposition 187 is divided into five main elements. First, it impedes illegal aliens from utilizing the public education system from kindergarten to the university level. For any student already within the schools system their legal status, as well as their parents’,

³³ Ibid., 61.

³⁴ Philip Martin, “Proposition 187 in California,” *International Migration Review* 29 (1995): 255.

³⁵ Martin, 255.

is to be verified by the institution.³⁶ Second, the initiative also requires the legal status of patients to be verified when seeking services from publicly paid health care providers in order for the institutions to receive reimbursement from the state of California.³⁷ Third, Proposition 187 demands the verification of the status of individuals seeking financial assistance from the state.³⁸ Although illegal immigrants are not authorized to use these services, the proposition adds a state-run system on top of the federal verification system. Fourth, service providers are required to report any suspected illegal aliens to the Immigration and Naturalization Services as well as to California's Attorney General. Lastly, Proposition 187 provides that the distribution, making, or use of false documents to obtain public benefits or employment is now a felony.³⁹

Proposition 187 was based on the belief that changes in immigration policy would provide the desired effect of reducing immigration. Philip Martin states that according to Governor Wilson, "denying public services to unauthorized aliens would discourage them from coming to the United States, and encourage some who are here to leave."⁴⁰ President Clinton, however, urged California's population to vote against Proposition 187 stating that it would be in everyone's best interest to proceed with current immigration policy such as increasing border security, reinforcing sanctions on employers, etc.

The immediate effect of the proposition was to mobilize already-registered Latino voters in California. Over the subsequent years, Latinos increased their voting numbers and their percentage of the California electorate, with the mobilized votes of the newly

³⁶ Ibid., 255.

³⁷ Ibid., 256.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Martin, 259.

naturalized citizens constituting an important part of Latino vote expansion.⁴¹ They accounted for forty percent of the two million Latino voters in the 1996 California elections, and in 1998 almost thirty-seven percent of all Latinos who voted in California reported being foreign-born.⁴² This may be seen as a positive impact on the immigrant population of California. However, it clearly contradicts Huntington's idea that immigrants, especially Mexicans, refuse to and will not assimilate into U.S. society. It is evident by their stance that education and integration into the society is valued among immigrants.

The Spanish Identity

Since the fall of Franco in the mid-1970s, Spain has moved from a country of emigration to one of immigration. Labor migrations are by no means a new phenomenon, rather they have been an integral part of Spain's industrialization process. What did develop and increase was the level of external immigration. Since the mid-1980s Spain has experienced substantial net immigration into the country for the first time in modern history, with rapidly increasing numbers of immigrants from lesser developed countries.⁴³

Curiously, in public discourse, there is no official term or category for "immigrants," the term used regardless of their length of stay is "extranjero" or foreigner. This is partially due to the fact that until 1966 there was virtually no permanent legal

⁴¹ Christine Marie Sierra, Teresa Carrillo, Louis DeSipio, and Michael Jones-Correa, "Latino Immigration and Citizenship," *PS: Political Science and Politics* 33 (2000): 535.

⁴² *Ibid.*, 538.

⁴³ Huntoon, 428.

status for foreign residents.⁴⁴ However, in popular terminology there is a distinction made between “extranjeros” and “immigrantes,” with the latter category reserved for those who arrive from the lesser developed countries in search of employment.⁴⁵ Therefore, when the “immigration problem” is discussed it invariably refers to the immigration from lesser developed countries.

Spanish Immigration Law

Prior to 1985, Spain had no explicit immigration policy or any comprehensive legislation regarding the treatment of foreigners within its territory. The Spanish Constitution of 1978 vaguely specified that although foreigners could not vote or serve as elected officials, “Foreigners in Spain will enjoy the rights and liberties put forth here, according to the terms set by international treaties and the law.”⁴⁶ This law, among others such as the Constitutional Court decision of 1984, allowed for immigrants to remain to some extent legal in limbo. According to these laws immigrants were able to procure work and residence permits if they met certain criteria, however these permits would only last a year. Once the duration of the permit was over, people who once held legal status immediately transitioned to illegality. Although these individuals were allowed to reapply for permits, through these transitions they are in an indeterminate state between legality and illegality.

In June 1985, Spain joined the European Community (EC), and in the same month five EC member countries signed the Schengen Agreement which was designed to

⁴⁴Calavita, 539.

⁴⁵Ibid., 539.

⁴⁶Ibid., 542.

dismantle their internal borders. At the same time, this agreement further enhanced the themes of external border control and security.⁴⁷ As a country wishing to enter the European Community, this increased pressure on Spain to exert restrictions on immigration. Observers such as Alegría Borrás and John Casey have noted that the evolution of Spain's immigration policy is interconnected to the process of European integration.⁴⁸ The 1985 law was "almost entirely the result of external pressure associated with Spain's entry into the European Community, on January 1, 1986...."⁴⁹ Faced with the broader European perspective, Spain passed the *Ley Organica sobre Derechos y Libertades de los Extranjeros en España* (Organic Law on the Rights and Liberties of Foreigners in Spain) more commonly known as the Ley de Extranjería, which was made effective on July 1, 1985.

Ley de Extranjería

According to its preamble its stated purpose is to control illegal immigration while guaranteeing foreigners' rights in Spain. The Organic Law consisted of six main focus points. First, the distinction between types of foreigners and their corresponding rights was created. The distinction between the Regimen Comunitario, which applied to the EC members, and the Regimen General, which applied to all other foreigners, was specified.⁵⁰ This granted European Community members all the rights of free circulation, residence, and work in Spain. Second, the new policies required that for the first time

⁴⁷ Huntoon, 428.

⁴⁸ Calavita, 543.

⁴⁹ Gary P. Freeman, "Modes of Immigration Politics in Liberal Democratic States," *International Migration Review* 29 (1995): 883.

