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## Asylum, Refugees, and Immigration

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The rejection by King George III (reigned 1760–1820) and the British government of demands by colonial America for a more open immigration policy to attract newcomers to its shores was one of the causes of the American Revolution. The Declaration of Independence in 1776 charged the King with attempting to keep the colonies depopulated, refusing to recognize naturalization acts passed by colonial assemblies, and restricting westward settlement. The framers of the U.S. Constitution made the foreign born ineligible for only one office in the federal government, that of the presidency.

In 1790, the Congress passed the first federal laws that loosely defined a uniform rule for the naturalization of immigrants: any fully white person who resided for two years within the limits and under the jurisdiction of the United States. In 1801, Congress changed the residency requirement to five years, which it remains today. The federal government kept no official records of immigration until 1820. It was not until 1850 that the U.S. Census Bureau distinguished between foreign and native-born citizens. In 1864, Congress established a Bureau of Immigration.

From 1820 to 1995, more than sixty-two million immigrants came to the United States. In the period before the Civil War (1861–1865), the large majority of immigrants, more than 80 percent, were from the northern and western parts of Europe. Many, with the exception of the French and the Irish, were Protestant, and most were farmers. A big change began in the 1880s and continued through World War I: during that time the large majority of immigrants came from southern and eastern Europe, and most were Catholics and Jews. Beginning in the 1960s, most immigrants have arrived from Western Hemisphere countries (Mexico, Canada, and Cuba principally) and, since the 1980s, also from Asia, mostly from the Philippines, Korea, and China. Today, more than 10 percent of the American population is foreign born.

## United States Immigration Legislation

In 1875, Congress enacted the first federal statute to regulate immigration by preventing the entry of criminals and prostitutes. Before 1880, there was very little restriction of immigration into the United States. Scholars have characterized the period from

1880 to the mid-1960s as the restrictionist era in U.S. immigration policy. Beginning with the Chinese Exclusion Act of 1882, Congress began to take an active part in the administration and control of immigration. This Act suspended the entry of Chinese workers for ten years and barred all foreign-born Chinese from acquiring citizenship. This marked the first time that Congress excluded a group from the United States because of its national characteristics.

The Immigration Act of 1917, passed over a presidential veto, required proof on the part of immigrants older than age sixteen that they were able to read and write in some language (their native language, English, or any other). Those who could not meet that [p. 98 ↓ ] requirement were sent back. This same statute also barred Asian persons (defined as those from India, Indochina, Afghanistan, Arabia, and East India), although this ban had nothing to do with literacy.

The Johnson Act of 1921, also known as the Quota Act or the Immigration Act of 1921, introduced a system of national quotas. The quota was determined as a percentage of the number of immigrants from the country in question at the time of a designated national census. The annual number of immigrants allowed from each nation was set at 3 percent of the foreign-born of that nationality as recorded in the 1910 census. The 1921 Act also set an annual limit of 350,000 on all European immigration and set quotas for Australia and New Zealand and for countries in the Near East and Africa. Congress imposed no quotas on immigrants from nations in the Western Hemisphere. In 1924, the year the 1921 Quota Act expired, Congress passed another National Quota Act, which set quotas at 2 percent of the foreign born from a given nation in the 1890 census. The new act also provided that, beginning in 1927, the overall European annual quota limit would be 150,000, apportioned according to the proportion of the foreign born from each European country in the 1920 census.

In 1990, Congress passed the most liberal immigration bill since the Quota Act of 1921. The Immigration Act of 1990 set the overall annual quota at 700,000 for the period 1992 through 1994 and set a permanent annual level of 675,000 immigrants beginning in 1995. The act established a three-track preference system for family-sponsored, employment-based, and diversity immigrants. Diversity immigrants are persons from countries with low sending rates. Of the 675,000 visas, 480,000 are allocated based

on family preference criteria. As is true the world over, most immigrants to the United States come when they are young and eager to work.

## Refugees and Asylum-Seekers

In 1953, President Dwight Eisenhower (1953–1961) asked Congress to pass a law that would admit over a two-year period 240,000 refugees from Soviet-controlled Eastern European countries. The Hungarian uprising in 1956 sparked the passage of the first of a series of refugee acts over the next twenty-five years. The 1956 Refugee Act allowed 21,000 Hungarian refugees to enter the United States without regard for immigration quotas. The 1970s also witnessed the passage of legislation for the admission and resettlement of refugees, mainly from Southeast Asia, the Soviet Union, and Cuba. *Refugees*, defined in accordance with the 1951 UN Convention relating to the Status of Refugees, 189 U.N.T.S. 150, are persons outside their homeland who are unable or unwilling to return because of persecution or fear of persecution.