⁵⁰ Calavita, 544.

most non-EC foreigners have visas before entering the country.⁵¹ Third, those who entered the country and plan to stay longer than 90 days must, apart from entrance visas, apply for work permits and are required to obtain residence. As a result of this requirement, “[t]he great majority [of immigrants] became illegals.”⁵²

Fourth, the law provided that legal residents held the right to assemble, public education, and unionization insofar that it does not conflict with the national interest, rights, or freedoms of Spaniards.⁵³ Fifth, the law delineated a sharp distinction between legal and illegal aliens. This section explicitly excluded the non-EC foreigners from any of the rights said to be guaranteed for immigrants. Since the vast number of rights was out of reach for much of the Spain’s population, a method of “regularization” was created as a means for foreigners to apply for a legal status.⁵⁴ The grounds for deportation, such as: lack of proper residence or work permits, being without sufficient funds, or being charged with a felony, was the final section outlined by the Organic Law. Although the above sections were written into law, many of the details and other policy decisions were left to be worked out through administrative regulation.⁵⁵

Administrative Regulations

The most substantive of the administrative actions was the Council of Ministers Agreement on Regularizing Foreign Workers (June 1991), which allowed illegal aliens to apply for legalization once having met the requirements. In order to apply for

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

legalization individuals needed, among other requirements, proof of residence within Spain before May 1991, either an ongoing work contract or were lucratively self-employed, or previously had a valid residence and work permit.⁵⁶ Once receiving legal status it was valid for only one year and applications for renewal were conditional, based on the continued presence of the aforementioned requirements.

In May of 1993, a Council of Ministers Agreement established annual quotas for foreign workers in the following three sectors: agriculture (10,000 workers), unskilled construction (1,100 workers), and various services (5,000 for domestic service and 3500 for other services).⁵⁷ Of the 20,600 spots available only 5,220 were filled, primarily due to the requirements and other hurdles set by the administration, such as: employers having to request a worker 40 days prior to the start of the job.⁵⁸ Prior to the late 1980s policies directed at the immigrant worker population were relatively low due to Spain's long-standing tradition of emigration.⁵⁹ The quota requirements were loosened the following year, and although the numbers allowed to enter vary from year to year the quota policy remains a big part of Spanish immigration policy.

In February of 1996 the government approved the *Real Decreto 155/1996* as a third regularization program, which allowed only those who once had residence and work permits but were unable to renew them.⁶⁰ This decree also created permanent residence and work permits for those who could demonstrate that they have been in an uninterrupted legal status for at least six years, while renewing temporary permits without

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Huntoon, 429.

⁶⁰ Calavita, 544.

lapses.⁶¹ Two years later in January 1998, the *Law on the Rights and Freedoms of Foreigners in Spain and their Integration* (Law 4/2000) emerged as an initiative that attempted to tackle the issue of integration.⁶² Many considered this policy to be a step in the right direction away from attempting to control the immigration inflow, and towards immigrant integration into Spanish society.

Law 4/2000, supported by three political parties: *Izquierda Unida*, *Convergencia I Unió*, and *Grupo Mixto* (not including the *Partido Popular*), looked towards immigrant integration not through an acknowledgement of immigrant rights, but rather through the realization that immigration would be a “permanent phenomenon.”⁶³ However, the *Partido Popular*, the ruling party, believed that the Law 4/2000 was too permissive as well as not running in line with European policy. Therefore, in March 2000 an amendment, Law 8/2000, passed aligning Spain with common European policy that reflected an effort to assure integration of legal immigrants and limit unauthorized immigration.⁶⁴

Law 8/2000 also paved the way for cooperation agreements between sending countries and Spain in an attempt to manage inflows of immigrants from the point of origin.⁶⁵ Spain has signed several bilateral agreements of this kind with Ecuador, Colombia, Morocco, Dominican Republic, Nigeria, Poland, and Romania. The stated purpose of these agreements is to regulate labor opportunities and provide for the communication of employment offers, the assessment of professional requirements,

⁶¹ Ibid., 544.

⁶² Nieves Ortega Pérez, “Spain: Forging an Immigration Policy.” *Migration Information Source* [home page on-line]; available from <http://www.migrationinformation.org/index.cfm>; accessed 28 February, 2005.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

travel, and reception.⁶⁶ They also work to enhance migrant labor, social rights, the work conditions of the immigrant workers, and the agreements special provisions for seasonal workers as well as the measures to facilitate their return to their home countries.⁶⁷

Plan Greco

The 2000 law acted as a catalyst for the *Global Program to Regulate and Coordinate Foreign Residents' Affairs and Immigration in Spain*, otherwise known as the Plan Greco.⁶⁸ This initiative began in 2001 and was expected to run until 2004. Plan Greco was designed to address four main areas: 1) as a part of the European Union, to coordinate the design of immigration as a desirable phenomenon for Spain, 2) the integration of foreign residents and their families as active contributors to the growth of Spain, 3) admission regulation in order to ensure peaceful coexistence with Spanish society, and 4) the management of the shelter scheme for refugees and displaced persons.⁶⁹ Plan Greco states that “[i]t is necessary to set the number of immigrants that Spain needs annually, their qualification and their topology ... to fill the vacancy jobs according to sectors, professional profiles, and if so, according to their geographic areas of origin.”⁷⁰

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Pérez, 2003.

⁶⁹ Ibid.

⁷⁰ Belén Agrela, “Spain as a Recent Country of Immigration: How Immigration Became a Symbolic, political and Cultural Problem in the “New Spain”,” *The Center for Comparative Immigration Studies* [home page online]; available from <http://www.ccis-ucsd.org>; Internet; accessed 15 March 2005.

Clashing World Views

In the United States, the increasing trend in restrictive immigration policy is aided by and fuels the views of those who foresee a constant struggle occurring within the country between the natives and immigrants. Within the United States this struggle is seen to be mainly provoked by the constant entrance of illegal immigrants, primarily Hispanic, across the large border we share with Mexico. According to this view, the United States is on the brink of a division into two peoples, two cultures, and two languages. However, the opposing world view is comprised of those who maintain that immigration is an inevitable phenomenon in which recent migration waves do not bring with them the cause for a country's division. Proponents of this view argue that assimilation does not require the absolute loss of ethnic diversity. Instead, assimilation most often occurs in the form of a series of small shifts that take place over generations.⁷¹

Pro-Restrictions

Among those who promote restrictive immigration policies, Samuel P. Huntington is a leading voice. In his article, "The Hispanic Challenge," Huntington states that America's traditional identity comes from its Anglo-Protestant roots. He argues that, like many other nation-states, America's national identity is tested by the forces of globalization and the single most immediate challenge is that of continuing immigration from Latin America, primarily Mexico.⁷² Huntington states that the extensive impact of immigration on the United States is evident when one imagines what

⁷¹ Richard Alba, "Immigration and the American Realities of Assimilation and Multiculturalism," *Sociological Forum* 14 (1999): 10.

⁷² Samuel P. Huntington, "The Hispanic Challenge," *Foreign Policy*, March/April 2004, 32.

would happen if Mexican immigration abruptly stopped. He maintains that the annual flow of legal immigration would drop by about 175,000, closer to the level recommended by the 1990s Commission on Immigration Reform.⁷³ Illegal entries would, also, dramatically diminish and the wages of low income U.S. citizens would improve. He states that issues such as the controversy over bilingual education, welfare, and other benefits for immigrants would virtually disappear.⁷⁴ Huntington suggests that the inflow of immigrants will become more diverse thereby leading to a higher rate of assimilation. Thus, the possibility of a de facto split between Spanish and English speaking United States would disappear.⁷⁵

Huntington considers that the lack of assimilation presented by today's immigrants is the major source of difficulty for the country. He states that the striking contrast between Hispanic immigrants and those of prior immigration waves can be summed in their origin to approximate U.S. norms in education, economic status, and intermarriage rates.⁷⁶ According to Huntington, Hispanic immigrants lag far behind the U.S. norm in these areas, thus showing their low assimilation rates. The continual influx of immigrants into the United States reduces the incentives for cultural assimilation, "[a]s their numbers increase, they become more committed to their own ethnic identity and culture."⁷⁷ Those who agree with Huntington's views believe that if immigration is not restricted and assimilation is not improved the United States will inevitably divide.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid., 36.

⁷⁷ Huntington, 44.

Fewer Restrictions

Proponents of lower restrictions on immigration policy argue that it is the increase in limitations created by immigration policies rather than the increased influx of immigrants that impedes them from assimilating at a faster rate into the host country's society. Christine Marie Sierra et al. in their article, "Latino Immigration and Citizenship," state that despite significant increases in naturalization rates in the late 1990s, less than half of eligible immigrants have naturalized.⁷⁸ They maintain the notion that the proximity of an immigrants' native country creates an obstacle, but a primary hurdle is the complex application process that discourages assimilation⁷⁹

It is not only the proximity of an immigrant's home country that prevents assimilation from taking place. In the case of Spain, the policies restricting immigration further create a sense of not belonging for the immigrant community. Kitty Calavita states that Spain's immigration policy places immigrants in limbo between a legal and an illegal status through the policies' built in "lapses" into illegality.⁸⁰ Since legal status is temporary, Spanish immigration policy continually recreates an extensive illegal population but also ensures the instability of its legal population.

Immigration policies that are increasingly restrictive not only keep immigrants in a state of limbo, but they push them into what Huntington and others fear: enclaves. Economic opportunities are essential to the assimilation prospects of new immigrant groups, but if policies hinder this possibility, immigrants are pushed into developing

⁷⁸ Sierra, 538.

⁷⁹ Ibid., 537.

⁸⁰ Calavita, 531.

ethnic sub-economies.⁸¹ Thus, immigrants are likely to concentrate in the underground informal ethnic and open labor markets in order to avoid deportation. Enclaves provide a means for survival and modest economic gain when immigrants are barred from opportunities in the mainstream economy.⁸² However, Alba and Nee state that “[a]lthough the ethnic economy is an important institutional arrangement for immigrants, by no means does it provide the main route for their economic advancement,” which inevitably leads to lower educational standards and assimilation rates.⁸³

Richard Alba argues that the endpoint of assimilation is not ultimately “the disappearance, of an ethnic distinction and its allied differences,” and should not be wholly one-sided but rather the changes can take place in “two (or more) groups, or parts of them, [shrinking] the differences and social distance between them.”⁸⁴ Alba states that although denied, European languages introduced into the United States during the nineteenth and early twentieth centuries have not disappeared.⁸⁵ Thus, arguing that full assimilation, in pro-restrictive policy terms, is unattainable. In other words, assimilation is a compromise in which natives and immigrants must learn to accept and adapt to each others customs while maintaining their own identity.

Those who oppose further immigration restriction contend that assimilation will not increase with the blockade of continual immigration. A main argument against restrictive immigration policies is the evidence that there is an increased tendency towards assimilation across generations of immigrants. Language acquisition is a means

⁸¹ Richard Alba and Victor Nee, “Rethinking Assimilation Theory for a New Era of Immigration,” *International Migration Review* 31 (1997): 847.

⁸² *Ibid.*, 851.

⁸³ *Ibid.*, 853.

⁸⁴ Alba, 8.

⁸⁵ *Ibid.*, 22.

by which scholars test this theory. Daniel Drezner affirms that the key test for this argument is not whether first generation immigrants can speak the host country's language, but whether second generation immigrants can speak it.⁸⁶ Proponents of restrictive laws agree that second generation immigrants do show increased fluency on the host country's language, but they worry that third generation immigrants will not follow this pattern. However, it is shown that sixty percent of third-generation Mexican-American children speak only English at home.⁸⁷

Analysis

The net inflow of immigrants, education, and work are three variables that affect immigration and immigrants' relation to the host country's society. They are interconnected in that each affects one another in a positive or negative manner, which depends on immigration policies as well as the reception of both immigrants and these policies within society. The following is an assessment of the effect of increasingly restrictive immigration policies on these three variables. I will utilize these variables to argue that these policies only manage to keep immigrants out of society rather than restrain them from entering the borders and assimilating those who are within.