In 1975, Congress enacted the Indochina Migration and Refugee Act, allowing more than 200,000 Indo-Chinese refugees to enter the country. Five years later, Congress passed the Refugee Act of 1980, which established an overall policy for the admission and resettlement of refugees to the United States. The 1980 act created the Office of U.S. Coordination for Refugee Affairs and the Office of Refugee Resettlement in the U.S. Department of Health and Human Services to coordinate refugee programs and to arrange for effective absorption and resettlement of the refugees. The act assumed a normal flow of 50,000 refugees a year. It permitted the president, in consultation with Congress, to increase the annual allocation. In 1980, the level was set at 230,000 admissions. In 1986, the level declined to 67,000, and in 1990, it increased to 125,000.

The Refugee Act of 1980 also regulates U.S. policy on individuals seeking asylum. The definition of an asylee conforms to the same criteria and categories of persecution as the definition of a refugee. The only difference is the location of immigrants when they apply. A potential asylee is in the United States or at a point of entry whereas a potential refugee is outside the United States. Since the Refugee Act has been in effect, the government has granted approximately 67,400 persons asylum.

# Illegal Immigrants

Illegal immigrants are either persons who enter the country without proper documents or persons who have overstayed their permitted time. Those in the latter category may be persons who entered as tourists, [p. 99 ↓ ] students, or skilled workers in special industries. In 1996, for instance, 25 million nonimmigrants (people on temporary visas) entered the United States. Though most of them (19 million tourists and 3.8 million business travelers) go home, hundreds of thousands do not. The main categories of temporary visitors (and their families) who overstay their visas are students, temporary workers, and exchange workers. Part of the Internal Security Act of 1950 required all immigrants residing in the United States to register their address with the Immigration and Naturalization Service (INS) every January. However, in 1981, Congress passed a law that eliminated the registration requirements, mostly on the grounds that the cost of registration was too great and generally not worthwhile.

In 1995, the INS estimated the number of illegal immigrants in the country at more than three million, with about two hundred thousand to three hundred thousand entering per year. More than half of those persons were from Mexico. The other leading exporting countries were El Salvador and Guatemala. In 2005, the Pew Hispanic Center estimated the number of illegal aliens at eleven million.

After the terrorist attacks on the United States in September 2001, Congress reorganized in 2003 the agencies responsible for territorial security and the administration of immigration, naturalization, and asylum services. The U.S. Citizenship and Immigration Services handle many of the tasks previously done by the INS, while others have moved to the Department of Homeland Security.

## Public Attitudes toward Immigrants

The metaphor that best describes the American public's attitude toward immigrants is that it sees them with rose-colored glasses turned backwards. In other words, those immigrants who came earlier are viewed as having made important and positive contributions to the U.S. society, economy, and culture, but those who seek entry

now are viewed with ambivalence at best and more likely with distrust and hostility. There is some sign that public attitudes toward recent immigrants may be shifting in a more positive direction, although in 2006 illegal immigrants were a popular target of politicians.

Starting in 1946, pollsters asked Americans the following question in at least fourteen national polls through 2000: should immigration be kept at its present level, should immigration be increased, or should immigration be decreased? Considering the entire fifty-plus years, responses show that during periods of economic expansion and growth, periods of recession and high unemployment, periods that included the Cold War, and periods marked by a relaxation of tensions among major powers, the U.S. public's willingness to increase the number of immigrants ranged from 4 to 13 percent. The percentage of people in the United States who favored decreasing the number of immigrants ranged from 33 to 66 percent. However, there was some shift in responses in 1999 and 2000. In those two surveys, a majority of the respondents favored increasing immigration or maintaining it at its present level, which since the passage of the 1990 Immigration Act involves admitting more than seven hundred thousand immigrants a year.

## Conclusion

Immigration policy in the United States allows for a continuous flow of foreigners into the country. Today, criteria for admission emphasize family unification more than labor needs. Naturalization is relatively easy to attain and frequently bestowed. Controls on the legal immigrant population after admission are minimal. Aside from special programs for refugees, however, there are few governmental efforts to ease the transition of immigrants into the host society. The government leaves the process of integration largely to private groups. The limited social welfare benefits available to U.S. citizens are currently available to legal immigrants, although there are efforts in some states to exclude this group from benefits.

Illegal immigrants are subject to controls that are more substantial after entry. Governments exclude them from some public services and social welfare benefits.

However, the actual level of control on illegal immigrants is minimal, given the enforcement resources available relative to the magnitude of recent illegal immigration.

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*See also*

- [Discrimination, Economics of](#)
- [European Integration](#)
- [Immigration and Citizenship](#)
- [Language Minorities](#)
- [North American Integration](#)
- [Race and Ethnicity](#)

#### Further Readings

Aleinikoff, T. Alexander, ed. , and Douglas Klushmeyer, eds. (2000). *From Migrants to Citizens: Membership in a Changing World* . Washington, DC: Carnegie Endowment for International Peace.

Bromwell, William J. (1856). *History of Immigration to the United States* . New York: Redfield.

Hansen, Marcus Lee. (1940). *The Atlantic Migration: 1607–1860* . Cambridge, MA: Harvard University Press.

Simon, Rita J., and Susan H.Alexander. (1993). *The Ambivalent Welcome: Print Media, Public Opinion and Immigration* . Westport, CT: Praeger.