On the demographic level it is fair to state that migrants tend to be younger than the host country populations. They, also, tend towards a larger family size than those of the receiving country. Immigrants exhibit an "hourglass-shaped" educational distribution: "Most recent South-North migrants have education levels significantly

⁸⁶ Daniel Drezner, "Hash of Civilizations," *The New Republic Online* [home page on-line]; available from <https://ssl.tnr.com/p/docsub.mhtml?i=scholar&s=drezner030304>; Internet, accessed 3 March 2004.

⁸⁷ Richard Alba and Victor Nee, *Remaking the American Mainstream: Assimilation and Contemporary Immigration* (Cambridge: Harvard UP, 2003), 45.

below host state medians, but a minority of them—highly skilled/professional migrants—are more educated than host-state citizens.”⁸⁸

Volume of Immigration – United States

The root of the problem with immigration, for many individuals, is the continuous influx of immigrants and their effect on the host society. Supporters of increased restrictions view immigration as a potential threat to the cohesion of a host country’s cultural values and society. Thus, the notion that there is a need to protect the natives within the host country arises. Based on this argument increasingly restrictive immigration policies have been enacted within the United States and Spain. Therefore, it is important to analyze the inflow of immigrants under restrictive immigration policies. In doing so, one can evaluate the effect that increasingly restrictive policies have in controlling the net inflow of immigrants.

If supporters of increased restrictions are correct, then it is expected that throughout the periods of increased immigration restrictions there would be a dramatic decrease in the net inflow of immigrants entering the receiving country. If the contrary is true, then increasingly restrictive immigration policies do not significantly affect the net immigration inflow. The evidence demonstrates that these policies have not curbed immigration in recent years. Rather they have only pushed immigrants towards hazardous tactics of illegal entry.

⁸⁸ Wayne A. Cornelius, “Death at the Border: Efficacy and Unintended Consequences of U.S. Immigration Control Policy,” *Population and Development Review* 27 (2001): 675.

Despite the United States government enacting successive amendments to the Immigration and Nationality Act, which was intended to make it more difficult for immigrants to enter legally, the volume of legal immigration to the United States has continued to grow. This counters Samuel P. Huntington's statement that restriction would lower the inflow of legal immigration by about 175,000 per year. Instead the average rose from 330,000 per year during the 1960s, to 734,000 per year during the 1980s, and exceeding 1 million per year during the 1990s.⁸⁹ Thus, the influx of illegal immigrants became a more demanding issue after these individuals were not able to gain access to the United States by legal means.

Through the enactment of the Immigration Reform and Control Act of 1986, the United States attempted to restrain illegal immigration by criminalizing the hiring of unauthorized workers, denying illegal immigrants legal status as well as access to selected social benefits, increasing inspections at work sites, and expanding the personnel and resources for border control.⁹⁰ The policy's lack of enforceable criteria on employment eligibility and sanctions allowed employers to continue the hiring of undocumented individuals. Thus, IRCA only marginally diminished the net inflow of immigrants in the years following its enactment, and beginning in 1990 an unprecedented increase of immigrants occurred. More than 11 million people were added to the U.S. population through immigration over the course of the twentieth century.⁹¹ This growth has continued well into the present century with nearly 1.5 million immigrants being

⁸⁹ Douglas S. Massey, "International Migration at the Dawn of the Twenty-First Century: The Role of the State," *Population and Development Review* 25 (1999): 316.

⁹⁰ *Ibid.*, 316-17.

⁹¹ Wayne Cornelius, "Controlling Unwanted Immigration: Lessons from the United States, 1993-2004," *The Center for Comparative Immigration Studies* [home page on-line]; available from <http://www.ccis-ucsd.org>; Internet; accessed 15 March 2005.

added to the U.S. population each year. According to the Urban Institute there are over 500,000 unauthorized immigrants who enter per year.⁹² It is estimated that in 2004, 10.3 million undocumented immigrants resided within the United States. This is an increase by 23 percent in the period starting in 2000 and ending in 2004.⁹³

In 1994, immigration policy looked towards the southern border as a means to curb illegal immigration. Through the “concentrated border enforcement strategy” this goal was attempted.⁹⁴ Mexico represents the largest source of both legal and illegal immigration into the United States. In terms of annual inflow, Mexico accounts for approximately one-fifth of the legal immigrants entering the U.S. Mexicans also account for 57 percent of all illegal immigration.⁹⁵ The segments of the U.S.-Mexico border that were increasingly fortified were those mostly used by illegal entrants. This policy intended to increase the number of apprehensions across the border with the final purpose of deterring future immigrants from entering illegally. However, in the following years the costs of maintaining equipment and personnel as well as an increase in the risk taken by immigrants were greater than that of border patrol apprehensions.

The increasingly restrictive policies put in place as a method of preventing increased illegal immigration, such as Operation Gatekeeper (Los Angeles), Operation Safeguard (Arizona) and Operation Rio Grande (Texas), proved to be ineffective at controlling the inflow of undocumented immigrants. This can be seen in that after 2001

⁹² Ibid., 2.

⁹³ Pew Hispanic Center, “U.S. Undocumented Population Surges,” *Pew Hispanic Center Reports Index* [home page on-line]; available from <http://pewhispanic.org/reports/archive/>; Internet; accessed 18 March 2005.

⁹⁴ Cornelius, 6.

⁹⁵ Jeffrey Passel, “Mexican Immigration to the US: The Latest Estimates.” *Migration Information Source* [home page on-line]; available from <http://www.migrationinformation.org/index.cfm>; Internet; accessed 29 March, 2005.

were there was a 25 percent drop in illegal immigrant apprehensions.⁹⁶ According to successive Current Population Surveys (CPS), annual inflows of undocumented Mexican immigration increased dramatically around 1997 or 1998.⁹⁷ This occurred only two years after the concentrated border enforcement strategy proposed to increase border patrol in order to reduce the stream of undocumented individuals.

Rather than reducing the inflow of illegal immigrants, restrictive policy pushes people towards crossing at the less patrolled, higher danger areas such as the Imperial Valley desert or over the Otay Mountains. Illegal immigration has not significantly decreased. However, immigrant deaths increased by 600 percent. Over 1,600 people died trying to cross the border between 1995 and 2001, with an average of 404 illegal immigrant deaths per year since 2000.⁹⁸ Nevertheless, the hazards encountered by immigrants attempting to cross the border illegally do not give them a sufficient reason to stop trying. Instead it causes them to stay longer or settle permanently within the United States. In 1992 approximately 20 percent of immigrants within the United States returned to their home country, in 1997 about 15 percent did, and by 2000 that number dropped to only 7 percent of immigrants.⁹⁹

Thus, increasing restrictions over immigration has not reduced the net inflow of immigration, and it is likely that migration will continue at the current or an increased rate. Jeffrey Passel states that the United States can anticipate the entry of another 14 million immigrants between the years 2000 and 2010 with the net migration of 400,000

⁹⁶ Cornelius, 10.

⁹⁷ Ibid.

⁹⁸ Jean Spencer, "Migrations: A collection of Views on Mexican Immigration to the United States." *Center for Latin American Studies* [home page on-line]; available from <http://www.clas.berkeley.edu:7001/>; Internet; accessed 29 March, 2005.

⁹⁹ Cornelius, 10.

Mexicans per year.¹⁰⁰ Under these assumptions and taking into consideration an increase in restrictive policies, the population of foreign born individuals would increase from 31 million in 2000 to approximately 40 million in 2010, which would represent about 13 percent of the total population.¹⁰¹

According to these estimates, U.S. immigration policy has not achieved its expected goals. Increasingly restrictive policies fail to control the net immigration inflow, and immigrants are pushed into living within enclaves where they feel secure as well as receive the moral and economic support they need. Their continual concern of apprehension and deportation based on the regulations of immigration laws forces immigrants towards the outskirts of society. Immigrants are not driven towards returning to their native country. Instead they opt for longer stays or permanent settlement within the United States. This pattern shows that increasingly restrictive policies fail to control the net immigration inflow or increase the assimilation rates of immigrants into U.S. society, thereby creating a split between us and them. Ironically, it is the increase in restrictions and not a lenient immigration policy that fulfills Huntington's claim of an inevitable split within the United States.

Volume of Immigration – Spain

Contrary to the United States, Spain during the 1980s evolved from a labor-exporting to a labor-importing country. Spain's net immigration inflow increased after the country's economic boom and its' entrance into the European Union. Under the terms of entrance into the EU, Spain was compelled to instituting the Ley de Extranjería

¹⁰⁰ Passel, 2005.

¹⁰¹ Ibid.

(1985). By enacting this law Spain created, for the first time, legal and illegal immigration. The number of foreigners legally residing in Spain rose from 247,971 in 1985 to 895,720 in 2000 and to 1,647,011 in 2003, an average increase of 24 percent since 2000. Also, as many as 650,000 illegal immigrants are estimated to reside in Spain in 2003.¹⁰² Although immigration policies were set up in an attempt to curb the inflow of immigrants the outcome is much like those of the United States, with marginal control over immigration and immigrant assimilation.

In 2003, the number of foreign nationals within Spain increased to approximately 1,647,011, totaling 3.9 percent of the population. The Ley de Extranjería acted as a catalyst for such an increase in Spain's foreign population. As stated above, before this law was enacted immigrants were freely able to enter and return to their home countries. With increasing restrictions on the influx of immigration more and more immigrants have opted for permanent settlement within Spain. In 1991 approximately 380,000 immigrants applied for residency permits, while in 2000 about 800,000 did, and in 2003 about 1,600,000 immigrants applied for permits within the country.¹⁰³ The increasing numbers of applicants is evidence of the contradictory outcomes of restrictive policy. Much like within the United States, the return flow of immigrants is reduced due to the fear that they will not be able to reenter Spain. This creates pressure on them to remain within the country as a method to secure benefits that are not available to them within their native country (i.e., job security and education).

¹⁰² Wayne A. Cornelius, "Spain: The Uneasy Transition from labor Exporter to Labor Importer," in *Controlling Immigration: A Global Perspective*, 2nd ed., eds. Wayne A. Cornelius, Takeyuki Tsuda, Philip L. Martin, and James F. Hollifield (Stanford: Stanford university Press, 2004), 400.

¹⁰³ Keith Lee, "Spain Pressured to Strengthen Border with North Africa." *World Socialist Web Site* [home page on-line]; available from <http://www.wsws.org/>; Internet; accessed 30 March, 2005.

In an effort to increase the protection of its borders Spain's Socialist Party (PSOE) in 2004 planned to contribute 130 million euros to the Integrated System of Exterior Surveillance (SIVE) over the next four years.¹⁰⁴ This measure is also taken as a method of deterrence. However, much like the U.S.-Mexico border patrol, this policy has a contradictory result. The increased surveillance and personnel does not stop immigrants from attempting to enter Spain, rather it pushes them towards higher risk areas.

The International Center for Migration Policy has estimated that approximately 3,600 immigrants, mainly Moroccans, have died crossing the Strait of Gibraltar since 1997.¹⁰⁵ The government has added that for every one body recovered another two people are probably dead. This as well as immigrant testimony shows that increasingly restrictive immigration policies do not have a negative effect on immigrants' intentions towards illegal entry into Spain. Despite increasing dangers and restrictions immigrants such as Abubakr Khamlachi continue to see the attractions of immigrating to Spain. Khamlachi states that for poor Moroccans, "you're considered more illegal in your own country than in any other. You have no work, no healthcare, no welfare. At least over there you have some protection – all you have to do is get work and you're saved."¹⁰⁶ As long as the benefits of attempting to enter illegally into a host country outweigh the costs of remaining in their sending country or the dangers encountered during the crossing, immigrants will continue to enter.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Ivan Briscoe, "Dreaming of Spain: migration and Morocco." *Open Democracy: Free Thinking for the Free World* [home page on-line]; available from <http://www.opendemocracy.net/home/index.jsp>; Internet; accessed 01 April 2005.

The analysis of the net inflow of immigrants shows that despite increasingly restrictive immigration policies, developed countries, in this case the United States and Spain, have not shown a significant decrease of legal and illegal immigration inflow. Instead the number of both legal and illegal immigrants entering each country has increased.

Education

Another goal of restrictive immigration policies is that of assimilating the immigrants already within the host country. Proponents of increasing restriction over immigration argue that only by controlling immigration inflow will immigrants already within the country be incorporated into the society. However, as the evidence presented above indicates restrictions do not prevent the continuous entrance of immigrants. Furthermore, such restrictive policies as Proposition 187 prevent immigrants and their children from enrolling into the public school system. By not allowing them to enroll, restrictive policies prevent immigrants from attaining the benefits of attending school and receiving an education which allows people to acquire the skills necessary as well as a means by which to socialize into the culture of the country they live in. An analysis of education enrollment is a means by which to look at the assimilation rates of immigrant groups. Supporters of lower restrictions over immigration argue that stringent policies keep immigrants out of the school system, which hinder assimilation into society. If this assumption is correct, then it is expected that restrictive policies will obstruct the incorporation of immigrants into society thereby preventing them from gaining the skills necessary to be an asset to the host society.

In contemporary American society, educational achievement is important for learning the skills to be a successful member of society. Also, the language barrier is broken by immigrants learning the host country's primary language. School is one of the major ways by which people are socialized and assimilated into society's norms. Therefore, laws that seek to control immigration inflow and "increase" assimilation by preventing immigrant use of social services increase the marginalization and exclusion of immigrants from society.

Restrictive policy supporters argue that there is a necessity for increased restrictions on immigration due to the claim that the continual inflow of immigrants will prevent them from conforming to the norms of the host society. Huntington states that "[t]he size, persistence, and concentration of Hispanic immigration tends to perpetuate the use of Spanish through successive generations."¹⁰⁷ According to Huntington's data, immigrants, especially those of Mexican origin, lag behind U.S. norms. In 2000, 86.6 percent of native-born Americans graduated from high school as opposed to 49.6 percent of Latin Americans. Mexicans ranked the lowest with a 33.8 percent graduation rate.

What might explain these discrepancies? One explanation suggests that foreign-born children appear to be handicapped by a lack of English-language fluency and by their parents' social class. According to a study performed by Jacobs and Greene, when these variables are controlled the gaps in educational enrollment between immigrant children and their native peers are eliminated or substantially moderated.¹⁰⁸ The enrollments of second-generation children of immigrants were generally equal or superior

¹⁰⁷ Huntington, 36.

¹⁰⁸ Charles Hirschman, "The Educational Enrollment of Immigrant Youth: A Test of the Segmented-Assimilation Hypothesis," *Demography* 38 (2001): 319.

to those of white children of native parentage, suggesting that given the chance to pursue their education, immigrants perform at or above the rate of U.S. norms.¹⁰⁹

In a later study performed by M. Zhou and C.L. Bankston, it was found that children who were able to retain their native tongue and traditional values were more successful in school.¹¹⁰ These findings suggest that the eradication of all language and cultural links to sending communities may not help immigrants to assimilate. Those who argue for increased restrictions over immigration may actually be limiting the possibility of success for immigrant children. In other words, it may not be the continual inflow of immigrants into the host country or the communities comprised of ethnically similar immigrants that harbor lower educational goals, and as a consequence, lower assimilation rates. These outcomes can be attributed to the “... nature of the reception and/or discrimination encountered by the immigrant population,” within the host country.¹¹¹ An example of how this process works can be seen in Proposition 187 which sought to legally exclude undocumented immigrants from enrolling in public schools. This policy stopped many immigrants from attending school, but it did not work towards aiding immigrant assimilation.

Spanish immigration policy, much like that of the United States, has pushed immigrants to the outskirts of society by not allowing undocumented students to enroll in classes. The 1985 immigration law guarantees public education only to the children of legal immigrants. While public schools tend not to discriminate against the children of illegal immigrants, these children are not eligible for scholarships towards post-

¹⁰⁹ Ibid., 319.

¹¹⁰ Ibid.

¹¹¹ Ibid., 318.

elementary education, nor do they have access to vocational training within the public school system. Maravilla Martinez Doncel, a socialist party deputy in the Madrid provincial legislature, stated that “education is indispensable, because true integration ... is based on having the necessary skills to compete in the labor market in equal conditions”¹¹² All students living in Spain, under the age of sixteen, must complete six years of primary school and four years of compulsory secondary school. It is optional to go on to either a two-year baccalaureate or vocational training.

The Popular Party in Spain, the governing party in the provinces of Madrid and Valencia, enacted a policy that bars immigrants who have completed the 10 years of compulsory schooling from continuing their education.¹¹³ In order to enroll in the baccalaureate or vocational training courses foreign students must present a residency permit, a “foreigner’s identity number”, a “foreigner’s card” or a student visa.¹¹⁴ This policy created hurdles, which manage to keep many undocumented immigrants from receiving the proper skills and education needed to succeed within Spanish society.

According to the America-Spain Solidarity and Cooperation Association (AESCO), there are approximately 100,000 students who lack the papers required for enrollment and approximately 4,000 students were turned away in September of 2004 while attempting to enroll.¹¹⁵ Within Madrid alone there are 3,800 students who were

¹¹² Tito Drago, “Spain: Many Immigrants Barred From Continuing Education,” *IPS-Inter Press Service/Global Information Network*, 10 November 2004, par. 2-3.

¹¹³ *Ibid.*, par. 1.

¹¹⁴ *Ibid.*, par. 8.

¹¹⁵ *Ibid.*, par. 9-11.

forced to withdraw from school or were not enrolled in the 2004 academic year because their parents entered Spain as undocumented immigrants.¹¹⁶

Starting in early 2005, Prime Minister Jose Luis Rodriguez Zapatero plans to implement new regulations that will allow undocumented immigrants to regularize their legal status. This policy states that “the autonomous communities can facilitate access to post-compulsory non-university education by foreign minors who are ‘empadronados’ in a municipality.”¹¹⁷ Therefore, if these regulations are approved those immigrants who are registered within the town or city in which they reside (empadronados) will receive non-compulsory secondary education even if they lack the necessary immigration documents. However, those who are not empadronados will continue to be excluded. Unofficial statistics indicate that there are approximately 200,000 immigrants who are not registered.¹¹⁸ Because of their illegal status, children of undocumented immigrants are not eligible to receive their diplomas after they have completed the compulsory education. Consequently, they are not qualified for work permits when they enter the labor force. This in turn denies these children access to the formal labor market, and most are limited to employment within the underground economy.

Restrictive immigration policies’ set as their goal, in this case, to control immigration numbers by restricting the services provided by the host country. However, as seen by the evidence when numbers are not reduced restricting the services provided to immigrants only hinders assimilation, particularly with regards to education. The lack of education and skills acquired by immigrants builds a notion of “us v. them,” which

¹¹⁶ Ibid., par. 10.

¹¹⁷ Ibid., par. 24-25.

¹¹⁸ Ibid., par. 26.

exacerbates the split between natives and immigrants. This closes many doors to immigrants, both legal and illegal, within the society and economy of the host country.

Work

Whether immigrant consumption of public services is higher than the taxes they pay is a disputed factor with regards to its validity as a basis for increased restrictions.

According to Wayne A. Cornelius, progressive taxation implies that immigrants will be net fiscal consumers, since immigrant earnings average below natives' incomes.¹¹⁹

Immigrants present a burden on the areas where they reside due to the fact that they tend to have larger families with younger, school-age children who require public services such as healthcare and education. However, immigrants are less likely than natives to use social security payments, and they are net contributors to the federal treasury.¹²⁰

Immigration not only increases the population, but it also increases the labor force and the economy. In 2000, about 12 percent of U.S. workers were foreign-born, a number considerably smaller than the 26 percent of foreign-born workers in 1910.¹²¹

However, many of the important issues surrounding immigration are distributional: who gains and who loses as a result of immigration, and by how much?

The National Research Center, in their 1997 study, estimates that immigrants added a net \$1 billion to \$10 billion per year to the country's gross domestic product (GDP) in the

¹¹⁹ Wayne A. Cornelius and Marc R. Rosenblum, "Immigration and Politics," *Annual Review Political Science* 8 (2005): 102.

¹²⁰ Ibid., 103.

¹²¹ Ibid., 104.

mid-1990s.¹²² The National Research estimate is based on the notion that the U.S. economy had constant return to scale (CRTS). This means that the amount of capital doubles by doubling the number of workers. Based on their research the NRC argues that immigration has a small but positive effect on the economy. Immigrants benefit the U.S. because the value of what they produce is higher than the wages that they are paid.¹²³

Within the agricultural sector, immigrants have been the core of the seasonal farm workforce. These waves of immigrants were primarily composed of the Chinese in the 1870s and 1880s, the Japanese up until World War I, Filipinos in the late 1920s, and since World War II Mexicans have been the primary source of agricultural seasonal labor.¹²⁴ IRCA in 1986 introduced employer sanctions in order to deter the hiring of illegal immigrants, and from 1987-1988 undocumented workers who were employed at least ninety days between the years of 1985-1986 became eligible to for legal status under the Special Agricultural Worker (SAW) program.¹²⁵ Those legalized under the SAW program tended to move towards other sectors of the labor market. Approximately only 15 percent of SAWs were part of the agricultural labor force by the year 2000, and the percentage of undocumented workers increased to over 50 percent.¹²⁶

Due to Spain's long-standing tradition of emigration, policies directed at the immigrant labor population were of low priority until the late 1980s. At the close of 1999, there was an estimated 199,753 non-EU foreign workers within Spain.

Incorporation into the labor market is concentrated in certain sectors where there is a lack

¹²² Philip L. Martin, "The United States: The Continuing Immigration Debate," in *Controlling Immigration: A Global Perspective*, 2nd ed., eds. Wayne A. Cornelius, Takeyuki Tsuda, Philip L. Martin, and James F. Hollifield (Stanford: Stanford University Press, 2004), 68.

¹²³ Ibid., 69.

¹²⁴ Ibid., 58.

¹²⁵ Ibid., 59.

¹²⁶ Ibid.

of national manpower. The service sector captures nearly 59 percent of all work permits for non-EU workers, followed by the agricultural sector (21 percent).¹²⁷ The high number of illegal immigrants can also be attributed to the country's complex system of short-term labor and residence permits that cause immigrants to stagger between legal and illegal status. Immigrants are granted work permits under the regulations of the Ley de Extranjería. However, each time a foreign worker changes jobs or is laid off he must apply for another work permit from the government. Those who are unable to acquire another permit are required to leave the country.

Foreigners seeking to renew their work permits within Spain must present their Social Security cards, but only a minority of the immigrant population is able to attain the document. By the end of 1995 less than one-third of the immigrant workers within Spain held long-term work permits. Only one-quarter of immigrants held permits lasting less than a year, and the rest were in intermediate categories.¹²⁸

Although the work permit system attempts to allow immigrants to gain a foothold within Spain's economy as well as a means for legalization, their constant struggle to maintain a legal status pushes some immigrants towards the underground economy or towards employers that hire immigrants "off of the books". In this manner these companies within the formal-sector that illegally hire immigrants avoid costly payments for Social Security and other employee benefits, such as healthcare.

Another economic concern involves how "immigration costs" such as wage depression and increased job competition affect different areas of the native population. This in fact is a major reason behind implementing restrictive immigration policies within

¹²⁷ Pérez, 2003.

¹²⁸ Cornelius, 399.

Spain and the United States. The state regulates immigration tightly in order to “protect” native workers due to the notion that immigrants are a major source of competition for scarce jobs. Within Europe the highest official unemployment rate ranged between 15 and 23 percent during the 1990s, and fell below 13 percent in 2001. Using these statistics Spanish government officials justify restrictive immigration control measures as necessary in order to protect the “1.5 million unemployed Spaniards.”¹²⁹

However, recent immigrants have been channeled into certain niches within the labor market that were abandoned by native workers. In certain regions of the country, such as Andalucia, there are large numbers of native-born workers who could in theory fill the jobs currently occupied by immigrants. Yet native-born workers do not make themselves available for these jobs for a variety of reasons discussed below. Two examples of sectors that are avoided by natives are the agricultural and service sectors of the Spanish economy.

Within the agricultural sector, much like that of the United States, the temporary nature of the job, the low wages, the remoteness of the work sites, and the harsh working conditions deter native workers from taking jobs. Within the service sector jobs such as domestic service used to be provided by the individuals from the impoverished provinces of Spain, such as Andalucia. Since the economic boom of the 1980s, the demand for domestic service increased in even middle class homes. The majority of natives refuse to work within this sector for many of the same reasons as agriculture. Thus, this sector is mainly filled with foreign workers who do not have the options that native workers are offered because of legality issues. The circumstances created by the immigration laws

¹²⁹ Ibid., 400.

and their regulations provide for a high demand in illegal immigrant labor. By hiring illegal immigrants employers avoid paying unemployment and social security fees that the government imposes on them. Since illegal immigrants do not have the ability to contest their wages, employers tend to pay them below the wages paid to legal workers. These reasons, among others, entice employers to hire illegal immigrants despite the sanctions placed on them.

Critics of Spain's work permit system argue that it has no utility for preventing or controlling the hiring of illegal immigrants. The system's backlogs at times stretch over the period of two years meaning that employer's applications for work permits are not readily available, thus immigrants are denied the permits required to work legally. Therefore, the usual pattern observed is that foreign workers are hired illegally when native workers do not come forward for the job.¹³⁰ Hiring legal workers is, also, an easy task when compared to hiring illegal workers under Spain's labor and immigration laws. However, it is very difficult for employers to fire or dismiss legal workers due to high unemployment payments, social security and other benefits required by law. Thus, the hiring of illegal immigrants for many employers is the answer under Spain's strict labor legislation which is costly for those who comply with its regulations.

The tendency for employers to prefer illegal immigrants as well as restrictive immigration laws push immigrants into an underground economy which includes domestic service, street vending, and unregistered firms. Thus, the controversy over immigration's effects on the labor force and economy are not resolved. Strict

¹³⁰ The 1985 immigration law requires employers to demonstrate that neither native-born worker nor citizen of the European Union is available to fill the position before a work permit can be issued to a non-EU immigrant.

immigration policies and labor laws do not curb immigration numbers. Rather they push immigrants outside of the formal market thereby perpetuating the division and increasing the problems created by underground economies.

Conclusions

Today countries of immigration have reached a level of integration into the global community that does not allow them the liberty of closing their borders to immigrants without negative domestic consequences. The cases examined in this paper provide evidence that although host countries do attempt, through immigration policy and enforcement, to exert control over immigration, they have not managed to close the gap between the policies' proclaimed intentions and their actual outcomes. As long as push and pull factors such as the economic inequality of sending and receiving countries exist, immigration and emigration will be inevitable. As shown by the lack of decrease in the net immigration inflow, immigrants will continue to attempt to enter developed countries in search for better conditions than those given to them in their native country.

Restrictive immigration policy supporters continue to argue that any type of leniency shown towards immigrants will further increase the number of foreign born individuals within the country. The fear of a separation between the cultures within the host country is seen as a major problem necessitating an increase in policy restrictions. Samuel P. Huntington, as a representative for restriction, argues that this separation is inevitable unless immigration is impeded. He states that it is only after immigration has stopped that immigrants settled within the country will be able to assimilate into the society and by doing so enclaves will no longer be a threat.

However, the analysis of the variables presented in this paper shows that there are major flaws within Huntington's argument. A decrease in the net inflow of immigrants did not occur through the increasing restrictions on immigration in the U.S. After the 1965 Immigration Law was implemented, immigrants did not turn away from the U.S., instead illegal immigration became a new issue for the government of the United States. In 1986 IRCA was enacted in an attempt to curb illegal immigration only to have a marginal effect on the immigration influx. Later, with the approval of Proposition 187 and President Clinton's 1996 Immigration Law immigrants were further excluded from the host society. This in turn established an "us v. them" view. These policies, as well as the Gatekeeper policy, did not deter immigration. Rather it pushed immigrants towards increasingly dangerous areas through which they enter the country. While in the country, these policies proceed to push immigrants into the outskirts of society, leaving many at the mercy of their employers, low wages, and harsh living conditions.

Through Spain's recent transition from a nation of emigration to one of immigration one is able to see the dramatic effects of restrictive immigration policies. Before the 1985 immigration law Spain allowed a mostly free flow of immigration into the country. After this law was put into effect immigrants who were prosperous, hard working individuals well respected among Spain's society were branded with an illegal status. In this manner, by increasing restrictions over immigrants and the rights that they are given a dramatic change over their participation within the host country's society is apparent.

It is evident that immigrant inflow levels have not decreased with increasing restrictions. Therefore, immigration policy should not be centered on further efforts to

curb the immigration inflow. Instead policy should be aimed on how to help immigrants assimilate into the host country's society, thereby becoming a productive member within the community. By using the term "assimilation" I do not mean that immigrants would lose any and all connections with their native country. An individual should not be required to lose his or her cultural identity. Rather, the integration of both his native and host country's ideals would be more useful in today's global community.

By integrating immigrants into society the "flood gates" will open, but do the costs outweigh the benefits? Adding increased restrictions over immigration has lead individuals entering Spain and the United States to take harsher routes, increasing the immigrant death toll. Once within the country, these people are not allowed to apply for work in the formal labor market without required documentation. Therefore, they are pushed into an underground economy which leads to harsher conditions and lower wages. If host countries implemented fewer restrictions, immigrants would not be pushed to cross through dangerous areas or with unreliable rafts. Deaths would decrease and integration into the host society would increase. Samuel P. Huntington recommends increased restrictions, however it is these restrictions that exacerbate the conditions needed for a split creating a self-proclaimed prophecy.

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